



2 A.A.C. 8

Supp. 24-1

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

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Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
January 1, 2024 through March 31, 2024

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The release of this Chapter in Supp. 24-1 replaces Supp. 23-2, 1-56 pages.

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 Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division

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TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

Authority: A.R.S. § 38-711 et seq.

Supp. 24-1

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TITLE 2. ADMINISTRATION

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ARTICLE 1. RETIREMENT SYSTEM**R2-8-101. Repealed****Historical Note**

Former Rule, Social Security Regulation 1; Former Section R2-8-01 renumbered as Section R2-8-101 without change effective May 21, 1982 (Supp. 82-3). Amended subsections (A) and (C) effective April 12, 1984 (Supp. 84-2). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1).

R2-8-102. Repealed**Historical Note**

Former Rule, Social Security Regulation 2; Amended effective April 15, 1980 (Supp. 80-2). Former Section R2-8-02 renumbered as Section R2-8-102 without change effective May 21, 1982 (Supp. 82-3). Amended as an emergency by adding subsection (E) effective January 1, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Emergency expired. Permanent rule, subsections (A), (B), and (D), amended effective April 12, 1984 (Supp. 84-2). Correction, subsection (B), as amended effective April 12, 1984 (Supp. 84-3). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1).

R2-8-103. Repealed**Historical Note**

Former Rule, Social Security Regulation 3; Amended effective April 15, 1980 (Supp. 80-2). Former Section R2-8-03 renumbered as Section R2-8-103 without change effective May 21, 1982 (Supp. 82-3). Amended as an emergency by adding subsection (E) effective January 1, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Emergency expired. Permanent rule, subsections (A) thru (C), amended effective April 12, 1984 (Supp. 84-2). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1).

R2-8-104. Definitions

A. The definitions in A.R.S. § 38-711 apply to this Chapter.

B. Unless otherwise specified, in this Chapter:

1. “Actuarial assumption” means an estimate of an uncertain future event that affects pension liabilities, or assets, or both.
2. “Assumed actuarial investment earnings rate” means the assumed rate of investment return approved by the Board and contained in R2-8-118(A).
3. “Authorized employer representative” means an individual specified by the Employer to provide the ASRS with information about a member who previously worked for the ASRS employer.
4. “Contribution” means:
 - a. Amounts required by A.R.S. Title 38, Chapter 5, Articles 2 and 2.1 to be paid to the ASRS by a member or an employer on behalf of a member;
 - b. Any voluntary amounts paid to the ASRS pursuant to 2 A.A.C. 8, Article 5 by a member to be placed in the member’s account; and
 - c. Amounts credited by transfer under 2 A.A.C. 8, Article 11.
5. “Day” means a calendar day, and excludes the:
 - a. Day of the act or event from which a designated period of time begins to run; and

- b. Last day of the period if a Saturday, Sunday, or official state holiday.
6. “Designated beneficiary” means the same as in A.R.S. § 38-762(G) or another person designated as a beneficiary by law.
7. “Director” means the Director appointed by the Board as provided in A.R.S. § 38-715.
8. “Individual retirement account” or “IRA” means the types of eligible retirement plans specified in A.R.S. § 38-770(D)(3)(a) and (b).
9. “DRO” means a copy of an original domestic relations order specified in A.R.S. § 38-773(H)(1) that contains all of the following:
 - a. The requirements of A.R.S. § 38-773(C);
 - b. The date of the member and alternate payee’s marriage;
 - c. The date of divorce or the date in which the community property interest ended;
 - d. A court stamp indicating the domestic relations order is a true and correct copy of the original domestic relations order on file with the court;
 - e. How the member’s ASRS benefits should be split in specific amounts for the following possible events:
 - i. The member’s retirement;
 - ii. Return of contributions and termination of membership according to R2-8-115; and
 - iii. The death of the member prior to retirement;
 - f. Whether the member may transfer all ASRS service credit to another retirement system;
 - g. Whether the member is required to maintain the alternate payee as the member’s beneficiary;
 - h. Whether the member may rescind their retirement option according to A.R.S. § 38-760; and
 - i. The judge’s dated signature.
10. “Party” means the same as in A.R.S. § 41-1001(14).
11. “Person” means the same as in A.R.S. § 41-1001(15).
12. “Plan” means the same as “defined benefit plan” in A.R.S. § 38-712(B), and as administered by the ASRS.
13. “Retirement account” means the same as in A.R.S. § 38-771(J)(2).
14. “Rollover” means a contribution to the ASRS by an eligible member of an eligible rollover distribution from one or more of the retirement plans listed in A.R.S. § 38-747(H)(2) and (H)(3).
15. “Terminate employment” means to end the employment relationship between a member and an ASRS employer with the intent that the member does not return to employment with an ASRS employer.
16. “United States” means the same as in A.R.S. § 1-215(39).

Historical Note

Former Rule, Social Security Regulation 4; Former Section R2-8-04 renumbered as Section R2-8-104 without change effective May 21, 1982 (Supp. 82-3). Amended subsections (G), (J), and (K) effective April 12, 1984 (Supp. 84-2). Typographical error corrected in subsection (5)(c) “required” corrected to “required” (Supp. 97-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1). Amended by final rulemaking at 28

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A.A.R. 1746 (July 22, 2022), effective September 4, 2022 (Supp. 22-3).

R2-8-105. Repealed**Historical Note**

Former Rule, Social Security Regulation 5; Amended effective April 15, 1980 (Supp. 80-2). Former Section R2-8-05 renumbered as Section R2-8-105 without change effective May 21, 1982 (Supp. 82-3). Amended as an emergency by adding subsection (E) effective January 1, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Emergency expired. Permanent rule amended effective April 12, 1984 (Supp. 84-2). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1).

R2-8-106. Reserved**R2-8-107. Reserved****R2-8-108. Reserved****R2-8-109. Reserved****R2-8-110. Reserved****R2-8-111. Reserved****R2-8-112. Reserved****R2-8-113. Emergency Expired****Historical Note**

New Section made by emergency rulemaking at 11 A.A.R. 579, effective January 4, 2005 (05-1). Emergency rule expired (Supp. 05-2).

R2-8-114. Emergency Expired**Historical Note**

New Section made by emergency rulemaking at 11 A.A.R. 579, effective January 4, 2005 (05-1). Emergency rule expired (Supp. 05-2).

R2-8-115. Return of Contributions Upon Termination of Membership by Separation from All ASRS Employment by Other Than Retirement or Death**A.** The following definitions apply to this Section unless otherwise specified:

1. "Eligible retirement plan" means the same as in A.R.S. § 38-770(D)(3).
2. "Employer Number" means a unique identifier the ASRS assigns to a member employer.
3. "Employer plan" means the types of eligible retirement plans specified in A.R.S. § 38-770(D)(3)(c), (d), (e), and (f).
4. "LTD" Means the same as in R2-8-301.
5. "On File" means ASRS has received the information.
6. "Process date" means the calendar day the ASRS generates contribution withdrawal documents to be sent to a member.
7. "Warrant" means a voucher authorizing payment of funds due to a member.

B. A member who terminates from all ASRS employment by other than retirement or death and desires a return of the member's contributions, including amounts received for the purchase of service, any employer contributions authorized under A.R.S. § 38-740, and interest on the contributions, shall request from the ASRS, in writing or verbally, the documents

necessary to apply for the withdrawal of the member's contributions.

C. Upon request to withdraw by the member, the ASRS shall provide:

1. An Application for Withdrawal of Contributions and Termination of Membership form to the member, and
2. An Ending Payroll Verification - Withdrawal of Contribution and Termination of Membership form to the employer, if ASRS has received contributions for the member within the six months immediately preceding the date the member submitted the request to ASRS.

D. The member shall complete and return to the ASRS the Application for Withdrawal of Contributions and Termination of Membership form that includes the following information:

1. The member's full name;
2. The member's Social Security number or U.S. Tax Identification number;
3. The member's current mailing address, if not On File with ASRS;
4. The member's birth date, if not On File with ASRS;
5. Notarized signature of the member certifying that the member:
 - a. Is no longer employed by any Employer;
 - b. Is neither under contract nor has any verbal or written agreement for future employment with an Employer;
 - c. Is not currently in a leave of absence status with an Employer;
 - d. Understands that each of the member's former Employers will complete an ending payroll verification form if ASRS has received contributions for the member within the six months immediately preceding the date the member submitted the request to ASRS;
 - e. Understands that the member's most recent Employer will complete an ending payroll verification form for the member if the member has reached the member's required beginning date pursuant to A.R.S. § 38-775;
 - f. Has read and understands the Special Tax Notice Regarding Plan Payments the member received with the application and the member elects to waive the member's 30-day waiting period to consider a roll over or a cash distribution;
 - g. Understands that the member is forfeiting all future retirement rights and privileges of membership with ASRS;
 - h. Understands that LTD benefits will be canceled if the member elects to withdraw contributions while receiving or electing to receive long-term disability benefits;
 - i. Understands that if the member elects to roll over all or any portion of the member's distribution to another employer plan, it is the member's responsibility to verify that the receiving employer plan will accept the rollover and, if applicable, agree to separately account for the pre-tax and post-tax amounts rolled over and the related subsequent earnings on the amounts;
 - j. Understands that if the member elects to roll over all or any portion of the member's distribution to an individual retirement account, it is the member's responsibility to separately account for pre-tax and post-tax amounts; and

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- k. Understands that if the member elects a rollover to another employer plan or individual retirement account, any portion of the distribution not designated for roll over will be paid directly to the member and any taxable amounts will be subject to applicable state and federal tax withholding;
 - l. Understands that the member is not considered terminated and cannot withdraw the member's ASRS contribution if the member was called to active military service and is not currently performing services for an Employer;
 - m. Understands that any person who knowingly makes any false statement with an intent to defraud the ASRS is guilty of a Class 6 felony in accordance with A.R.S. § 38-793.
- 6. Specify that:
 - a. The entire amount of the distribution be paid directly to the member;
 - b. The entire amount of the distribution be rolled over to an eligible retirement plan, or
 - c. An identified amount of the distribution be rolled over to an eligible retirement plan and the remaining amount be paid directly to the member; and
- 7. If the member selects all or a portion of the withdrawal be rolled over to an eligible retirement plan, specify:
 - a. The type of eligible retirement plan; and
 - b. The name and mailing address of the eligible retirement plan.
- E. If ASRS has received contributions for the member within six months immediately preceding the date the member submitted the request to ASRS each Employer shall complete an Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership form electronically that includes the following information:
 - 1. The member's full name;
 - 2. The member's Social Security number or U.S. Tax Identification number;
 - 3. The member's termination date;
 - 4. The member's final pay period ending date;
 - 5. The final amount of contributions, including any adjustments or corrections, but not including any long-term disability contributions;
 - 6. The Employer's name and telephone number;
 - 7. The Employer Number;
 - 8. The name and title of the authorized Employer representative;
 - 9. Certification by the authorized Employer representative that:
 - a. The member Terminated Employment and is neither under contract nor bound by any verbal or written agreement for employment with the Employer;
 - b. There is no agreement to re-employ the member;
 - c. Any person who knowingly makes any false statement or who falsifies any record of the retirement plan with an intent to defraud the plan, is guilty of a Class 6 felony according to A.R.S. § 38-793; and
 - d. The authorized Employer representative certifies that they are the Employer user named on the Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership form and their title and contact information is current and correct.
- F. If the member has attained a required beginning distribution date as of the date the member submitted the request to ASRS, the most recent Employer shall complete an Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership form electronically that includes the information contained in subsection (E).
- G. If the member requests a return of contributions and a Warrant is distributed during the fiscal year that the member began membership in the ASRS, no interest is paid to the account of the member.
- H. If the member requests a return of contributions after the first fiscal year of membership, the ASRS shall credit interest at the rate specified in Column 3 of the table in R2-8-118(A) to the account of the member as of June 30 of each year, on the basis of the balance in the account of the member as of the previous June 30. The ASRS shall credit interest for a partial fiscal year of membership in the ASRS on the previous June 30 balance based on the number of days of membership up to and including the day the ASRS issues the Warrant divided by the total number days in the fiscal year. Contributions made after the previous June 30 are returned without interest.
- I. Upon submitting to the ASRS the completed and accurate Application for Withdrawal of Contributions and Termination of Membership form and, if applicable, after the ASRS has received any Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership forms, a member is entitled to payment of the amount due to the member as specified in subsection (G) or (H) unless ASRS has received a DRO before the ASRS returns the contributions as specified by the member.
- J. A member may cancel an Application for Withdrawal of Contributions and Termination of Membership form at any time before the return of contributions is disbursed by submitting written notice to ASRS to cancel the request.
- K. If an Application for Withdrawal of Contributions and Termination of Membership form is completed through the member's secure ASRS account, the secure login and successful submission of the knowledge based answers shall serve as the member's notarized signature required under subsection (D)(5).

Historical Note

Former Rule, Social Security Regulation 1; Amended effective Dec. 20, 1979 (Supp. 79-6). Former Section R2-8-15 renumbered as Section R2-8-115 without change effective May 21, 1982 (Supp. 82-3). Amended by final rulemaking at 11 A.A.R. 1416, effective April 5, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 644, effective February 7, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 79, effective March 6, 2016 (Supp. 16-1). Amended by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3). Amended by final rulemaking at 28 A.A.R. 1746 (July 22, 2022), effective September 4, 2022 (Supp. 22-3).

R2-8-116. Alternate Contribution Rate

- A. For purposes of this Section, the following definitions apply:
 - 1. "ACR" means an alternate contribution rate pursuant to A.R.S. § 38-766.02, the resulting amount of which is not deducted from the employee's compensation.
 - 2. "Class of positions" means all employment positions of the employer that perform the same, or substantially similar, function or duties, for the employer as determined by the ASRS in subsection (B).
 - 3. "Compensation" has the same meaning as A.R.S. § 38-711(7) and does not include ACR amounts.

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4. "Leased from a third party" means:
 - a. The employee is not employed by an employer; and
 - b. A co-employment relationship, as defined in A.R.S. § 23-561(4), does not exist.
- B. An employer that employs a retired member shall pay an ACR to the ASRS, unless the employer provides proof that:
 1. The retired member is leased from a third party; and
 2. All employees in the entire class of positions, to which the retired member's position belongs, have been leased from a third party; and
 3. No employee who has not been leased is performing the same, or substantially similar, function or duties, as the retired member.
- C. In order to determine whether an employer satisfies the criteria in subsection (B), the employer shall submit information and documentation, pursuant to A.R.S. § 38-766.02(E), within 14 days of written request by the ASRS.
- D. The employer shall directly remit payment of an ACR to the ASRS from the employer's funds, through the employer's secure ASRS account within 14 days of the first pay period end date after the hire of the retired member.
- E. If the employer does not remit the ACR by the date it is due pursuant to subsection (D), the ASRS shall charge interest on the ACR amount from the date it was due to the date the ACR payment is remitted to the ASRS at the assumed actuarial investment earnings rate listed in R2-8-118(A).
- F. A payment of an ACR on behalf of a retired member pursuant to A.R.S. § 38-766.02, shall not entitle a retired member to a refund of an ACR payment or any additional ASRS benefit as described in A.R.S. § 38-766.01(E).

Historical Note

Former Rule, Retirement System Regulation 2; Former Section R2-8-16 renumbered as Section R2-8-116 without change effective May 21, 1982 (Supp. 82-3). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 22 A.A.R. 1341, effective July 4, 2016 (Supp. 16-2). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2).

R2-8-117. Return to Work After Retirement

- A. Unless otherwise specified, in this Section:
 1. "Commencing employment" means the date a retired member who is not independently contracted or leased from a third party pursuant to R2-8-116(A)(4) renders services directly to an Employer for which the retired member is entitled to be paid.
 2. "Returns to work" means the member retired from the ASRS prior to Commencing Employment with an Employer.
- B. Pursuant to A.R.S. § 38-766.01(C), a retired member who returns to work directly with an Employer shall submit a Working After Retirement form to each of the retired member's current Employers through the retired member's secure website account within 30 days of the retired member Commencing Employment with an Employer.
- C. Pursuant to A.R.S. § 38-766.02(E), within 14 days of receipt of a Working After Retirement form, an Employer shall verify the retired member's employment information and submit the verified Working After Retirement form to the ASRS through the Employer's secure website account for each retired member who returns to work with the Employer.
- D. After a retired member returns to work, the Employer shall submit a verified Working After Retirement form to the ASRS through the Employer's secure website account within 30 days of a change in the actual hours or intent of each retired member's employment that results in:
 1. The member's number of hours worked per week increasing from less than 20 hours per week to 20 or more hours per week; or
 2. The member's number of weeks worked in a fiscal year increasing from less than 20 weeks per fiscal year to 20 or more weeks per fiscal year.
- E. The Working After Retirement form shall contain the following information:
 1. The retired member's Social Security number or U.S. Tax Identification number;
 2. The retired member's full name;
 3. The date the member retired;
 4. Whether the retired member terminated employment, and if so, the date the retired member terminated employment;
 5. The first date of Commencing Employment upon the retired member's return to work;
 6. The intent of the retired member's employment reflected as:
 - a. The anticipated number of hours the retired member is engaged to work per week and the anticipated number of weeks the retired member is engaged to work per fiscal year; or
 - b. The actual number of hours the retired member works for an Employer per week and the actual number of weeks the retired member works for an Employer in a fiscal year.
 7. Acknowledgement by the retired member that the retired member has read the Return to Work information on the ASRS website and intends to submit the Working After Retirement form to the Employer and submit any additional Working After Retirement forms to the Employer as required.
- F. Upon discovering that the retired member's employment violates A.R.S. §§ 38-766 or 38-766.01, the ASRS shall send the retired member a Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form.
- G. By the due date specified on the Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form, the retired member shall return the completed form and any supporting documentation to the ASRS indicating the action the retired member will take to correct the violation of A.R.S. §§ 38-766 or 38-766.01.
- H. If the member does not submit the Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form pursuant to subsection (G), the ASRS shall suspend the retired member's retirement benefits from the date on the Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form.
- I. If the ASRS suspends the retired member's retirement benefits pursuant to subsection (H), the ASRS shall reinstate the retired member's retirement benefits upon notice from the Employer that all violations pursuant to subsection (F) have been corrected.
- J. Notwithstanding any other Section, a member who meets the required minimum distributions age according to A.R.S. § 38-775, may not elect to suspend the member's retirement benefit.
- K. If a member elects to continue receiving the member's retirement benefit when the member Returns to Work according to A.R.S. § 38-766.01, the member's election is irrevocable, unless the member terminates employment with the Employer for which the member made the election.

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- L. The ASRS shall suspend any Premium Benefit a member is receiving according to 2 A.A.C. 8, Article 2 if the member Returns to Work and resumes active membership in ASRS.
- M. A member who Returns to Work is not eligible to request a return of contributions according to R2-8-115 for contributions remitted during the period of employment for which the member Returns to Work.
- N. If a member received a lump sum payment according to R2-8-126(P), the ASRS shall not include any compensation and credited service the member earned prior to the date the member Returns to Work when the member re-retires according to R2-8-127.

Historical Note

Former Rule, Retirement System Regulation 3; Former Section R2-8-17 renumbered as Section R2-8-117 without change effective May 21, 1982 (Supp. 82-3). Section repealed by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). New Section made by final rulemaking at 23 A.A.R. 209, effective March 5, 2017 (Supp. 17-1). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1). Amended by final rulemaking at 28 A.A.R. 1255 (June 10, 2022), effective July 17, 2022 (Supp. 22-2). Amended by final rulemaking at 30 A.A.R. 725 (April 12, 2024), effective May 17, 2024 (Supp. 24-1).

R2-8-118. Application of Interest Rates

- A. Application of interest from inception of the ASRS Plan through the present is as follows:

| Effective Date of Interest Rate Change | Assumed Actuarial Investment Earnings Rate | Interest Rate Used to Determine Return of Contributions Upon Termination of Membership by Separation from Service by Other Than Retirement or Death |
|----------------------------------------|--------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|
| 7-1-1953 | 2.50% | 2.50% |
| 7-1-1959 | 3.00% | 3.00% |
| 7-1-1966 | 3.75% | 3.75% |
| 7-1-1969 | 4.25% | 4.25% |
| 7-1-1971 | 4.75% | 4.75% |
| 7-1-1975 | 5.50% | 5.50% |
| 7-1-1976 | 6.00% | 5.50% |
| 7-1-1981 | 7.00% | 5.50% |
| 7-1-1982 | 7.00% | 7.00% |
| 7-1-1984 | 8.00% | 8.00% |
| 7-1-2005 | 8.00% | 4.00% |
| 7-1-2013 | 8.00% | 2.00% |
| 7-1-2018 | 7.50% | 2.00% |
| 7-1-2022 | 7.00% | 2.00% |

- B. At the beginning of each fiscal year, interest is credited to the retirement account of each member on the June 30 that marks the end of the fiscal year based on the balance in the member's account as of the previous June 30. The balance on which interest is credited includes:
 - 1. Employer and employee contributions;

- 2. Voluntary additional contributions made by members pursuant to A.R.S. §§ 38-742, 38-743, 38-744, and 38-745, if applicable;
- 3. Amounts credited by transfer under 2 A.A.C. 8, Article 11; and
- 4. Interest credited in previous years.
- C. Notwithstanding subsection (B), the retirement account of each member stops accruing interest the last full month prior to the member's retirement date.
- D. A member's retirement account that the ASRS deems abandoned according to A.R.S. § 38-722 shall receive interest at the applicable interest rates according to subsection (A) upon reinstatement of the retirement account.
- E. For a member whose address and birthdate are on file with the ASRS, the ASRS shall deem a retirement account of a member who is not retired or deceased as abandoned if:
 - 1. The ASRS has not received any contributions for at least 180 days;
 - 2. The member has reached the required minimum distribution age according to A.R.S. § 38-775; and
 - 3. The ASRS has sent the member at least three annual notices of the member's responsibility to submit an application for disbursement of benefits according to A.R.S. § 38-775 and the member has not responded to those notices.
- F. For a member whose address and birthdate are not on file with the ASRS, the ASRS shall deem a retirement account of a member who is not retired or deceased as abandoned if:
 - 1. The ASRS has not received any contributions for at least 180 days; and
 - 2. The ASRS has posted the member's full name to the abandoned monies section of the ASRS website for at least three consecutive years.
- G. The ASRS shall deem a retirement account of a deceased member as abandoned if:
 - 1. The ASRS has sent the designated beneficiary at least three annual notices of the beneficiary's responsibility to begin receiving benefits according to A.R.S. § 38-775; and
 - 2. The designated beneficiary has not responded to those notices.
- H. The ASRS shall reinstate an abandoned retirement account if the apparent owner notifies the ASRS that the member would like the retirement account reinstated.

Historical Note

Former Rule, Retirement System Regulation 4; Amended effective July 1, 1975 (Supp. 75-1). Amended effective June 23, 1976 (Supp. 76-3). Former Section R2-8-18 renumbered and amended as Section R2-8-118 effective May 21, 1982 (Supp. 82-3). Amended by final rulemaking at 11 A.A.R. 1416, effective April 5, 2005 (Supp. 05-2). Amended by final rulemaking at 19 A.A.R. 764, effective June 1, 2013 (Supp. 13-2). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 79, effective March 6, 2016 (Supp. 16-1). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1). Amended by final rulemaking at 28 A.A.R. 1481 (June 24, 2022), with an immediate effective date of June 6, 2022 (Supp. 22-2).

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Amended by final rulemaking at 30 A.A.R. 727 (April 12, 2024), effective May 17, 2024 (Supp. 24-1).

R2-8-119. Expired**Historical Note**

Former Rule, Retirement System Regulation 5; Amended effective July 1, 1975 (Supp. 75-1). Amended effective June 23, 1976 (Supp. 76-3). Former Section R2-8-19 renumbered and amended as Section R2-8-119 effective May 21, 1982 (Supp. 82-3). Section R2-8-119 and Appendix A and B expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

R2-8-120. Repealed**Historical Note**

Former Rule, Social Security Regulation 6; Amended effective June 19, 1975 (Supp. 75-1). Amended effective July 13, 1979 (Supp. 79-4). Former Section R2-8-20 renumbered and amended as Section R2-8-120 effective May 21, 1982 (Supp. 82-3). Repealed effective July 24, 1985 (Supp. 85-4). New Section made by final rulemaking at 20 A.A.R. 2236, effective October 4, 2014 (Supp. 14-3). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Repealed by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

R2-8-121. Employer Payments for Ineligible Contributions; Unfunded Liability Invoice

- A. Upon calculating an unfunded liability amount under A.R.S. § 38-748, the ASRS shall send an Unfunded Liability Invoice to the Employer through the Employer's secure ASRS account.
- B. An Employer that owes an unfunded liability amount to the ASRS pursuant to A.R.S. § 38-748, shall remit full payment of the unfunded liability amount within 90 days of being notified of the unfunded liability pursuant to subsection (A).
- C. Pursuant to A.R.S. § 38-735(C), if the ASRS does not receive full payment from the Employer of the unfunded liability amount within 90 days of being notified of the unfunded liability amount, the unpaid portion of the unfunded liability amount shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A).
- D. The ASRS may collect any unfunded liability and interest amount pursuant to A.R.S. §§ 38-723 and 38-735(C).

Historical Note

Former Rule, Retirement System Regulation 7; Amended effective April 15, 1980 (Supp. 80-2). Former Section R2-8-21 renumbered as Section R2-8-121 without change effective May 21, 1982 (Supp. 82-3). Amended subsection (A) effective May 30, 1985 (Supp. 85-3). Section repealed by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (05-1). New Section made by final rulemaking at 27 A.A.R. 458, effective May 2, 2021 (Supp. 21-1).

R2-8-122. Remittance of Contributions

- A. Each Employer shall remit the amount of employee member contributions to the ASRS not later than 14 days after the last day of each payroll period. Payments of employee member contributions not received in the offices of the ASRS by the 14th day after the last day of the applicable payroll period shall become delinquent after that date and shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-

118(A) per annum from and after the date of delinquency until payment is received by the ASRS.

- B. Each Employer shall remit the amount of employer contributions to the ASRS not later than 14 days after the last day of each payroll period. Payments of employer contributions not received in the offices of the ASRS by the 14th day after the last day of the applicable payroll period shall become delinquent after that date and shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A) per annum from and after the date of delinquency until payment is received by the ASRS.
- C. Each Employer shall remit contributions pursuant to this Section based on the contribution rate in effect on the pay period end date.
- D. Each Employer shall certify on each payroll that each employee included on that payroll has met the requirements for active member eligibility and that all contributions to be remitted are for eligible compensation under A.R.S. § 38-711.
- E. If an Employer improperly certifies that an employee has met the requirements for active member eligibility and that all contributions remitted for the employee are eligible for compensation under subsection (D), the ASRS may charge the employer an unfunded liability amount under A.R.S. § 38-748.

Historical Note

Former Rule, Retirement System Regulation 8; Amended effective Dec. 8, 1978 (Supp. 78-6). Former Section R2-8-22 renumbered as Section R2-8-122 without change effective May 21, 1982 (Supp. 82-3). Amended by final rulemaking at 22 A.A.R. 79, effective March 6, 2016 (Supp. 16-1). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2). Amended by final rulemaking at 26 A.A.R. 371, effective April 11, 2020 (Supp. 20-1). Section amended by final rulemaking at 27 A.A.R. 458, effective May 2, 2021 (Supp. 21-1).

R2-8-123. Actuarial Assumptions and Actuarial Value of Assets

- A. For the purposes of this Section, "market value" means an estimated monetary worth of an asset based on the current demand for the asset and the amount of that type of asset available for sale.
- B. The Board adopts the following actuarial assumptions and asset valuation method:
 1. The interest and investment return rate assumptions are determined by the Board.
 2. The actuarial value of assets equals the market value of assets:
 - a. Minus a 10-year phase-in of the excess for years in which actual investment return exceeds expected investment return; and
 - b. Plus a 10-year phase-in of the shortfall for years in which actual investment return falls short of expected investment return.

Historical Note

Adopted effective July 1, 1975 (Supp. 75-1). Amended effective June 23, 1976 (Supp. 76-3). Amended effective December 20, 1977 (Supp. 77-6). Former Section R2-8-23 renumbered and amended as Section R2-8-123 effective May 21, 1982 (Supp. 82-3). Emergency amendments effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency amendments adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent amendments adopted effective Decem-

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ber 22, 1993 (Supp. 93-4). Emergency amendments adopted effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Permanent amendments adopted effective September 12, 1997 (Supp. 97-3). Amended by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 1006, effective February 24, 2003 for a period of 180 days (Supp. 03-1). Emergency rulemaking renewed at 9 A.A.R. 3963, effective August 21, 2003 for a period of 180 days (Supp. 03-3). Amended by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Amended by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 20 A.A.R. 3043, effective January 3, 2015 (Supp. 14-4). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4).

Table 1. Expired**Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Emergency amendments to Table 1 adopted effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Permanent amendments adopted effective September 12, 1997 (Supp. 97-3). Amended by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

Table 2. Expired**Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Emergency amendments to Table 2 adopted effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Permanent amendments adopted effective September 12, 1997 (Supp. 97-3). Amended by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

Table 3. Repealed**Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3).

Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Emergency amendments to Table 3 adopted effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Permanent amendments adopted effective September 12, 1997 (Supp. 97-3). Table 3 repealed; new Table 3 renumbered from Table 4 by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Table 3A. Expired**Historical Note**

New Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). New Table made by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

Table 3B. Expired**Historical Note**

New Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). New Table made by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

Table 4. Expired**Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Table 4 renumbered as Table 3 by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). New Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). New Table made by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

Table 4A. Repealed**Historical Note**

New Table made by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Table 4B. Repealed

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Historical Note

New Table made by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Table 4C. Repealed**Historical Note**

New Table made by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Table 5. Expired**Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Table 5 repealed, new Table 5 adopted by emergency action effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Table 5 repealed, new Table 5 adopted by regular rulemaking action effective September 12, 1997 (Supp. 97-3). Table 5 repealed; new Table 5 renumbered from Table 6 and amended by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed; new Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Former Table 5 renumbered to Table 6; new Table 5 made by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

Table 6. Expired**Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Table repealed, new Table adopted effective September 12, 1997 (Supp. 97-3). Former Table 6 renumbered to Table 5; new Table 6 renumbered from Table 7 and amended by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed; new Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Former Table 6 renumbered to Table 7; new Table 6 renumbered from Table 5 and amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

Table 7. Expired**Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Table repealed, new Table adopted effective September 12, 1997 (Supp. 97-3). Renumbered to Table 6 by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). New Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table 7 renumbered from Table 6 and amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

R2-8-124. Termination Incentive Program by Agreement; Unfunded Liability Calculations

- A. The following definitions apply to this Section unless otherwise specified:
1. "Compensation" means the same as in A.R.S. § 38-711(7).
 2. "Termination Incentive Program" means the same as in A.R.S. § 38-749(D)(2).
- B. An Employer that intends to implement a Termination Incentive Program shall provide the following information to the ASRS through the Employer's secure ASRS account:
1. Within 90 days before implementation of the program, a complete description of the program terms and conditions, including the program contract, understanding, or agreement; and
 2. Within 90 days before implementation of the program, the following information for each member who may be eligible to participate in the program:
 - a. The member's full name;
 - b. The member's date of birth; and
 - c. The member's current Compensation;
- C. The ASRS may use the information provided by the Employer pursuant to subsection (B) and the information on file with the ASRS to determine an estimated unfunded liability amount in consultation with the ASRS actuary, which may result from the implementation of the Employer's Termination Incentive Program.
- D. If the ASRS determines an estimated unfunded liability amount pursuant to subsection (C), the ASRS may send a Notice of Estimated Liability to the Employer through the Employer's secure ASRS account, in order to notify the Employer of the estimated unfunded liability amount the Employer may owe to the ASRS as a result of implementing the Termination Incentive Program identified under subsection (B). An Employer may owe the ASRS more or less than the estimated unfunded liability amount based on actual employee participation in the Employer's Termination Incentive Program pursuant to subsection (F).
- E. Within 30 days of termination of employment of each member who participated in a Termination Incentive Program identified under subsection (B), the Employer shall provide the following information to the ASRS through the Employer's secure ASRS account:
1. The member's full name;
 2. The member's date of birth;
 3. The member's Compensation at termination;
 4. The date the member terminated employment; and

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5. The amount and type of any additional pay the member received, or was entitled to receive, from the Employer as a result of participating in the Employer's Termination Incentive Program.
- F. Upon receipt of all the information identified in subsection (E) and in consultation with the ASRS actuary, the ASRS shall calculate the actual unfunded liability amount which resulted from the implementation of the Employer's Termination Incentive Program.
- G. If the ASRS calculates an unfunded liability of less than \$0.00 for any member who participated in the Employer's Termination Incentive Program, the amount will be applied against the aggregate unfunded liability of the Employer.
- H. Upon calculating the unfunded liability pursuant to subsections (F) and (G), the ASRS shall send the Employer a Termination Incentive Program Liability Invoice through the Employer's secure ASRS account.
- I. An Employer that owes an unfunded liability amount to the ASRS pursuant to A.R.S. § 38-749, shall remit full payment of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice.
- J. Pursuant to A.R.S. § 38-735(C), if the ASRS does not receive full payment from the Employer of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice, the unpaid portion of the unfunded liability amount shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A).
- K. The ASRS may collect any unfunded liability amount pursuant to A.R.S. §§ 38-723 and 38-735(C).

Historical Note

Adopted as an emergency effective August 25, 1975 (Supp. 75-1). Former Section R2-8-24 renumbered as Section R2-8-124 without change effective May 21, 1982 (Supp. 82-3). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1). New Section made by final rulemaking at 23 A.A.R. 2743, effective January 1, 2018 (Supp. 17-3). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2).

R2-8-125. Termination Incentive Program by 30% Salary Increase; Unfunded Liability Calculations

- A. The following definitions apply to this Section unless otherwise specified:
 1. "Average monthly compensation" means the same as in A.R.S. § 38-711(5).
 2. "Baseline salary" means the average of a member's monthly Compensation during the 12 consecutive months in which the member received Compensation immediately preceding the first month of Compensation used to calculate the member's retirement benefit. The Baseline Salary shall include only Compensation from the Same Employer that paid the Compensation used in the calculation of a member's retirement benefit. If the member has less than 12 consecutive months in which the member received Compensation immediately preceding the first month of Compensation used to calculate the member's retirement benefit, then the ASRS will calculate the member's Baseline Salary as the total of the 12 months of Compensation the member received:
 - a. Starting with the first month of Compensation the member received in the 12 months immediately preceding the member's Average Monthly Compensation, or within the Average Monthly Compensation; and
 - b. Ending with the 12th month of Compensation the member received after the first month of Compensation used in subsection (A)(2)(a).
3. "Compensation" means the same as in A.R.S. § 38-711(7).
4. "Job reclassification" means a change in the classification of an employment position made by the Employer when it finds the duties and responsibilities of the position have changed significantly, materially, and permanently from when the position was last classified.
5. "Promotion" means, excluding a Salary Regrade or Job Reclassification, the act of advancing an employee to a higher salary or higher rank within the organization, which is characterized by:
 - a. A change in the employee's primary job responsibilities; and
 - b. A pay increase that is supported by a standard salary administration practice that is documented by the Employer; and
 - c. A competitive selection process or a noncompetitive selection process supported by a standard hiring practice that is documented by the Employer.
6. "Salary regrade" means a change in the salary scale of an employment position made by the Employer in order to align the position's salary scale with market factors and/or the Employer's current salary practices.
7. "Same employer" means the Employer has the same ownership as another Employer, except that for purposes of this Section, each agency, board, commission, and department of the State of Arizona shall be considered a separate Employer.
8. "Termination Incentive Program" means the same as in A.R.S. § 38-749(D)(1).
- B. Upon a member's retirement on or after January 1, 2018, the ASRS shall compare the member's Baseline Salary to the Average Monthly Compensation used to calculate the member's retirement benefit in order to determine whether an Employer utilized a Termination Incentive Program as defined in A.R.S. § 38-749(D)(1). This subsection only applies to members who earned the Compensation used to calculate the member's Baseline Salary, on or after July 1, 2005.
- C. Upon determining that a Termination Incentive Program exists under subsection (B), the ASRS shall send a Request for Documentation to the Employer through the Employer's secure ASRS account, in order to notify the Employer that the ASRS has identified a Termination Incentive Program for a particular member and the Employer may be required to pay the ASRS for the unfunded liability resulting from the Termination Incentive Program, unless the Employer can prove the increase in the member's salary was the result of a Promotion.
- D. Within 90 days of the date on the Request for Documentation, the Employer shall respond to the Request for Documentation by:
 1. Submitting documentation through the Employer's secure ASRS account that shows the member's increase in Compensation was the result of a Promotion; or
 2. Acknowledging in writing that the increase in the member's salary was not the result of a Promotion.
- E. Pursuant to subsection (D), the Employer bears the burden of producing evidence that a Promotion has occurred as defined in subsection (A)(5).

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- F. The ASRS shall use any evidence the Employer submits to the ASRS pursuant to subsection (D) to determine whether a Promotion occurred.
 - G. If the Employer does not respond to the Request for Documentation within 90 days of the date on the Request for Documentation, the ASRS shall determine that the increase in the member's salary was not the result of a Promotion.
 - H. If the ASRS determines that the increase in the member's salary was not the result of a Promotion pursuant to subsections (F) or (G), the ASRS shall calculate the unfunded liability amount pursuant to subsection (I).
 - I. In consultation with the ASRS actuary, the ASRS shall use the calculation under subsection (B) to calculate the unfunded liability resulting from the implementation of the Employer's Termination Incentive Program.
 - J. Upon calculating an unfunded liability amount pursuant to subsection (I), the ASRS shall send a Termination Incentive Program Liability Invoice to the Employer through the Employer's secure ASRS account, in order to notify the Employer of the unfunded liability amount the Employer shall owe to the ASRS as a result of implementing the Termination Incentive Program identified under subsection (B).
 - K. An Employer that owes an unfunded liability amount to the ASRS pursuant to A.R.S. § 38-749, shall remit full payment of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice.
 - L. Pursuant to A.R.S. § 38-735(C), if the ASRS does not receive full payment from the Employer of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice, the unpaid portion of the unfunded liability amount shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A).
 - M. The ASRS may collect any unfunded liability amount pursuant to A.R.S. §§ 38-723 and 38-735(C).
- 6. "Joint and survivor retirement benefit option" means an optional form of retirement benefits described in A.R.S. § 38-760(B)(1).
 - 7. "Legal documentation" means:
 - a. One document issued from a United States government entity; or
 - b. Two documents issued from one or more federal, state, local, sovereign, medical, or religious institutions.
 - 8. "LTD" means the same as in R2-8-301.
 - 9. "Irrevocable PDA" means the same as in R2-8-501.
 - 10. "On File" means the same as in R2-8-115.
 - 11. "Original retirement date" means the later of:
 - a. The date a member retires from the ASRS for the first time; or
 - b. The date a member re-retires from the ASRS after returning to active membership for 60 consecutive months or more according to A.R.S. § 38-766(C).
 - 11. "Period certain and life annuity retirement benefit option" means an optional form of retirement benefits described in A.R.S. § 38-760(B)(2).
 - 12. "Spouse" means the individual to whom a member is married under Arizona law.
 - 13. "Straight life annuity" means the same as monthly life annuity according to A.R.S. § 38-757.
- B.** A member may retire from the ASRS by submitting a Retirement Application to the ASRS that contains the following information:

Historical Note
 Adopted as an emergency effective July 30, 1975 (Supp. 75-1). Former Section R2-8-25 renumbered as Section R2-8-125 without change effective May 21, 1982 (Supp. 82-3). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1). New Section made by final rulemaking at 23 A.A.R. 2743, effective January 1, 2018 (Supp. 17-3). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2). Amended by final rulemaking at 30 A.A.R. 730 (April 12, 2024), effective May 17, 2024 (Supp. 24-1).

R2-8-126. Retirement Application

- A.** For the purposes of this Section, the following definitions apply, unless stated otherwise:
- 1. "Acceptable documentation" means any written request containing all the accurate, required information, dates, and signatures necessary to process the request.
 - 2. "Acceptable form" means any ASRS form request containing all the accurate, required information, dates, and signatures necessary to process the form request.
 - 3. "Applicable retirement date" means the later of:
 - a. The date a member retires from the ASRS for the first time; or
 - b. The date a member re-retires from the ASRS after returning to active membership.
 - 4. "Conservator" means the same as in A.R.S. § 14-7651.
 - 5. "DRO" means the same as in R2-8-115.
- 10. Whether the member is electing the Optional Health Insurance Premium Benefit;
 - 11. The following spousal consent information, if the member is married and is electing a retirement option other than a Joint and Survivor Retirement Benefit Option with at least 50% of the retirement benefit designated to the member's spouse:
 - a. The beneficiary's full name;
 - b. The beneficiary's Social Security number, if the beneficiary is a U.S. citizen;
 - c. The beneficiary's date of birth;
 - d. The beneficiary's relationship to the member; and
 - e. The percent of benefit the beneficiary may receive upon death of the member, if the member is designating more than one beneficiary.

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- a. Whether the member's spouse consents to the member making a beneficiary election that provides the member's spouse with less than 50% of the member's account balance;
 - b. Whether the member's spouse consents to the member electing a retirement option other than a Joint and Survivor Retirement Benefit Option;
 - c. The member's spouse's full name; and
 - d. The member's spouse's notarized signature;
12. Whether the member is electing to receive a partial lump sum distribution according to A.R.S. § 38-760 and if so:
- a. How many months of annuity, up to 36 months, the member is electing to receive as a partial lump sum;
 - b. Whether the member is electing to directly receive the partial lump sum distribution reduced by applicable tax withholding amounts;
 - c. Whether the member is electing to roll over all or a portion of the partial lump sum distribution amount to one other retirement account; and
 - d. Whether the member is electing to use the partial lump sum distribution to purchase service credit with ASRS based on a service purchase request dated before January 6, 2013;
13. Acknowledgement of the following statements of understanding:
- a. The member is aware of the member's LTD stop-payment date and any disability benefits the member is receiving shall cease upon the retirement date the member elects according to subsection (B)(6);
 - b. The member understands that if an overpayment exists, ASRS shall collect the remaining overpayment amount according to 2 A.A.C. 8, Article 8 and all repayment plans previously established with ASRS LTD claims administrator shall cease;
 - c. The member understands that if the member is submitting written notice of a changed retirement date, benefit option, or partial lump sum increment selection, ASRS shall distribute the member's benefit as of the later of:
 - i. The date ASRS receives the most recent Acceptable Documentation; or
 - ii. The retirement date contained in the most recent Acceptable Documentation.
 - d. The member has received the Special Tax Notice Regarding Plan Payments;
 - e. The member has received the Return to Work information and will comply with the laws and rules governing the member's return to work;
 - f. The member authorizes ASRS and the banking institution identified in subsection (W) to debit the member's account for the purposes of correcting errors and returning any payments inadvertently made after the member's death;
 - g. The member understands that the member may have a one-time option to rescind a Joint and Survivor Retirement Benefit Option or a Period Certain and Life Annuity Retirement Benefit Option according to R2-8-130;
 - h. The member understands that any person who knowingly makes any false statement with the intent to defraud ASRS is guilty of a Class 6 felony in accordance with A.R.S. § 38-793; and
 - i. The member acknowledges that the member has complied with A.R.S. §§ 38-755 and 38-776 regarding spousal consent; and
14. The member's notarized signature.
- C. If a Retirement Application is completed through the member's secure ASRS account, the member's notarized signature is not required under subsection (B)(14).
 - D. If the retirement date the member elects according to subsection (B)(6) is not allowed, the ASRS shall change the retirement date to the earliest eligible date according to A.R.S. 38-764(A), unless the member is not eligible to retire.
 - E. A member who elects to roll over all or a portion of the partial lump sum distribution amount according to subsection (B)(12)(c), shall submit the following written information to the ASRS:
 1. The type of account and account number to which the member is electing to roll over;
 2. The name and address of the financial institution of the account to which the member is electing to roll over; and
 3. If the member is electing to roll over a portion of the partial lump sum distribution, then the amount the member is electing to roll over.
 - F. If the member elects to roll over all or a portion of their lump sum or partial lump sum distribution, the ASRS shall only roll over the distribution to one retirement account.
 - G. Any portion of the partial lump sum distribution that is not rolled over to another retirement account according to subsection (B) shall be distributed directly to the member.
 - H. If the member elects to use the partial lump sum distribution to purchase service credit according to subsection (B)(12)(d) the member shall submit the following written information to the ASRS:
 1. The number of the service purchase invoice;
 2. Whether the member is electing to apply the partial lump sum distribution to all eligible service on that invoice;
 3. If the member is not electing to apply the partial lump sum distribution to all eligible service on that invoice, then:
 - a. The amount of the partial lump sum distribution to be applied to that invoice; or
 - b. The number of years on that invoice the member is electing to purchase with the partial lump sum distribution;
 4. If the member is electing to make a payment on that service purchase invoice with after-tax payments, a rollover, or termination pay according to A.R.S. § 38-747;
 5. Whether the member is electing to authorize the ASRS to increase the number of months of annuity, not to exceed 36 months, to purchase the eligible service on that service purchase invoice, if the member elected an insufficient number of months of annuity to receive as a partial lump sum according to subsection (G) to complete the service purchase invoice;
 6. If the member does not have eligible service to purchase on that invoice, whether the member is electing to cancel the member's election to receive a partial lump sum distribution.
 - I. A member who elects to receive a partial lump sum distribution shall receive an actuarially reduced annuity retirement benefit according to A.R.S. § 38-760.
 - J. ASRS shall disburse any partial lump sum amount that is not applied to a service purchase invoice according to subsection (G) directly to the member after withholding applicable taxes.

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- K. After submitting a Retirement Application according to subsection (B), a member may make changes to the member's Retirement Application by submitting written notice to the ASRS of the specific changes according to A.R.S. § 38-764(G).
- L. If ASRS has received contributions for the member within the three years immediately preceding the member's retirement date, the ASRS shall send a New Retirement Ending Payroll Verification form to the Employer. If ASRS has received contributions for the member within the six months immediately preceding the member's retirement date and the member shall receive a one-time lump sum payment according to subsection (P), the ASRS shall send a New Retirement Ending Payroll Verification form to the Employer.
- M. If the member has reached the age for minimum required distribution according to A.R.S. § 38-775(H)(4), the ASRS shall send a New Retirement Ending Payroll Verification form to the member's most recent Employer.
- N. The Employer shall submit the completed New Retirement Ending Payroll Verification form to ASRS with the following information:
 - 1. The member's Termination date or last day of ASRS membership with that Employer, if applicable;
 - 2. The member's total salary paid during their last fiscal year;
 - 3. The member's compensation for the last pay period;
 - 4. The name and title of the authorized Employer representative;
 - 5. Certification by the authorized Employer representative that:
 - a. Any person who knowingly makes any false statement or who falsifies any record of the retirement plan with an intent to defraud the plan, is guilty of a Class 6 felony according to A.R.S. § 38-793; and
 - b. The authorized Employer representative certifies that they are the Employer user named on the New Retirement Ending Payroll Verification form and their title and contact information is current and correct.
- O. The ASRS shall cancel a member's Retirement Application if ASRS does not receive all forms and information required under this Section within six months immediately after the member's retirement date.
- P. As authorized under A.R.S. § 38-764(F), if a member's Straight Life Annuity, after any applicable early retirement reduction factor, is less than a monthly amount of \$100, the ASRS shall not pay the annuity. Instead, the ASRS shall make a one-time mandatory lump sum payment in the amount determined by using appropriate actuarial assumptions.
- Q. For purposes of calculating a member's retirement benefit according to A.R.S. §§ 38-758 and 38-759, ASRS shall calculate age to the nearest day as of the member's retirement date.
- R. Based on the retirement option the member elects according to A.R.S. § 38-760, the ASRS shall calculate a member's actuarially reduced benefits, based on the attained age of the member, and if necessary, the attained age of the contingent annuitant as of the date of the member's retirement as follows:
 - 1. For a partial lump sum retirement benefit option, ASRS shall calculate age to the nearest day as of the member's retirement date;
 - 2. For a Joint and Survivor Retirement Benefit Option, ASRS shall calculate age to the nearest day as of the member's retirement date; and
- 3. For a mandatory lump sum payment according to subsection (O) or a Period Certain and Life Annuity Retirement Benefit Option, ASRS shall calculate age to the nearest full month in addition to calculating age according to subsection (P) as necessary.
- S. If the ASRS is unable to verify the age of the member or a contingent annuitant, the member or contingent annuitant shall provide Legal Documentation showing the member's or contingent annuitant's age.
- T. If a member does not retire by the date minimum distribution payments are required according to A.R.S. §§ 38-759 and 38-775, the required minimum distribution payments will accrue interest at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A) and in effect on the date the required minimum distribution payments should have begun.
- U. The ASRS shall distribute any required minimum distribution payments with interest according to subsection (T) with the member's first finalized benefits payment.
- V. If a member submits a retirement application after the member's minimum required distribution date, the ASRS shall determine that the member's Applicable Retirement Date is the date the required minimum distribution payments should have begun.
- W. Notwithstanding any other Section, an inactive member who does not have contributions related to compensation is not eligible for retirement.
- X. The ASRS shall issue a debit benefit card if the annuitant does not provide the following direct deposit information through the annuitant's secure ASRS account or by a notarized Direct Deposit form:
 - 1. The member's full name;
 - 2. The member's bank account routing number;
 - 3. The member's bank account number; and
 - 4. The type of the account.
- Y. If the annuitant does not activate the debit benefit card the ASRS issues to the annuitant within 75 days, the ASRS shall reclaim all the retirement benefits issued on the debit benefit card and suspend the annuitant's retirement benefits until the annuitant:
 - 1. Activates the debit benefit card or provides the direct deposit information according to subsection (X); and
 - 2. Returns the notice of benefit suspension with the following information:
 - a. The annuitant's Social Security number or U.S. Tax Identification number;
 - b. The annuitant's address; and
 - c. The annuitant's notarized signature.
- Z. The ASRS shall disburse benefits payments according to subsection (R), only retroactive to the later date specified in A.R.S. § 38-759(B).
- AA. ASRS shall not issue additional estimate checks to a member whose retirement is canceled.

Historical Note

Adopted effective September 12, 1977 (Supp. 77-5). Amended effective July 13, 1979 (Supp. 79-4). Former Section R2-8-26 renumbered and amended as Section R2-8-126 effective May 21, 1982 (Supp. 82-3). Amended subsections (A) through (D) effective October 18, 1984 (Supp. 84-5). Amended subsections (A) through (D) effective July 24, 1985 (Supp. 85-4). Amended by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency amendments adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days.

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(Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Amended by emergency rulemaking at 7 A.A.R. 1621, effective March 21, 2001 (Supp. 01-1). Amended by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Amended by final rulemaking at 19 A.A.R. 332, effective April 6, 2013 (Supp. 13-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 79, effective March 6, 2016 (Supp. 16-1). Amended by final rulemaking at 22 A.A.R. 3081, effective December 3, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3). Amended by final rulemaking at 28 A.A.R. 1746 (July 22, 2022), effective September 4, 2022 (Supp. 22-3). Amended by final rulemaking at 30 A.A.R. 732 (April 12, 2024), effective May 17, 2024 (Supp. 24-1).

R2-8-127. Re-Retirement Application

- A. The definitions in R2-8-126 apply to this Section.
- B. If a member has previously retired from ASRS, the member may re-retire from ASRS by submitting a Re-Retirement Application to the ASRS that contains:
 1. The information identified in R2-8-126(B)(1) through (B)(8);
 2. The retirement option the member is electing, if the member suspended the member's annuity from the member's previous retirement from ASRS and returned to work for 60 consecutive months or more according to A.R.S. § 38-766(C);
 3. The information identified in R2-8-126(B)(11);
 4. Whether the member is electing the Optional Health Insurance Premium Benefit, if the member suspended the member's annuity from the member's previous retirement from ASRS and returned to work for 60 consecutive months or more according to A.R.S. § 38-766(C);
 5. The information identified in R2-8-126(B)(13), if the member suspended the member's annuity from the member's previous retirement from ASRS and returned to work for 60 consecutive months or more according to A.R.S. § 38-766(C);
 6. Acknowledgement of the following statements of understanding:
 - a. The member's signature confirms the member's intent to re-retire and applies to all the sections included in the Re-Retirement Application.
 - b. The member understands that as a re-retiree, the member must keep the same retirement option and beneficiary the member elected when the member previously retired from ASRS, unless the member returned to active membership for 60 consecutive months or more according to A.R.S. § 38-766(C);
 - c. The member may change the member's beneficiary after re-retiring and changing the beneficiary may change the member's monthly annuity;
 - d. The member has complied with A.R.S. §§ 38-755 and 38-766 regarding spousal consent;
 - e. The member certifies that the member has read and understands the instructions and Special Tax Notice Regarding Plan Payments;
 - f. The member authorizes ASRS and the banking institution the member listed for direct deposit to debit

the member's account for the purpose of correcting errors and returning any payments inadvertently paid after the member's death;

- g. The member understands that any person who knowingly makes any false statement with the intent to defraud ASRS is guilty of a Class 6 felony in accordance with A.R.S. § 38-793; and
 - h. The member understands that if an overpayment exists, the ASRS shall collect the remaining overpayment amount according to 2 A.A.C. 8, Article 8 and all repayment plans previously established with the ASRS LTD claims administrator shall cease.
7. The member's notarized signature.
- C. If the retirement date the member elects according to R2-8-126(B)(6) is not allowed, the ASRS shall change the retirement date to the earliest eligible date according to A.R.S. 38-764(A), unless the member is not eligible to retire.

Historical Note

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

R2-8-128. Joint and Survivor Retirement Benefit Options

- A. The definitions in R2-8-126 apply to this Section.
- B. A member who is ten years and one day, or more, older than the member's non-spouse contingent annuitant is not eligible to elect a 100% Joint and Survivor Retirement Benefit Option.
- C. A member who is 24 years and one day, or more, older than the member's non-spouse contingent annuitant is not eligible to elect a 66 2/3% Joint and Survivor Retirement Benefit Option.
- D. For members whose Original Retirement Date is on or after March 6, 2016, notwithstanding subsection (B), a member who is ten years and one day, or more, older than the member's ex-spouse contingent annuitant is eligible to participate in a 100% Joint and Survivor Retirement Benefit Option, if:
 1. The member elected the ex-spouse as the contingent annuitant prior to divorce from the ex-spouse; and
 2. The member submits a DRO to ASRS which requires the ex-spouse to remain as the contingent annuitant on the member's account.
- E. For members whose Original Retirement Date is on or after March 6, 2016, notwithstanding subsection (C), a member who is 24 years and one day, or more, older than the member's ex-spouse contingent annuitant is eligible to participate in a 66 2/3% Joint and Survivor Retirement Benefit Option, if:
 1. The member elected the ex-spouse as the contingent annuitant prior to divorce from the ex-spouse; and
 2. The member submits a DRO to the ASRS which requires the ex-spouse to remain as the contingent annuitant on the member's account.
- F. Notwithstanding any other Section, for purposes of determining whether a member is eligible to participate in a Joint and Survivor Retirement Benefit Option, the ASRS shall calculate the difference in a member's age and the contingent annuitant's age based on the birthdates of the member and the contingent annuitant. For purposes of this Section, a contingent annuitant must be a living person.

Historical Note

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).
Amended by final rulemaking at 28 A.A.R. 1746 (July 22, 2022), effective September 4, 2022 (Supp. 22-3).

R2-8-129. Period Certain and Life Annuity Retirement

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- A. The definitions in R2-8-126 apply to this Section.
- B. An individual who is 104 years of age or older at the time of retirement is not eligible to elect a Period Certain and Life Annuity Retirement Benefit Option.
- C. An individual who is 93 years of age or older at the time of retirement is not eligible to elect a Period Certain and Life Annuity Retirement Benefit Option with ten years certain or 15 years certain.
- D. An individual who is 85 years of age or older at the time of retirement is not eligible to elect a Period Certain and Life Annuity Retirement Benefit Option with 15 years certain.
- E. The ASRS shall calculate the period certain term as beginning on the first day of the first full calendar month following the member's Applicable Retirement Date.
- F. Notwithstanding subsection (E), the ASRS shall calculate the period certain term as beginning on the member's Applicable Retirement Date if the member's Applicable Retirement Date is the first day of the month.

Historical Note

New Section made by final rulemaking at 26 A.A.R.
2036, effective November 8, 2020 (Supp. 20-3).

R2-8-130. Rescind or Revert Retirement Election; Change of Contingent Annuitant

- A. The definitions in R2-8-126 apply to this Section.
- B. According to A.R.S. § 38-760(B)(2), for a member whose Original Retirement Date is after August 9, 2001, upon the expiration of a member's period certain term the ASRS shall rescind the member's election and the ASRS shall provide the member a Straight Life Annuity retirement benefit subject to any retirement reductions applicable at the member's Original Retirement Date.
- C. According to A.R.S. § 38-760(B)(2), a member whose Original Retirement Date is after August 9, 2001 and before July 1, 2008 and who elected a Period Certain and Life Annuity Retirement Benefit Option, may rescind the election and elect to receive a Straight Life Annuity retirement benefit prior to the expiration of the member's period certain term.
- D. According to A.R.S. § 38-760(B)(1), a member whose Original Retirement Date is before July 1, 2008 and who elected a Joint and Survivor Retirement Benefit Option may rescind the election and elect to receive a Straight Life Annuity retirement benefit prior to the member's death.
- E. A member whose Original Retirement Date is on or after July 1, 2008 and who elected a Period Certain and Life Annuity Retirement Benefit Option may exercise a one-time election to rescind the election and elect to receive a Straight Life Annuity retirement benefit prior to the expiration of the member's period certain term if the member provides proof to ASRS of the death of the primary beneficiary or a DRO showing that the primary beneficiary has ceased to be a primary beneficiary.
- F. A member whose Original Retirement Date is on or after July 1, 2008 and who elected a Joint and Survivor Retirement Benefit Option may exercise a one-time election to rescind the election and elect to receive a Straight Life Annuity retirement benefit prior to the death of the member if the member provides proof to ASRS of the death of the contingent annuitant a DRO showing that the contingent annuitant has ceased to be a contingent annuitant.
- G. A member who elected to rescind a Period Certain and Life Annuity Retirement Benefit Option according to subsection (C) may elect to revert to the Period Certain and Life Annuity Retirement Benefit Option by submitting an Application to

Rescind, Revert or Change Contingent Annuitant as specified in subsection (M).

- H. A member who elected to rescind a Joint and Survivor Retirement Benefit Option according to subsection (D) may elect to revert to the Joint and Survivor Retirement Benefit Option by submitting an Application to Rescind, Revert or Change Contingent Annuitant as specified in subsection (M).
- I. A member may only revert to the same Period Certain and Life Annuity Retirement Benefit Option the member rescinded according to subsection (C) prior to the expiration of the period certain term the member elected at the member's most recent retirement.
- J. A member who rescinds their election according to subsections (E) or (F) is not eligible to revert to a Period Certain and Life Annuity Retirement Benefit Option or a Joint and Survivor Retirement Benefit Option.
- K. Notwithstanding any other provision, the time period of a Period Certain and Life Annuity Retirement Benefit Option shall be continuous from the member's retirement date until the term expires regardless of whether the member rescinds or reverts to another retirement option.
- L. A member who wants to rescind or revert a retirement election according to subsections (C) through (H) shall ensure ASRS receives an Application to Rescind, Revert or Change Contingent Annuitant at least one day prior to the member's death.
- M. In order to rescind, revert, or change a contingent annuitant, the member shall submit an Application to Rescind, Revert or Change Contingent Annuitant with the following information:
 1. The member's full name;
 2. The member's Social Security number or U.S. Tax Identification number;
 3. The member's marital status, if not On File with ASRS;
 4. Whether the member is electing to rescind, revert, or change a contingent annuitant;
 5. The member's notarized signature acknowledging the following statements of understanding:
 - a. For rescinding a retirement election:
 - i. By this action, and the member's signature, the member is aware that the member's designated beneficiary or contingent annuitant will not continue with monthly benefits after the member's death;
 - ii. The member is aware that a certified copy of the member's designated beneficiary's or contingent annuitant's death certificate or a DRO is required if the member retired or re-retired on or after July 1, 2008;
 - iii. At the time of the member's death, if the ASRS has not disbursed the total employee contributions on the member's account, plus interest at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A) through the month prior to the member's retirement date, the balance will be payable in a lump sum to the beneficiary named on the member's most recent Acceptable Form.
 - b. For changing a contingent annuitant or beneficiary:
 - i. For a Joint and Survivor Retirement Benefit Option, by this action, and the member's signature, the contingent annuitant named on the member's most recent Acceptable Form will receive the previously elected percentage amount of the member's monthly benefit for their lifetime following the member's death;

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- ii. For a Joint and Survivor Retirement Benefit Option, the member is aware that a copy of the contingent annuitant's Legal Documentation is required and the member's benefit will be recalculated based on the member's age and the age of the member's new contingent annuitant as of the effective date of the member's request according to this Section;
 - iii. For a Joint and Survivor Retirement Benefit Option, the member is in compliance with the age difference limitations in R2-8-128; and
 - iv. For a Period Certain and Life Annuity Retirement Benefit Option, by this action, and the member's signature, the beneficiary named on the member's most recent Acceptable Form will receive the remaining term of monthly payments.
 - c. For reverting to a previously elected retirement benefit option according to A.R.S. § 38-760:
 - i. For a Joint and Survivor Retirement Benefit Option, by this action, and the member's signature, the contingent annuitant named the member's most recent Acceptable Form will receive the previously elected percentage amount of the member's monthly benefit for their lifetime following the member's death;
 - ii. For a Joint and Survivor Retirement Benefit Option, the member is aware that a copy of Legal Documentation showing the contingent annuitant's date of birth is required and the member's benefit will be recalculated based on the member's age and the age of the member's contingent annuitant as of the effective date of the member's request according to this Section;
 - iii. For a Joint and Survivor Retirement Benefit Option, the member is in compliance with the age difference limitations in R2-8-128; and
 - iv. For a Period Certain and Life Annuity Retirement Benefit Option, by this action, and the member's signature, the beneficiary named on the member's most recent Acceptable Form will receive the remaining term of monthly payments.
- 6. If the member is electing to change a contingent annuitant, the following information for the new contingent annuitant:
 - a. Full name;
 - b. Social Security number, if the contingent annuitant is a U.S. citizen;
 - c. Date of birth; and
 - d. Legal relationship to the member.
- 7. If the member is married, whether the member's spouse consents to the following with the spouse's notarized signature:
 - a. The member making a beneficiary designation that provides the member's spouse with less than 50% of the member's account balance;
 - b. The member electing a retirement option other than a Joint and Survivor Retirement Benefit Option; or
 - c. The member changing or ending the spouse's contingent annuitant status.
- 8. Whether the spouse's consent is not required because:
 - a. The spouse predeceased the member and if so, provide a copy of the spouse's death certificate; or
 - b. The member is divorced and if so, provide a DRO.
- N. If the ASRS is unable to verify the age of the member or a contingent annuitant, the member or contingent annuitant shall provide Legal Documentation showing the member's or contingent annuitant's age.
- O. The effective date of the member's request according to this Section is the date on which ASRS receives the Application to Rescind, Revert or Change Contingent Annuitant.
- P. According to A.R.S. § 38-760(B)(2), a member whose Original Retirement Date is on or after July 1, 2008 and who elects a Period Certain and Life Annuity Retirement Benefit Option, may rescind the election according to subsection (E) and elect to receive a Straight Life Annuity prior to the expiration of the member's period certain term if one or more of the member's primary beneficiaries dies or ceases to be a beneficiary according to the terms of a DRO.
- Q. The ASRS shall cancel a member's Application to Rescind, Revert, or Change Contingent Annuitant if ASRS does not receive all forms and information required under this Section within six months immediately after the ASRS receives the application.

Historical Note

New Section made by final rulemaking at 26 A.A.R.

2036, effective November 8, 2020 (Supp. 20-3).

Amended by final rulemaking at 28 A.A.R. 1746 (July 22, 2022), effective September 4, 2022 (Supp. 22-3).

R2-8-131. Designating a Beneficiary; Spousal Consent to Beneficiary Designation

- A. The definitions in R2-8-126 apply to this Section.
- B. In order to designate a beneficiary, a member shall submit an Acceptable Form containing the following information:
 - 1. The Member's full name and one or more of the following information:
 - a. The Member's Social Security number or U.S. Tax Identification number; or
 - b. The Member's address; or
 - c. The Member's date of birth;
 - 2. The following information for the beneficiary:
 - a. The full name of the person or entity the member is designating as beneficiary;
 - b. Whether the beneficiary is being designated as primary or secondary beneficiary;
 - c. The percentage of the benefit the member is allocating to the beneficiary; and
 - 3. The member's notarized signature.
- C. If a change in a designated beneficiary is completed through the member's secure ASRS account, the member's notarized signature is not required under subsection (B)(3).
- D. If a member submits an Acceptable Form designating a beneficiary without indicating the percentage of the benefit the member is allocating to the beneficiary, the ASRS shall determine that each beneficiary is designated to receive an equal amount of the benefit.
- E. Effective July 1, 2013, a married member:
 - 1. Who is not retired shall name and maintain the member's current spouse as primary beneficiary of at least 50% of the member's retirement account unless:
 - a. Naming or maintaining the current spouse as beneficiary violates another law, existing contract, or court order; or
 - b. The spouse consents to an alternate beneficiary;

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2. Who retires shall choose a Joint and Survivor Retirement Benefit Option and name the member's current spouse as contingent annuitant unless:
 - a. Naming or maintaining the current spouse as contingent annuitant violates another law, existing contract, or court order; or
 - b. The spouse consents to an alternate contingent annuitant; or
 - c. The spouse consents to an alternate annuity option under A.R.S. §§ 38-757 or 38-760.
- F. The ASRS shall honor a beneficiary designation last made or a retirement election submitted before July 1, 2013, even if the beneficiary designation or retirement election fails to comply with subsection (E).
- G. Subsection (E) does not apply to a member who is receiving a mandatory lump sum distribution according to A.R.S. § 38-764.
- H. Subsection (E) does not apply to a member who submits a Spousal Consent Exception form that contains the member's notarized signature to the ASRS affirming under penalty of perjury that the member's spouse's consent is not required because of one of the reasons specified in A.R.S. § 38-776(C).
- I. In order to change a beneficiary designation, a member shall submit the information contained in subsection (B) and:
 1. A married member who changes a beneficiary designation on or after July 1, 2013, shall ensure the new beneficiary designation is consistent with subsection (E); or
 2. A married member who retired before July 1, 2013, and who wishes to change the contingent annuitant or beneficiary, shall ensure that the new designation is consistent with subsection (E).
- J. A married member who re-retires according to A.R.S. § 38-766:
 1. Within less than 60 consecutive months of active membership from the member's previous retirement date, is not eligible to elect a different annuity option or different beneficiary than the member elected at the time of the previous retirement; or
 2. At least 60 consecutive months of active membership after the member's previous retirement date, may elect a different annuity option and different beneficiary than the member elected at the time of the previous retirement, and the election shall comply with subsection (E).
- K. If a married member submits a retirement application that fails to comply with subsection (E), the member shall submit a new retirement application or written notice of new retirement elections that comply with subsection (E) within six months of the member's Original Retirement Date. The member's new Original Retirement Date is the date ASRS receives the new application or written notice unless the member elects a later date according to A.R.S. § 38-764.
- L. If a married member made a beneficiary designation on or after July 1, 2013 that is not consistent with the requirements specified in subsection (E), the ASRS shall, at the time of the member's death:
 1. Notify both the spouse and designated beneficiary and:
 - a. Provide the spouse with an opportunity to waive the right under subsection (E); and
 - b. Provide the designated beneficiary with an opportunity to provide documentation that revokes the spouse's right under subsection (E); and
 2. Designate 50% of the member's retirement benefit to the spouse if neither the spouse nor designated beneficiary respond to notification according to subsection (L)(1) within 30 days after notification.
- M. If a married member designated a beneficiary before July 1, 2013 that does not comply with subsection (E), upon the death of the member, the member's spouse may submit written notice to the ASRS prior to disbursement of the member's account with the following information:
 1. The member's full name;
 2. The member's Social Security number or U.S. Tax Identification number;
 3. The spouse's assertion to the spouse's right to community property;
 4. An original or copy of the marriage certificate; and
 5. An original or certified copy of the member's death certificate.
- N. If a spouse submits written notice according to subsection (M), the ASRS shall designate the spouse as beneficiary of a percentage of the member's account according to A.R.S. §§ 25-211 and 25-214 and notify the member's designated beneficiary of the spouse's assertion.
- O. The ASRS shall determine a spouse's percentage of the member's account according to subsection (L) based on the amount of service credit the member acquired during the marriage divided by the total amount of service credit the member acquired, multiplied by 50%.
- P. If a beneficiary is notified of a spouse's assertion according to subsection (N), then before ASRS disburses a survivor benefit, the beneficiary may notify ASRS of the beneficiary's intent to appeal the spouse's right to a survivor benefit.
- Q. Within 30 days, a beneficiary who has notified ASRS of the beneficiary's intent to appeal a survivor benefit disbursement according to subsection (P), shall submit an appeal to ASRS according to 2 A.A.C. 8, Article 4.
- R. A DRO may supersede the requirements in subsection (B).
- S. To consent to an alternative retirement benefit option or beneficiary designation, a member's spouse shall complete and have notarized a Spousal Consent form containing the following information:
 1. Member's full name;
 2. Member's Social Security number or U.S. Tax Identification number;
 3. Whether the member's spouse is consenting to one or more of the following:
 - a. The member making a beneficiary designation that provides the spouse with less than 50% of the member's account balance;
 - b. The member electing a retirement option other than a Joint and Survivor Retirement Benefit Option;
 - c. The member naming a contingent annuitant other than the spouse; and
 - d. The spouse's notarized signature.
- T. A member's spouse may revoke the spouse's consent to an alternative retirement benefit option or beneficiary designation by sending written notice to ASRS with the following information:
 1. The member's full name;
 2. The member's Social Security number or U.S. Tax Identification number;
 3. The spouse's full name;
 4. The spouse's dated signature indicating the spouse is revoking all previous Spousal Consent forms.
- U. A spouse who is revoking a Spousal Consent form shall ensure the written notice is received no later than the earlier of one

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day before the member dies or ASRS disburses a retirement benefit to the member.

Historical Note

New Section made by final rulemaking at 26 A.A.R.

2036, effective November 8, 2020 (Supp. 20-3).

Amended by final rulemaking at 28 A.A.R. 1746 (July 22, 2022), effective September 4, 2022 (Supp. 22-3).

R2-8-132. Survivor Benefit Options

- A. The definitions in R2-8-126 apply to this Section.
- B. If the beneficiary is eligible to elect the survivor benefit as monthly income for life according to A.R.S. § 38-762(C), the ASRS shall calculate the benefits based on the attained age of the beneficiary, calculated to the nearest full month, as of the date of the member's death.
- C. If the beneficiary elects to receive the survivor benefit as monthly income for life according to A.R.S. § 38-762(C), the ASRS shall calculate the benefits effective date as of the day after the member's death and the ASRS shall pay interest up to the benefits effective date.
- D. According to A.R.S. § 38-763, if the member elected a Period Certain and Life Annuity Retirement Benefit Option and deceases prior to the expiration of the period certain term, the member's beneficiary may elect to complete the remaining period certain term or the beneficiary may elect to receive a lump sum distribution which is the greater of:
 - 1. The present value of the benefits based on the remaining period certain term; or
 - 2. The member's ASRS account balance plus interest at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A) through the month prior to the member's retirement date, reduced by all retirement benefits due to the member.
- E. Notwithstanding subsection (D), a beneficiary is not eligible to elect to complete the remaining period certain term if the period certain term has expired.
- F. If the beneficiary elects to complete the remaining period certain term or elects to receive a lump sum that is the present value of the benefits based on the remaining period certain term according to subsection (D), the ASRS shall not pay interest.
- G. If a member's beneficiary or contingent annuitant does not want to receive a survivor benefit according to 26 U.S.C. § 2518, within nine months after the member's death, the beneficiary or contingent annuitant may submit a written request to the ASRS with the following information for the beneficiary or contingent annuitant:
 - 1. Full name;
 - 2. Social Security number if the beneficiary or contingent annuitant is a U.S. citizen;
 - 3. Address; and
 - 4. Notarized signature acknowledging the following statements:
 - a. The beneficiary or contingent annuitant is aware that, as a beneficiary or contingent annuitant of the member, the beneficiary or contingent annuitant is entitled to a survivor benefit in the amount specified by the ASRS;
 - b. The beneficiary is renouncing a portion or all of the beneficiary's rights to the member's benefit;
 - c. The contingent annuitant is renouncing all of the contingent annuitant's rights to the member's benefit;

- d. The beneficiary understands that by renouncing rights to the member's benefit, the portion that the beneficiary is renouncing will be paid to any other survivor on the member's account, or if there is no other designated survivor, the benefit will be paid to the member's estate; and
- e. The contingent annuitant understands that by renouncing rights to the member's benefit, the ASRS shall pay the member's ASRS account balance plus interest at the Assumed Actuarial Interest and Investment Return Rate specified in R2-8-118(A) through the month prior to the member's retirement date, reduced by all retirement benefits due to the member, to any other survivor on the member's account, or if there is no other designated survivor, to the member's estate.

- H. According to 26 U.S.C. § 2518, a minor beneficiary's or contingent annuitant's survivor benefit cannot be renounced.

Historical Note

New Section made by final rulemaking at 26 A.A.R.

2036, effective November 8, 2020 (Supp. 20-3).

R2-8-133. Survivor Benefit Applications

- A. The definitions in R2-8-126 apply to this Section.
- B. The ASRS shall not distribute a survivor benefit until a claimant notifies the ASRS of a member's death by telephone or submission of a death certificate, unless the member elected a Joint and Survivor Benefit Option upon retirement.
- C. Upon notification of the death of a member, the ASRS shall distribute the survivor benefits according to the most recent, Acceptable Form that is On File with the ASRS that was received at least one day prior to the date of the member's death, unless otherwise provided by law.
- D. The designated beneficiary or other person specified in A.R.S. § 38-762(E) shall provide the following:
 - 1. An original certified death certificate or a certified copy of a court order that establishes the member's death;
 - 2. If the claimant is not a designated beneficiary, but is a person specified in A.R.S. § 38-762(E), a copy of a document issued from a federal, state, local, sovereign, or medical institution showing the claimant's relationship to the deceased member;
 - 3. A certified copy of the court order of appointment as administrator, if applicable; and
 - 4. Except if the deceased member was retired and elected the joint and survivor option, complete and have notarized an Application for Survivor Benefits, provided by the ASRS that includes:
 - a. The deceased member's full name,
 - b. The deceased member's Social Security number or U.S. Tax Identification number,
 - c. The benefit the designated beneficiary or other person specified in A.R.S. § 38-762(E) is electing;
 - d. If the designated beneficiary or other person specified in A.R.S. § 38-762(E) is electing to roll over a benefit, the following information:
 - i. The claimant's full name;
 - ii. The name of the institution to which the claimant is electing to roll over;
 - iii. The address of the institution to which the claimant is electing to roll over;
 - iv. The full name of the authorized representative of the institution to which the claimant is electing to roll over;

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- v. The signature of the authorized representative of the institution to which the claimant is electing to roll over;
- e. If the beneficiary is electing to have any of the survivor benefits directly deposited into a bank account, the following information:
 - i. Whether the bank account is a checking or savings account;
 - ii. The name of the banking institution to which the benefit is being sent;
 - iii. The routing number;
 - iv. The account number; and
- f. The following information for the designated beneficiary or other person specified in A.R.S. § 38-762(E):
 - i. Full name;
 - ii. Mailing address, if not On File with ASRS;
 - iii. Date of birth, if applicable; and
 - iv. Social Security number or U.S. Tax Identification number, if not On File with ASRS.
- g. The following statements of understanding:
 - i. The designated beneficiary or other person specified in A.R.S. § 38-762(E) has read and understands the Special Tax Notice Regarding Plan Payments they received with this application;
 - ii. The designated beneficiary or other person specified in A.R.S. § 38-762(E) authorizes the ASRS to make payments as indicated above and agree on behalf of themselves and their heirs that such payments shall be a complete discharge of the claim and shall constitute a release of the ASRS from any further obligation on account of the benefit;
 - iii. The designated beneficiary or other person specified in A.R.S. § 38-762(E) authorizes the ASRS and the Banking Institution listed above to debit their account for the purposes of correcting errors and returning any payments inadvertently made after their death;
 - iv. Under penalties of perjury, the designated beneficiary or other person specified in A.R.S. § 38-762(E) certifies that:
 - (1) The Social Security number or U.S. Tax Identification number shown on this application is correct;
 - (2) They are not subject to backup withholding because:
 - (a) They are exempt from backup withholding, or
 - (b) They have not been notified by the Internal Revenue Service that they are subject to backup withholding as a result of a failure to report all interest or dividends, or
 - (c) The Internal Revenue Service has notified them that they are no longer subject to backup withholding; and
 - (3) They are a legal resident of the United States, unless they are an estate or trust.
 - v. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands their right to a 30-day notice period to consider a rollover or a cash distribution and they elect to waive the notice period by their election for payment on this application;
 - vi. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over all or any portion of their distribution to another eligible retirement plan, it is their responsibility to verify that the receiving plan will accept the rollover and, if applicable, agree to separately account for the taxable and nontaxable amounts rolled over and the related subsequent earnings on such amounts;
 - vii. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over all or any portion of their distribution to an IRA plan, it is their responsibility to verify that the receiving IRA institution will accept the rollover and, if applicable, it is their responsibility to separately account for taxable and nontaxable amounts;
 - viii. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over to another eligible retirement plan, any portion of the distribution not designated for a rollover will be paid directly to them and any taxable amounts will be subject to federal and state income tax withholding;
 - ix. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over to an inherited IRA plan, any portion of the distribution not designated for a rollover will be paid directly to them and any taxable amounts will be subject to federal and state income tax withholding.
 - xi. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over to an inherited IRA plan, they may be required to receive a minimum distribution and they certify that the date of birth shown on this form is correct.
- 5. For a member who elected a Joint and Survivor Retirement Benefit Option, a contingent annuitant shall submit a Joint and Survivor Certification form containing:
 - a. The following information for the member:
 - i. Full name;
 - ii. Social Security number or U.S. Tax Identification number;
 - iii. Date of death; and
 - b. The following information for the beneficiary:
 - i. Legal relationship to the member;
 - ii. Full name;
 - iii. Social Security number or United States Tax Identification number, if not On File with ASRS;
 - iv. Mailing address, if not On File with ASRS;
 - v. Date of birth, if not On File with ASRS;
 - vi. If the contingent annuitant is electing to have any of the survivor benefits directly deposited into a bank account, the following information:
 - (1) Whether the bank account is a checking or savings account;
 - (2) The name of the banking institution to which the benefit is being sent;
 - (3) The routing number;
 - (4) The account number; and

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- c. The following statements of understanding:
 - i. The contingent annuitant has read and understands the Special Tax Notice Regarding Plan Payments they received with the Joint and Survivor Certification form;
 - ii. The contingent annuitant authorizes the ASRS to make payments as indicated above and agree on behalf of themselves and their heirs that such payments shall be a complete discharge of the claim and shall constitute a release of the ASRS from any further obligation on account of the benefit; and
 - iii. The contingent annuitant authorizes the ASRS and the Banking Institution listed above to debit their account for the purposes of correcting errors and returning any payments inadvertently made after their death.
- d. The contingent annuitant's notarized signature.
- E. Notwithstanding R2-8-132(H), if the beneficiary or contingent annuitant is a minor as of the date of the member's death, the beneficiary or contingent annuitant may submit a written request with the information contained in R2-8-132(G)(1) through (4) within nine months after the minor attains 18 years of age.
- F. For a member who deceases prior to the member's retirement date, if there is no designation of beneficiary or if the designated beneficiary predeceases the member, the ASRS shall pay a survivor benefit as specified in A.R.S. § 38-762(E).
- G. The ASRS shall begin disbursing a survivor benefit to a contingent annuitant according to A.R.S. § 38-760(B)(1) upon notification and verification of the member's death by a third party.
- H. The ASRS shall suspend a survivor benefit for a contingent annuitant unless the contingent annuitant provides the information in subsection (D) within two months of the ASRS disbursing a survivor benefit.
- I. If the member is domiciled in Arizona, according to A.R.S. § 14-3971, and there is no designated beneficiary, the ASRS shall distribute the balance of a member's account to a claimant if the claimant submits an Affidavit for Collection of Personal Property to ASRS with the following:
 - 1. The claimant's name;
 - 2. The claimant's Social Security number or U.S. Tax Identification number;
 - 3. The claimant's mailing address;
 - 4. The member's name;
 - 5. The member's Social Security number or U.S. Tax Identification number;
 - 6. The date of the member's death;
 - 7. The state and county where the member died;
 - 8. Statements indicating:
 - a. According to A.R.S. § 14-3971(B)(2)(a), no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction and the value of the member's entire estate, less liens and encumbrances, does not exceed the amount in A.R.S. § 14-3971 as valued as of the date of the member's death;
 - b. According to A.R.S. § 14-3971(B)(2)(b), the personal representative has been discharged, or more than a year has elapsed since a closing statement has been filed and the value of the member's entire estate, less liens and encumbrances, does not exceed the amount in A.R.S. § 14-3971 as valued as of the date the ASRS receives the Affidavit for Collection of Personal Property;
- c. The claimant is the successor of the member and is entitled to the member's personal property because:
 - i. The claimant is named in the member's will; or
 - ii. The member did not have a will and the claimant is entitled to the member's personal property by right of intestate succession according to A.R.S. § 14-2103;
- d. If the claimant is entitled to the member's personal property according to subsection (I)(8)(c)(i), then a copy of the member's will;
- e. If the claimant is entitled to the member's personal property according to subsection (I)(8)(c)(ii), then the relationship between the member and the claimant and whether there are other surviving heirs;
- f. If there are other surviving heirs, then the name and relationship of each surviving heir;
- g. A statement indicating the claimant is making the Affidavit for Collection of Personal Property according to A.R.S. § 14-3971 for the purpose of making a claim to the member's ASRS account; and
- h. The claimant's notarized signature.
- J. If the member is not domiciled in Arizona and there is no designated beneficiary, the ASRS shall distribute the balance of a member's account to a claimant if the claimant submits legal documentation to claim the member's ASRS account that complies with the statutory requirements of the state in which the member was domiciled at the time of the member's death.
- K. Notwithstanding any other provision, if the amount of the survivor benefit as valued at the date of disbursement is less than \$10,000 per annum, the ASRS shall not distribute a survivor benefit to a minor beneficiary unless the minor beneficiary's legal guardian submits the following written information:
 - 1. The member's full name;
 - 2. The member's Social Security number or U.S. Tax Identification number;
 - 3. The minor beneficiary's full name;
 - 4. The minor beneficiary's Social Security number or U.S. Tax Identification number;
 - 5. The full name of the minor beneficiary's legal guardian;
 - 6. The minor beneficiary's legal guardian's address, if not On File with ASRS; and
 - 7. The minor beneficiary's legal guardian's signature certifying the minor beneficiary's legal guardian has care and custody of the minor beneficiary.
- L. Notwithstanding any other provision, if the amount of the survivor benefit as valued at the date of disbursement is \$10,000 or more per annum, the ASRS shall not distribute a survivor benefit to a minor beneficiary unless the minor beneficiary's conservator submits proof of court-appointed fiduciary responsibility for the minor beneficiary.
- M. The ASRS shall remit payment to the minor beneficiary according to subsection (K) by sending the minor beneficiary's conservator a check, if the document providing proof of the court-appointed fiduciary responsibility requires payment to be made to a restricted or secure account.
- N. If a person claims that a beneficiary or claimant is not entitled to a survivor benefit, then before ASRS disburses a survivor benefit, the person may notify ASRS of the person's intent to appeal the beneficiary's or claimant's right to a survivor benefit.
- O. Within 30 days, a person who has notified ASRS of the person's intent to appeal a survivor benefit disbursement accord-

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ing to subsection (N), shall submit an appeal to ASRS according to 2 A.A.C. 8, Article 4.

- P. If the ASRS receives documentation from, or confirmed by, a law enforcement agency, that a beneficiary or claimant may be guilty of the felonious and intentional killing of the member, the ASRS shall not distribute any benefits to the beneficiary or claimant that may be guilty of the felonious and intentional killing of the member until the matter has been adjudicated.
- Q. If the member's estate has an appointed personal representative, the member's estate shall submit a court document identifying the personal representative for the member's estate before ASRS may distribute a survivor benefit.
- R. If the member's estate is closed, the person claiming a right to the member's ASRS account shall provide a court document proving the estate is closed.
- S. If the survivor receives a monthly annuity and does not provide the direct deposit information according to subsection (D)(4)(e) or (D)(5)(b)(vi), ASRS shall issue a debit benefit card.
- T. If the survivor does not activate the debit benefit card the ASRS issues to the survivor within 75 days, the ASRS shall reclaim all the survivor benefits issued on the debit benefit card and suspend the survivor's benefits until the survivor:
 1. Activates the debit benefit card or provides the direct deposit information according to subsection (D)(4)(e) or (D)(5)(b)(vi); and
 2. Returns the notice of benefit suspension with the following information:
 - a. The survivor's Social Security number or U.S. Tax Identification number;
 - b. The survivor's address; and
 - c. The survivor's notarized signature.

Historical Note

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).
Amended by final rulemaking at 30 A.A.R. 732 (April 12, 2024), effective May 17, 2024 (Supp. 21-4).

Table 1. Repealed**Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5).
Table 1 repealed, new Table 1 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 2. Repealed**Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5).
Table 2 repealed, new Table 2 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 3. Repealed**Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5).
Table 3 repealed, new Table 3 adopted effective July 24,

1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 4. Repealed**Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5).
Table 4 repealed, new Table 4 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 5. Repealed**Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5).
Table 5 repealed, new Table 5 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 6. Repealed**Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5).
Table 6 repealed, new Table 6 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 7. Repealed**Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5).
Table 7 repealed, new Table 7 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 8. Repealed**Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5).
Table 8 repealed, new Table 8 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 9. Repealed

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Historical Note

Adopted effective September 12, 1977 (Supp. 77-5). Table 9 repealed, new Table 9 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 10. Repealed**Historical Note**

Adopted effective October 18, 1984 (Supp. 84-5). Table 10 repealed, new Table 10 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 11. Repealed**Historical Note**

Adopted effective October 18, 1984 (Supp. 84-5). Table 11 repealed, new Table 11 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Exhibit A. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit B, Table 1. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit B, Table 2. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90

days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit B, Table 3. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit C. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit D, Table 1. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit D, Table 2. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit D, Table 3. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29,

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Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit E, Table 3. Repealed

Historical Note

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit E, Table 4. Repealed

Historical Note

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit E, Table 5. Repealed

Historical Note

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit E, Table 6. Repealed

Historical Note

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit F, Table 1. Repealed

Adopted by emergency effective July 6, 1993, pursuant to
A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3).

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1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit M, Table 2. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit M, Table 3. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit M, Table 4. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit M, Table 5. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit M, Table 6. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3).

Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

ARTICLE 2. HEALTH INSURANCE PREMIUM BENEFIT**R2-8-201. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "Coverage" means a medical and/or dental insurance plan a retired member, Disabled member, or beneficiary obtains through the ASRS or an Employer.
2. "Contingent annuitant" means the same as in A.R.S. § 38-711(8) and the person is eligible for Coverage.
3. "Disabled" means the member has a disability and is receiving long-term disability benefits pursuant to A.R.S. § 38-797 et seq.
4. "Family calculation" means the family Coverage premium described in A.R.S. § 38-783(B).
5. "Joint & survivor" means the annuity option described in A.R.S. § 38-760(B)(1).
6. "Net premium" means the amount of the Coverage premium reduced by the amount of the Premium Benefit provided by the ASRS.
7. "On file" means the same as in R2-8-115.
8. "Original retirement date" means the same as in R2-8-126.
9. "Optional premium benefit" means the election, upon retirement, to have the Premium Benefit paid on behalf of the member's Contingent Annuitant upon death of the member pursuant to A.R.S. § 38-783.
10. "Period-certain" means the annuity option described in A.R.S. § 38-760(B)(2).
11. "Premium benefit" means the amount the ASRS provides on behalf of a retired member or Disabled member in order to offset the Coverage premium of the retired or Disabled member pursuant to A.R.S. § 38-783.
12. "Single calculation" means the single Coverage premium calculation described in A.R.S. § 38-783(A).
13. "Subsidized" means the same as in A.R.S. § 38-783(M)(4).

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 34, effective May 31, 2015 (Supp. 16-4). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

R2-8-202. Premium Benefit Eligibility and Benefit Determination

A. A retired member or Disabled member who has five or more years of service and who elects to maintain Coverage is eligible for a Premium Benefit as follows:

1. A retired member or Disabled member who elects to maintain Coverage for the retired member or Disabled member only, is eligible for a Single Calculation of the Premium Benefit as described in R2-8-204(A);

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2. A retired member or Disabled member who elects to maintain Coverage for the retired member or Disabled member and a dependent who is not a retired member or Disabled member is eligible for a Family Calculation of the Premium Benefit as described in R2-8-204(B).
 3. A retired member or Disabled member who elects to maintain Coverage for the retired member or Disabled member and a dependent who is a retired member or Disabled member is eligible for the greater of:
 - a. Two Single Calculations of the Premium Benefit described in R2-8-204(A); or
 - b. One Family Calculation of the Premium Benefit described in R2-8-204(B).
 4. A retired member or Disabled member who is enrolled as a dependent on a member's insurance plan is eligible for a Single Calculation of the Premium Benefit described in R2-8-204(A) if:
 - a. The retired member has an Original Retirement Date prior to August 2, 2012; or
 - b. The Disabled member became Disabled prior to August 2, 2012;
 5. A retired member or Disabled member who elects to maintain Coverage for the retired member or Disabled member and multiple dependents, some of whom are retired members or Disabled members, is eligible for the greater of:
 - a. Two Single Calculations of the Premium Benefit described in R2-8-204(A); or
 - b. One Family Calculation of the Premium Benefit described in R2-8-204(B).
- B.** Pursuant to A.R.S. § 38-783(E), a retired member who returns to work with an Employer and elects to maintain Coverage is eligible to receive a Premium Benefit if the member has an Original Retirement Date prior to August 2, 2012.
- C.** Pursuant to A.R.S. § 38-783(E), a Disabled member who elects to maintain Coverage is eligible to receive a Premium Benefit if the Disabled member became Disabled prior to August 2, 2012.
- D.** A member who receives a lump sum distribution from the ASRS upon retirement is eligible to receive a Premium Benefit pursuant to this Article.
- E.** Notwithstanding any other Section, a retired member who has an Original Retirement Date on or after August 2, 2012, or a Disabled member who became Disabled on or after August 2, 2012 is eligible to receive a Premium Benefit pursuant to this Article, only if Coverage is not Subsidized.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Amended by emergency rulemaking at 10 A.A.R. 4259, effective September 30, 2004 (Supp. 04-3). Amended by final rulemaking at 10 A.A.R. 4346, effective October 5, 2004 (Supp. 04-3). Section amended and Table 1 repealed by final rulemaking at 13 A.A.R. 4581, effective February 2, 2008 (Supp. 07-4). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

R2-8-203. Payment of Premium Benefit

- A.** Every month, the ASRS shall provide a Premium Benefit to the Employer on behalf of a retired member, Disabled member, or Contingent Annuitant who maintains Coverage and is eligible to receive a Premium Benefit pursuant to R2-8-202.
- B.** Notwithstanding subsection (A), if a retired member who is eligible to receive a Premium Benefit pursuant to R2-8-202 elects to maintain Coverage with the Arizona Department of Administration or the ASRS, the ASRS shall reduce the retired member's pension amount by the amount of the retired member's Net Premium for Coverage pursuant to this Article, unless the Net Premium exceeds the pension amount.
- C.** Notwithstanding subsection (A), if a retired member who is eligible to receive a Premium Benefit pursuant to R2-8-202 elects to maintain Coverage with the ASRS and the Net Premium exceeds the retired member's pension amount, the retired member shall be responsible for remitting the Net Premium to the retired member's insurance company and the ASRS shall:
 1. Not reduce the retired member's pension amount; and
 2. Remit payment of the Premium Benefit to the retired member's insurance company.
- D.** Notwithstanding subsection (A), if a retired member who is eligible to receive a Premium Benefit pursuant to R2-8-202 elects to maintain Coverage with the Arizona Department of Administration and the Net Premium exceeds the retired member's pension amount, the retired member shall be responsible for remitting the Net Premium to the Arizona Department of Administration and the ASRS shall:
 1. Not reduce the retired member's pension amount; and
 2. Remit payment of the Premium Benefit to the Arizona Department of Administration.
- E.** If a Disabled member who is eligible to receive a Premium benefit pursuant to R2-8-202 maintains Coverage with the Arizona Department of Administration, the ASRS shall remit the Premium Benefit to the Arizona Department of Administration, unless the Disabled member is participating in the Six-Month Reimbursement Program pursuant to R2-8-206.
- F.** If a Disabled member who is eligible to receive a Premium Benefit pursuant to R2-8-202 maintains Coverage with the ASRS, the ASRS shall remit the Premium Benefit to the Disabled member's insurance company and the Disabled member shall be responsible for remitting the Net Premium to the Disabled member's insurance company.
- G.** If a retired member or Disabled member who is eligible to receive a Premium Benefit pursuant to R2-8-202 maintains Coverage with an Employer other than the ASRS or the Arizona Department of Administration, the ASRS shall remit the Premium Benefit to the retired member's or Disabled member's Employer, unless the retired member or Disabled member is participating in the Six-Month Reimbursement Program pursuant to R2-8-206.
- H.** If a retired member or Disabled member is eligible to receive a Premium Benefit pursuant to R2-8-202, the ASRS shall provide the lesser of the following for any one retired member or Disabled member:
 1. The actual cost of the Coverage premium; or
 2. The greatest Premium Benefit calculation for which the retired member or Disabled member is eligible pursuant to R2-8-202.
- I.** If a retired member is eligible to receive a Premium Benefit pursuant to R2-8-202 and the member retires from the ASRS in addition to retiring from another State retirement system or plan described in A.R.S. § 38-921, each month, the ASRS shall remit any Premium Benefit for which the retired member

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is eligible under this Article to the other State retirement system or plan from which the member retired.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2).

R2-8-204. Premium Benefit Calculation

- A. A Single Calculation for a Premium Benefit is based on the retired member's or Disabled member's Coverage election, years of service, and Medicare or non-Medicare status.
- B. A Family Calculation for a Premium Benefit is based on the retired member's or Disabled member's Coverage election, years of service, and Medicare or Non-Medicare status, and the Medicare or Non-Medicare status of any dependents for which the retired member or Disabled member has obtained Coverage.
- C. A Contingent Annuitant who is eligible to receive an Optional Premium Benefit pursuant to R2-8-207 shall receive an Optional Premium Benefit amount based on:
 1. The retired member's years of service and optional retirement benefit election pursuant to A.R.S. § 38-760; and
 2. The Contingent Annuitant's Coverage and Medicare or non-Medicare status.
- D. Notwithstanding R2-8-203(H), if a Contingent Annuitant is a retired member, the Contingent Annuitant may be entitled to receive more than one Premium Benefit.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

R2-8-205. Premium Benefit Documentation

- A. Every year, prior to the effective date of Coverage, an Employer shall report to the ASRS all the Coverage plans and premium rates the Employer offers to its retired or Disabled employees.
- B. An Employer shall inform the ASRS of any changes to the retired member's, Disabled member's, or Contingent Annuitant's Coverage, including enrollment in Coverage, maintained through the Employer within 30 days of the changes taking effect.
- C. Using the Employer's secure ASRS website account, or another ASRS approved method, an Employer shall submit the following health insurance enrollment, change, and/or deletion information pursuant to subsection (B):
 1. The retired member's, Disabled member's, or Contingent Annuitant's Social Security number or U.S. Tax Identification number;
 2. The retired member's, Disabled member's, or Contingent Annuitant's full name;
 3. The retired member's, Disabled member's, or Contingent Annuitant's date of birth;
 4. The Coverage in which the retired member, Disabled member, or Contingent Annuitant is enrolling;
 5. The type of change that is being made to the Coverage;

6. The following information for each dependent enrolled in, or to be enrolled in, or removed from, Coverage:
 - a. First and last name;
 - b. Social Security number or U.S. Tax Identification number;
 - c. Date of birth; and
 - d. Medicare number, if applicable.
7. The old and new premium amounts for Coverage;
8. The effective date of the change, deletion, and/or enrollment;
9. The Employer's name and telephone number;
10. A certification by the Employer representative's dated signature that the information is current and correct.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1). Amended by final rulemaking at 30 A.A.R. 739 (April 12, 2024), effective May 17, 2024 (Supp. 24-1).

R2-8-206. Six-Month Reimbursement Program

- A. For a retired member or Disabled member who is eligible for a Premium Benefit pursuant to R2-8-202(A)(4) or (B), the ASRS shall remit the Premium Benefit to the retired member or Disabled member pursuant to subsection (B).
- B. Pursuant to subsection (A), the ASRS shall remit the Premium Benefit to the retired member or Disabled member every six months, payable in July and January. For purposes of this Section, the Premium Benefit shall be the aggregate amounts of the Premium Benefit the retired member or Disabled member is entitled to receive during the previous six months.
- C. In order to receive a Premium Benefit payment pursuant to subsection (B), a retired member or Disabled member shall submit to the ASRS the Reimbursement of Medical and/or Dental Cost (Six-Month Reimbursement Program) form after the last day of the last month for which the retired member or Disabled member is seeking reimbursement.
- D. The Reimbursement of Medical and/or Dental Cost (Six-Month Reimbursement Program) form that a retired member or Disabled member submits pursuant to subsection (C) shall include the following information:
 1. The retired member's or Disabled member's Social Security number or U.S. Tax Identification number;
 2. The retired member's or Disabled member's full name;
 3. The retired member's or Disabled member's mailing address and phone number;
 4. The retired member's or Disabled member's date of birth;
 5. The retired member's or Disabled member's status with the ASRS;
 6. The retired member's or Disabled member's status with the retired member's or Disabled member's Employer;
 7. The following Coverage information for the Coverage policy holder:
 - a. First and last names;
 - b. Social Security number or U.S. Tax Identification number;
 - c. Date of birth;
 - d. Effective date of Coverage;

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8. The following information for each dependent enrolled in, or to be enrolled in, Coverage:
 - a. First and last name;
 - b. Social Security number or U.S. Tax Identification number;
 - c. Date of birth;
 - d. Effective date of Coverage;
9. Six-month reimbursement totals identified by:
 - a. The month and year the premium is due for Coverage;
 - b. The total medical plan premium per month;
 - c. The total dental plan premium per month;
 - d. The employee's out-of-pocket payroll deduction for a medical premium per month;
 - e. The employee's out-of-pocket payroll deduction for a dental premium per month;
 - f. The employee's total out-of-pocket payroll deduction for medical and dental premiums per month;
10. The Employer's name;
11. The Employer's phone number;
12. The Employer's email address;
13. The name of the Employer's representative; and
14. The dated signature of the Employer's representative.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

R2-8-207. Optional Premium Benefit

- A. A member who retires on or after January 1, 2004, is eligible to elect the Optional Premium Benefit to be effective on the date of the retired member's retirement and may designate a Contingent Annuitant to receive the Optional Premium Benefit upon the death of the retired member if:
 1. The retired member elects a retirement option under A.R.S. § 38-760; and
 2. The retired member elects to maintain Coverage.
- B. A retired member who returns to active membership for 60 consecutive months or more before retiring again, may elect or re-elect the Optional Premium Benefit pursuant to subsection (A).
- C. A retired member who does not return to active membership for 60 consecutive months or more before retiring again is not eligible to elect the Optional Premium Benefit pursuant to subsection (A) unless the retired member elected the Optional Premium Benefit to be effective on the date of the retired member's Original Retirement Date.
- D. In order to elect, re-elect, or terminate the Optional Premium Benefit pursuant to subsection (A), the retired member shall submit to the ASRS the Optional Premium Benefit Program Election or Termination form containing the following information:
 1. The retired member's Social Security number or U.S. Tax Identification number;
 2. Whether the retired member is electing, declining, or terminating the Optional Premium Benefit;
 3. The following information for the Contingent Annuitant if the retired member is electing or re-electing the Optional Premium Benefit:
 - a. The Social Security number or U.S. Tax Identification number;
 - b. The full name; and
 - c. The date of birth, if not On File; and
4. Certification of understanding by the retired member's dated signature of the following statements:
 - a. I have a one-time election at the time of retirement for this benefit, and have a retirement date on or after January 1, 2004;
 - b. I must elect a Joint & Survivor or Period-Certain annuity option;
 - c. If I elect to participate, my Contingent Annuitant must be either participating or eligible to participate in my retiree health care plan at the time of my death;
 - d. I must provide proof of birth date for my Contingent Annuitant;
 - e. The Premium Benefit will be actuarially reduced for the remainder of my benefit and my Contingent Annuitant's benefit as long as the Optional Premium Benefit is elected; and
 - f. I may rescind the election at any time and be eligible for the unreduced Premium Benefit payable as provided by law.
- E. In order to elect or re-elect the Optional Premium Benefit, a member shall submit the Optional Premium Benefit Program Election or Termination form to the ASRS prior to the member's Original Retirement Date.
- F. A Contingent Annuitant the retired member designates to receive the Optional Premium Benefit upon the retired member's death is eligible to receive a Premium Benefit if:
 1. The retired member designates the Contingent Annuitant as the primary beneficiary on the member's retirement account;
 2. The Contingent Annuitant is enrolled in a Coverage plan at the time of the member's death or the Contingent Annuitant enrolls in a Coverage plan within six months of the retired member's death pursuant to A.R.S. § 38-782(A); and
 3. The Contingent Annuitant is eligible to receive at least one monthly payment.
- G. Upon the death of a retired member who elected the Optional Premium Benefit pursuant to subsection (A), the ASRS shall provide the Optional Premium Benefit on behalf of the retired member's Contingent Annuitant who is eligible to receive the Optional Premium Benefit pursuant to subsection (F).
- H. Notwithstanding subsection (G), the amount of the Optional Premium Benefit the ASRS provides on behalf of a Contingent Annuitant shall not exceed the actual amount of the Coverage premium.
- I. Unless otherwise indicated by law, the Optional Premium Benefit shall not terminate upon the death of the retired member if a Contingent Annuitant is eligible for the Optional Premium Benefit pursuant to subsection (F).
- J. The Optional Premium Benefit shall terminate if the member is no longer receiving a Joint & Survivor or Period-Certain annuity.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 34, effective May 31, 2015 (Supp. 16-4). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemak-

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ing at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1). Amended by final rulemaking at 30 A.A.R. 739 (April 12, 2024), effective May 17, 2024 (Supp. 24-1).

ARTICLE 3. LONG-TERM DISABILITY**R2-8-301. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "Attending Physician" means a provider:
 - a. Who is a qualified medical provider or other legally qualified practitioner of a healing art that the claims administrator recognizes or is required by law to recognize;
 - b. Whose medical training and clinical experience are qualified to treat the member's disabling condition;
 - c. Whose diagnosis and treatment is consistent with the diagnosis of the disabling condition, according to guidelines established by medical, research, and rehabilitative organizations;
 - d. Who is licensed to practice in the jurisdiction where care is being given;
 - e. Who is practicing within the scope of the license; and
 - f. Who is not related to the member by blood or marriage.
2. "Direct Care" means the member is actively receiving treatment from a provider for the member's disability at least once per calendar year.
3. "Estimated Social Security disability income amount" means the same as in R2-8-801(1).
4. "Legal proceeding" means an appeal of an appealable agency decision at the Office of Administrative Hearings pursuant to A.R.S. § 41-1092 et seq. or an appeal of a Social Security determination at the Social Security Administration, or any other review by a formal body, which determines the rights and responsibilities of the member or survivor.
5. "LTD" means the Long-Term Disability program described in A.R.S. § 38-797 et seq.
6. "LTD benefit" means the amount of funds the member receives from the ASRS or the ASRS contracted LTD claims administrator, for the period of time a member has an eligible disability as described in A.R.S. § 38-797.07(A)(11).
7. "LTD contribution" means the amount of funds the member remits to the ASRS from the member's compensation as payment for the LTD program.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3). Numbering corrected and subsection reference under the "Estimated Social Security disability income amount" definition corrected (Supp. 23-2).

R2-8-302. Application for Long-Term Disability Benefit

- A. In order to claim an LTD benefit, a disabled member shall submit to the disabled member's Employer all the completed forms prescribed by the ASRS contracted LTD claims administrator within 12 months of the date the disabled member became disabled.

- B. Pursuant to A.R.S. § 38-797.07(D), in order to continue receiving an LTD benefit, a disabled member shall submit documentation regarding the disabled member's ongoing disability and occupation as required by the ASRS contracted LTD claims administrator to determine the disabled member's continuing eligibility for an LTD benefit.
- C. Pursuant to A.R.S. § 38-797.07(11), in order to submit an application for an LTD benefit, a member must provide objective medical evidence from an Attending Physician.
- D. Pursuant to A.R.S. § 38-797.07(7)(b)(i), in order to continue receiving an LTD benefit, the disabled member must be under the Direct Care of a doctor.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3).

R2-8-303. Long-Term Disability Calculation

- A. The ASRS contracted LTD claims administrator shall calculate an LTD benefit for a member using the member's monthly compensation as described in A.R.S. § 38-797(11).
- B. For a member whose monthly compensation is \$0 as of the date of disability, the ASRS shall pay a monthly benefit of \$50 unless the benefit is reduced pursuant to R2-8-807 or required to be reduced pursuant to A.R.S. § 38-797.07(A)(2).
- C. The ASRS shall reduce a member's LTD benefit in accordance with A.R.S. § 38-797.07(A).
- D. Notwithstanding any other section, a member who became disabled on or after August 27, 2019, shall not receive a benefit under this article that would increase the member's monthly compensation after disability to an amount that exceeds 100% of the member's monthly compensation before disability.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3). Amended by final rulemaking at 27 A.A.R. 89, effective March 9, 2021 (Supp. 21-1).

R2-8-304. Payment of Long-Term Disability Benefit

- A. The ASRS contracted LTD claims administrator shall begin providing an LTD benefit to an eligible disabled member no sooner than six months after the date the disabled member became disabled.
- B. Notwithstanding subsection (A), the ASRS contracted LTD claims administrator may begin providing an LTD benefit to an eligible disabled member sooner than six months if the disability is related to the member's disability that occurred within six months immediately preceding the disability.
- C. The ASRS contracted LTD claims administrator may provide an eligible disabled member's LTD benefit to a third party pursuant to A.R.S. § 38-797.09.
- D. Notwithstanding any other Section, a member may receive Long-Term disability benefits for no more than 12 months after the member receives a required minimum distribution of the member's retirement benefit pursuant to A.R.S. § 38-775.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3). Amended by final

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rulemaking at 28 A.A.R. 1255 (June 10, 2022), effective July 17, 2022 (Supp. 22-2).

R2-8-305. Social Security Disability Appeal

- A. Upon request by the ASRS contracted LTD claims administrator, a member who claims an LTD benefit pursuant to R2-8-302(A) shall submit a Social Security disability income application as prescribed by the ASRS contracted LTD claims administrator.
- B. In order to continue receiving an LTD benefit, a member whose application for Social Security disability income has been denied or terminated must appeal the most recent determination of denial or termination through a hearing before an administrative law judge pursuant to A.R.S. § 38-797.07(A)(10)(a) until the ASRS contracted LTD claims administrator or the Social Security Claims Administrator determines the member is not eligible for a Social Security benefit.
- C. Within 10 days after a member receives notice of the status of the member's Social Security disability income application, the member shall notify:
 1. The ASRS of the member's application status by submitting a copy of the notice identifying the status of the member's Social Security disability income application to the ASRS, if the member is not receiving an LTD benefit; or
 2. The ASRS contracted LTD claims administrator of the member's application status by submitting a copy of the notice identifying the status of the member's Social Security disability income application to the ASRS contracted LTD claims administrator, if the member is not receiving an LTD benefit.
- D. A member who disagrees with an LTD determination by the ASRS contracted LTD claims administrator may submit an appeal pursuant to 2 A.A.C. 8, Article 4.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3).

R2-8-306. Approval of Social Security Disability

Upon receipt of a Social Security disability income benefit, a member shall immediately remit to:

1. The ASRS the amount of the Social Security disability income benefit necessary to offset the LTD benefit; or
2. The ASRS contracted LTD claims administrator the amount of the Social Security disability income benefit necessary to offset the LTD benefit.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3).

ARTICLE 4. PRACTICE AND PROCEDURE BEFORE THE BOARD**R2-8-401. Definitions**

The following definitions apply to this Article, unless otherwise specified:

1. "Appealable agency action" has the same meaning as in A.R.S. § 41-1092.
2. "Board" means, if established, a Committee designated by the Board to take action on appeals as described in A.R.S. § 38-714(E)(1) or, if a Committee is not established, the same as in A.R.S. § 38-711(6).
3. "Final administrative action" has the same meaning as in A.R.S. § 41-1092 and is rendered by the Board.

4. "Health Plan" means an arrangement under which ASRS engages a Health Plan Vendor for coverage for members and their eligible dependents for routine, preventive, and emergency health-care procedures, pharmaceuticals, dental, vision, or other services and benefits funded through an insurance policy in which the Health Plan Vendor processes and pays claims as an insurer, or a self-funded arrangement in which the Health Plan Vendor processes and pays claims using ASRS funds.
5. "Health Plan Vendor" means an entity that enters into a contract with ASRS to provide an insured Health Plan or to administer, process, and pay claims for a Health Plan self-insured by ASRS.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 23 A.A.R. 487, effective April 8, 2017 (Supp. 17-1). Amended by final rulemaking at 23 A.A.R. 2749, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 28 A.A.R. 223 (January 21, 2022), with an immediate effective date of January 5, 2022 (Supp. 22-1).

R2-8-402. General Procedures

In computing any time period, parties shall exclude the day from which the designated time period begins to run. Parties shall include the last day of the period unless it falls on a Saturday, Sunday, or legal holiday. When the time period is 10 days or less, parties shall exclude Saturdays, Sundays, and legal holidays.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1).

R2-8-403. Letters of Appeal; Request for a Hearing of an Appealable Agency Action

- A. After receipt of an agency decision, a person who is not satisfied with the agency decision, may submit a letter of appeal:
 1. To the ASRS's vendor for long-term disability benefits, if the appeal relates to a long-term disability decision; or
 2. To the ASRS Member Services Division Assistant Director, or such director's designee, if the appeal relates to an agency decision other than a long-term disability decision or Health Plan Vendor decision.
- B. Upon receipt of a letter of appeal, the long-term disability vendor, or the Member Services Division Assistant Director, or such director's designee, shall send a response letter to the person requesting the appeal notifying the person of:
 1. The decision the agency is making in response to the letter of appeal; and
 2. The person's right to appeal the agency response by submitting a letter of appeal to the ASRS Director or such director's designee.
- C. A person who is not satisfied with the agency response pursuant to subsection (B) may submit a letter of appeal to the ASRS Director or such director's designee within 60 days of the date on the agency response letter.
- D. Within 30 days of the date the ASRS receives a letter of appeal pursuant to subsection (C), the ASRS director or such director's designee shall send a response letter by certified mail to the person requesting the appeal that includes:
 1. The agency action the ASRS is taking in response to the letter of appeal; and

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2. Notice of Appealable Agency Action, as required pursuant to A.R.S. § 41-1092.03 informing the person requesting the appeal, that the person has a right to appeal the agency action by submitting a Request for Hearing pursuant to subsections (E) and (F).
- E. For an appealable agency action, a person who is not satisfied with an agency action pursuant to subsection (D) may file a Request for a Hearing, in writing, with the ASRS. The date the Request is filed is established by the ASRS date stamp on the face of the first page of the Request. The Request shall include the following:
 1. The name and mailing address of the member, employer, or other person filing the Request;
 2. The name and mailing address of the attorney for the person filing the Request, if applicable;
 3. A concise statement of the reasons for the appeal.
- F. The person requesting a hearing shall file the Request for a Hearing with the ASRS within 30 days after receiving a response letter including a Notice of an Appealable Agency Action, pursuant to subsection (E).
- G. Upon receipt of the Request for a Hearing, the ASRS shall notify the Office of Administrative Hearings as required in A.R.S. § 41-1092.03(B).
- H. Pursuant to subsection (B):
 1. The long-term disability vendor shall send a response letter to the person requesting the appeal within 120 days of the date the long-term disability vendor receives the letter of appeal; and
 2. The Member Services Division Assistant Director, or such director's designee, shall send a response letter to the person requesting the appeal within 30 days of the date the ASRS receives the letter of appeal.
- I. The Board has delegated to each Health Plan Vendor the authority to:
 1. Interpret and apply the terms of the Health Plan Vendor's particular Health Plan;
 2. Determine whether a particular benefit is included in the Health Plan and, if included, the amount of payment to be made under the Health Plan; and
 3. Perform a full and fair review of any decision by the Health Plan Vendor regarding benefits included in or payments to be made under the Health Plan if the decision is appealed in accordance with the Health Plan Vendor's specified procedures.
- J. An individual who is enrolled in a Health Plan made available by ASRS and who wishes to appeal a decision by the Health Plan Vendor shall follow the appeal procedures specified in the applicable Health Plan description.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final rulemaking at 23 A.A.R. 487, effective April 8, 2017 (Supp. 17-1). Amended by final rulemaking at 28 A.A.R. 223 (January 21, 2022), with an immediate effective date of January 5, 2022 (Supp. 22-1).

R2-8-404. Board Decisions on Hearings before the Office of Administrative Hearings

A recommended decision from the Office of Administrative Hearings that is sent to ASRS at least 30 days before the Board's next regular meeting, shall be reviewed by the Board at that meeting. At the meeting, the Board shall render a decision to accept, reject, or modify the findings of fact, conclusions of law and recommendations in whole or in part. If the Board modifies or rejects a recom-

mended decision, the Board shall state the reasons for the modification or rejection. The Board shall deliver the Board's final decision to the Office of Administrative Hearings within five days after the meeting at which the Board made the final decision.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

R2-8-405. Motion for Rehearing Before the Board; Motion for Review of a Final Decision

- A. Except as provided in subsection (H), within 30 days after service of the final administrative decision, any aggrieved party in an appealable agency action may file with the Board a Motion for Rehearing Before the Board, in writing, specifying the particular grounds for rehearing before the Board.
- B. Except as provided in subsection (H), within 30 days after service of the final administrative decision, any aggrieved party of an appealable agency action may file with the Board a Motion for Review of a Final Decision, in writing, specifying the particular grounds for reviewing the Board's final administrative decision.
- C. A party may amend a Motion for Rehearing Before the Board or a Motion for Review of a Final Decision at any time before the Board rules on the motion. A party may file a response within 15 days after the motion or the amended motion is filed. The Board may require the filing of written briefs upon the issues raised in the motion or the amended motion, and may provide for oral argument.
- D. The Board may grant a Motion for Rehearing Before the Board or a Motion for Review of a Final Decision for any of the following causes that materially affects the moving party's rights:
 1. Irregularity in the administrative proceedings of the agency or the hearing officer, or any order or abuse of discretion that deprives the moving party of a fair hearing;
 2. Misconduct of the Board, the hearing officer, or the prevailing party;
 3. Accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing;
 5. Excessive or insufficient penalties;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing or during the process of the action; or
 7. That the decision, or findings of fact, is not justified by the evidence or is contrary to law.
- E. The Board may affirm or modify the final administrative decision or grant a rehearing before the Board or review of final administrative decision to all or any of the parties on all or part of the issues for any of the reasons in subsection (C). An order granting a rehearing or review shall specify with particularity the grounds for the order.
- F. Not later than 10 days after the final administrative decision, the Board may, after giving each party notice and an opportunity to be heard, order a rehearing or review of its final administrative decision for any reason for which it might have granted a rehearing or review on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehear-

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ing or review for a reason not stated in the motion. In either case, the order granting a rehearing or review shall specify the grounds on which it is granted.

- G. When a motion for rehearing or review is based upon an affidavit, the affidavit shall be filed with the motion. An opposing party may, within 15 days after filing, file an opposing affidavit. The Board may extend the period for filing an opposing affidavit for not more than 20 days for good cause shown or by written stipulation of the parties. The Board may permit a reply affidavit.
- H. The Board shall rule on the motion within 15 days after the response to the motion is filed or if a response is not filed, within five days of the expiration of the response period.
- I. If the Board makes a specific finding that the immediate effectiveness of a particular decision is necessary for the preservation of the public peace, health, and safety and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, an application for judicial review of the decision may be made within the time limits permitted for applications for judicial review of the Board's final decisions.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final rulemaking at 23 A.A.R. 487, effective April 8, 2017 (Supp. 17-1).

ARTICLE 5. PURCHASING SERVICE CREDIT**R2-8-501. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "Active duty" means full-time duty in a branch of the United States uniformed service, other than Active Reserve Duty.
2. "Active reserve duty" means participating in required meetings and annual training in a Reserve or National Guard branch of the United States uniformed service.
3. "Actuarial present value" means an amount in today's dollars of a member's future retirement benefit calculated using appropriate actuarial assumptions and the:
 - a. Eligible Member's Current Years of Credited Service;
 - b. Eligible Member's age as of the date the Eligible Member submits to the ASRS a request to purchase service pursuant to this Article;
 - c. Amount of Service Credit the member wishes to purchase; and
 - d. Member's current annual compensation.
4. "Authorized representative" means an individual who has been delegated the authority to act on behalf of a Custodian, Trustee, Plan Administrator, or a member, if the member's IRA or 403(b) is not maintained by the member's Employer.
5. "Current years of credited service" means the amount of credited service a member has earned or purchased, and the amount of Service Credit for which an Irrevocable PDA is in effect for which the member has not yet completed payment, but does not include any current requests to purchase Service Credit for which the member has not yet paid.
6. "Custodian" means a financial institution that holds financial assets for guaranteed safekeeping.
7. "Direct rollover" means distribution of Eligible Funds made payable to the ASRS as a contribution for the benefit of an eligible member from a retirement plan listed in A.R.S. § 38-747(H)(2) or (H)(3).
8. "Eligible funds" means payments listed in A.R.S. § 38-747(H)(2) and (H)(3).
9. "Eligible member" means a member who is eligible to purchase service pursuant to A.R.S. §§ 38-742, 38-743, 38-744, or 38-745.
10. "Forfeited service" means credited service for which the ASRS has returned retirement contributions to the member under A.R.S. § 38-740.
11. "IRC" means the same as "Internal Revenue Code" in A.R.S. § 38-711(18).
12. "Irrevocable PDA" means an irrevocable "Payroll Deduction Authorization" contract between an Eligible Member, an Employer, and the ASRS that requires the Employer to withhold payments from an Eligible Member's pay for a specified amount and for a specified number of payments, as provided in A.R.S. § 38-747.
13. "Leave of absence service" means an approved leave of absence without pay as specified in A.R.S. § 38-744.
14. "LTD" means the same as in R2-8-301.
15. "Military Call-up service" means a member is called to Active Duty under A.R.S. § 38-745 in a branch of the United States Uniformed Services.
16. "Military service" means Active Duty or Active Reserve Duty under A.R.S. § 38-745 with any branch of the United States Uniformed Services or the Commissioned Corps of the National Oceanic and Atmospheric Administration.
17. "Military service record" means a United States Uniformed Services or National Oceanic and Atmospheric Administration document that provides the following information:
 - a. The member's full name;
 - b. The member's Social Security number;
 - c. Type of discharge the member received; and
 - d. Active Duty dates, if applicable; or
 - e. Active Reserve Duty dates, if applicable; and
 - f. Point history for Active Reserve Duty dates, if applicable.
18. "Other public service" means previous employment listed in A.R.S. § 38-743(A).
19. "PDA pay-off invoice" means written correspondence from the ASRS to an Eligible Member that specifies the amount necessary to be paid by the Eligible Member to complete an Irrevocable PDA to receive the total credited service specified in the Irrevocable PDA.
20. "Plan administrator" means the person authorized to represent a specific eligible plan as addressed in IRC § 414(g).
21. "Service credit" means Forfeited Service, Leave of Absence Service, Military Service and Military Call-up Service, and Other Public Service that an Eligible Member may purchase.
22. "SP invoice" means a written correspondence from the ASRS informing an Eligible Member of the amount of money required to purchase a specified amount of Service Credit.
23. "Termination pay" means an Employer's payment to the ASRS of an Eligible Member's pay received as a result of

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terminating employment to purchase Service Credit as specified in A.R.S. § 38-747(B)(2).

24. "Three full calendar months" means the first day of the first full month through the last day of the third consecutive full month.
25. "Transfer employment" means to terminate employment with one Employer with which an Eligible Member has an Irrevocable PDA:
 - a. After accepting an offer to work for a new Employer;
 - b. While working as an active member for a different Employer; or
 - c. Before returning to work with any Employer within 120 days of terminating employment.
26. "Trustee-to-Trustee transfer" means a transfer of assets to the ASRS as authorized in A.R.S. § 38-747(I), from a retirement program from which, at the time of the transfer, a member is not eligible to receive a distribution.
27. "Uniformed services" means the United States Army, Army Reserve, Army National Guard, Navy, Navy Reserve, Air Force, Air Force Reserve, Air Force National Guard, Marine Corps, Marine Corps Reserve, Coast Guard, Coast Guard Reserve, and the Commissioned Corps of the Public Health Service.
28. "Window credit" means overpayments made on previously purchased Service Credit by members of the ASRS as provided by Laws 1997, Ch. 280, § 21, and Laws 2003, Ch. 164, § 3.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4). Amended by final rulemaking at 19 A.A.R. 764, effective June 1, 2013 (Supp. 13-2). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1). Amended by final rulemaking at 28 A.A.R. 1257 (June 10, 2022), effective July 17, 2022 (Supp. 22-2).

R2-8-502. Request to Purchase Service Credit and Notification of Cost

- A. An Eligible Member may request to purchase Service Credit electronically. The Eligible Member shall verify at the time of request, the following information for the Eligible Member:
 1. Name;
 2. Mailing address;
 3. Date of birth;
 4. Marital status;
 5. Gender;
 6. Primary email address;
 7. Primary phone number; and
 8. Which category of Service Credit the Eligible Member is requesting to purchase.
- B. An Eligible Member who requests to purchase Service Credit pursuant to subsection (A) shall acknowledge the following statements of understanding:
 1. Any person who knowingly makes any false statement or who falsifies or permits to be falsified any record of the retirement plan with an intent to defraud the plan is guilty of a class 6 felony per A.R.S. § 38-793; and

2. This transaction is subject to audit. If any errors or misrepresentations are discovered as a result of an audit, the Eligible Member's total credited service with the ASRS will be adjusted as necessary and if the Eligible Member is retired, the Eligible Member's retirement benefit will also be adjusted. Any overpayment or overpayments will be refunded. However, if a payment made with a rollover or pre-tax dollars is returned to the Eligible Member, there may be tax consequences as a result of this refund.

- C. Upon receipt of the documentation required by this Article from the Eligible Member and if the Eligible Member's request to purchase Service Credit meets the requirements of this Article, the ASRS shall provide the following to the Eligible Member:
 1. An SP Invoice stating the cost to purchase the amount of Service Credit the member is eligible to purchase;
 2. Instructions for electing method of payment; and
 3. The date payment election is due.
- D. An Eligible Member who requests to purchase Service Credit pursuant to this Section shall elect one or more methods of payment and submit the election to the ASRS by the date payment election is due.
- E. An Eligible Member who elects to purchase Service Credit using after-tax payments shall acknowledge the following information:
 1. After-tax payments must be from the Eligible Member and remitted to the ASRS by the Eligible Member;
 2. After-tax payments cannot be used to purchase political subdivision employment with a United States territory, commonwealth, overseas possession, or insular area; and
 3. If the Eligible Member joined the ASRS on or after July 1, 1999, §§ 415(b) and 415(c) of the IRC limit the after-tax money the Eligible Member can use to purchase Service Credit.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

R2-8-503. Requirements Applicable to All Service Credit Purchases

- A. To purchase Service Credit at the amount provided in an SP Invoice, an Eligible Member shall purchase the Service Credit by check or money order, or request an Irrevocable PDA, Direct Rollover, Trustee-to-Trustee Transfer, or Termination Pay as specified in this Article, by the due date specified by the method of payment the Eligible Member elected.
- B. An Eligible Member may purchase all of the Service Credit or a portion of the Service Credit. If the Eligible Member wishes to purchase only a portion of the Service Credit, the Eligible Member shall specify:
 1. Either the number of years or partial years of Service Credit the Eligible Member wishes to purchase; or
 2. The cost for the number of years or partial years of Service Credit the Eligible Member wishes to purchase, not exceeding the years or partial years and cost specified on the SP Invoice.

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- C. The ASRS shall not consider more than one active request at a time from a member to purchase Service Credit in a single category. The categories are:
 1. Leave of Absence Service;
 2. Military Service;
 3. Forfeited Service; and
 4. Other Public Service.
- D. An Eligible Member may cancel an active request by notifying the ASRS in writing.
- E. If an Eligible Member is entitled to a Window Credit, the Eligible Member may apply the Window Credit to purchase Service Credit. To apply a Window Credit to a purchase of Service Credit, the Eligible Member shall make a request to the ASRS in writing by the date payment election is due as specified on the SP Invoice and include the following information:
 1. The amount the Eligible Member wants to apply, and
 2. The Eligible Member's dated signature.
- F. On or before the due date specified on the SP Invoice, an Eligible Member may request an extension of a due date for purchasing Service Credit.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-504. Service Credit Calculation for Purchasing Service Credit

- A. An Eligible Member who purchases Service Credit shall receive one month of credited service for one or more days of service in a calendar month.
- B. Pursuant to A.R.S. 38-739(B), an Eligible Member who purchases Service Credit shall receive a proportionate amount of credited service based on the length of the Eligible Member's service year.
- C. Notwithstanding any other provision, an Eligible Member whose membership date is on or after July 20, 2011, cannot purchase more than five years of Service Credit for each of the following based on the length of the Eligible Member's service year:
 1. Leave of Absence Service;
 2. Military Service; and
 3. Other Public Service.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-505. Restrictions on Purchasing Overlapping Service Credit

- A. The ASRS shall not permit an Eligible Member to purchase Service Credit that, when added to credited service earned in any plan year, results in more than:
 1. One year of credited service in any plan year, or
 2. One month of credited service in any one calendar month.
- B. A member may not purchase Service Credit for any period of time for which the member is eligible to receive retirement benefits from another public employee retirement system.

- C. For purposes of this Section, "another public employee retirement system" means any retirement plan providing retirement benefits and maintained by the United States government, a state, territory, commonwealth, overseas possession or insular area of the United States or a political subdivision of a state, territory, commonwealth, overseas possession or insular area of the United States.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1). Amended by final rulemaking at 28 A.A.R. 1257 (June 10, 2022), effective July 17, 2022 (Supp. 22-2).

R2-8-506. Cost Calculation for Purchasing Service Credit

- A. For Service Credit for Leave of Absence Service, Military Service, and Other Public Service, the ASRS shall calculate, as of the date of the request to purchase Service Credit:
 1. The Actuarial Present Value of the future retirement benefit for the Eligible Member including the Service Credit that the Eligible Member requests to purchase, and
 2. The Actuarial Present Value of the future retirement benefit for the Eligible Member without the Service Credit that the Eligible Member requests to purchase.
- B. The cost for purchasing the Service Credit that the Eligible Member requests to purchase is the difference between the Actuarial Present Value in subsection (A)(1) and the Actuarial Present Value in subsection (A)(2).

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-507. Required Documentation and Calculations for Forfeited Service Credit

- A. An Eligible Member who requests to purchase Service Credit for Forfeited Service under A.R.S. § 38-742 shall provide the ASRS:
 1. The name of an Employer, if known, for which the Eligible Member is requesting to purchase Service Credit for Forfeited Service; and
 2. The year and month the Eligible Member believes the ASRS returned retirement contributions.
- B. Upon receipt of payment as specified in subsection (D), the ASRS shall apply the Service Credit to the Eligible Member's account based on the most recent Forfeited Service available for purchase.
- C. Notwithstanding subsection (B), if an Eligible Member has more than one return of contributions pursuant to A.R.S. § 38-740, the Eligible Member may elect to purchase Forfeited Service for any of the return of contributions and the ASRS shall apply the Service Credit to the Eligible Member's account based on the most recent Forfeited Service available for purchase.
- D. The amount the Eligible Member shall pay to purchase Service Credit for previously Forfeited Service is the amount of retirement contributions that the ASRS issued, plus interest on that amount from the date on the return of retirement contributions check to the date of redeposit at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A).

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Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

R2-8-508. Required Documentation and Calculations for Leave of Absence Service Credit

- A.** An Eligible Member who requests to purchase Service Credit for Leave of Absence Service under A.R.S. § 38-744 shall provide to the ASRS an Approved Leave of Absence form that includes:
1. The following information completed by the Eligible Member:
 - a. The start date and end date of the approved leave of absence;
 - b. The date the Eligible Member returned to work or a statement of why employment was not resumed;
 - c. The name of the Employer;
 - d. Whether the Eligible Member participated in another public retirement system during this leave of absence; and
 - e. If the Eligible Member participated in another public retirement system during the leave of absence, whether the Eligible Member is receiving a benefit or is eligible to receive a benefit, from the other public retirement system; and
 2. Acknowledgement of the following statements of understanding:
 - a. The Eligible Member understands that up to one year of Service Credit may be purchased for each approved leave of absence, if the Eligible Member returns to work for the Employer that approved the leave of absence unless employment could not be resumed because of disability or nonavailability of a position;
 - b. The Eligible Member authorizes the Employer to provide any necessary personal information to ASRS in order to process this request; and
 - c. The Eligible Member certifies that if the Eligible Member participated in another public retirement system during the approved leave of absence, the Eligible Member is not receiving, and is not eligible to receive, a benefit from the other public retirement system for the time during the approved leave of absence; and
 3. The Eligible Member's dated signature.
- B.** Pursuant to A.R.S. § 38-744, a member who participated in another public retirement system during the leave of absence, and is receiving a benefit or is eligible to receive a benefit from the other public retirement system, is not an Eligible Member for purposes of this Section.
- C.** If the information provided by the Eligible Member pursuant to subsection (A) is correct, the Employer shall validate the information and submit the information to the ASRS through the Employer's secure ASRS account. If the information provided by the Eligible Member pursuant to subsection (A) is incorrect, the Employer shall correct the information and submit the information to the ASRS through the Employer's secure ASRS account.

- D.** Upon submitting the information specified in subsection (B), the Employer shall acknowledge the following statements of understanding:
1. The Employer has verified all the dates for the approved leave of absence period are correct; and
 2. The contact individual has the legal power to bind the Employer in transactions with the ASRS.
- E.** The amount the Eligible Member shall pay to purchase Service Credit for an approved leave of absence is determined as provided in R2-8-506.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-509. Required Documentation and Calculations for Military Service Credit

- A.** An Eligible Member who requests to purchase Service Credit for Military Service under A.R.S. § 38-745(A) and (B) shall provide to the ASRS:
1. A copy of the Eligible Member's Military Service Record within 30 days of the Eligible Member's request to purchase Service Credit; and
 2. A Military Service form that contains:
 - a. Whether the Eligible Member is receiving a benefit or is eligible to receive a benefit, from the military.
 - b. The branch of the Uniformed Services the Eligible Member was in;
 - c. Whether the Eligible Member was on Active Duty or Active Reserve Duty;
 - d. The start date and end date of the Eligible Member's Military Service for which the Eligible Member is requesting to purchase Service Credit;
 - e. Acknowledgement that the Eligible Member will submit to the ASRS:
 - i. Proof of honorable separation for each type of Military Service listed on the form; and
 - ii. The Eligible Member's Military Service Record that supports all of the service listed on the form;
 - f. Acknowledgement of the following statements of understanding:
 - i. The Eligible Member understands that the service listed on this form does not include time that the Eligible Member either volunteered or was ordered into Active Duty service as part of a military call-up while employed by an Employer. This service is purchased under Military Call-up Service and requires a Military Call-up form to be completed by the Eligible Member's Employer; and
 - ii. The Eligible Member understands that any time the Eligible Member has listed on this form for Reserve or National Guard time reflects the months that the Eligible Member attended at least one drill or assembly for each month listed.
- B.** The amount the Eligible Member pays to purchase Service Credit for Military Service is determined as provided in R2-8-506.
- C.** The ASRS determines the amount of Service Credit an Eligible Member receives for Active Duty and Active Reserve

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Duty time by the time listed on the Military Service form, if the service listed is supported by the information contained in the Eligible Member's Military Service Record.

- D. If the ASRS has not received complete and correct documents pursuant to this Section within 30 days of the request to purchase Service Credit, the ASRS shall cancel the Eligible Member's request to purchase Service Credit.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-510. Required Documentation and Calculations for Military Call-up Service Credit

- A. An Eligible Member who meets the requirements under A.R.S. § 38-745(D) shall receive up to 60 months of Service Credit, not to exceed 5 years of Service Credit for Military Call-up Service under A.R.S. § 38-745(D) through (K). In order to determine the amount of contributions the Employer owes to purchase Service Credit for Military Call-up Service, the Eligible Member's Employer shall provide to the ASRS a copy of the Eligible Member's Military Service Record and a completed Military Call-up form that includes the following:
1. The Eligible Member's full name;
 2. The Eligible Member's Social Security number;
 3. The start date of Military Call-up Service;
 4. The end date of Military Call-up Service;
 5. The date the Eligible Member returned to work for the Employer;
 6. The salary for each pay period in each fiscal year while the Eligible Member was on military call-up, including any salary increases the Eligible Member would have received had the Eligible Member not left work due to military call-up;
 7. The name of a contact individual for the Employer, and that individual's business telephone number;
 8. The contact individual's dated signature;
 9. If applicable, the dates that the Eligible Member was hospitalized and released from the hospital as a result of participating in a military call-up.
 10. If applicable, the date the Eligible Member became disabled during or as a result of participating in a military call-up;
 11. If applicable, the date of the Eligible Member's death during or as a result of participating in a military call-up; and
 12. Acknowledgement of the following statements of understanding:
 - a. All the dates and payroll information for the Military Call-up Service are correct;
 - b. The Eligible Member:
 - i. Was honorably separated from Active Duty and returned to the same Employer within 90 days of either discharge from Active Duty or release from service-related hospitalization; or
 - ii. Was disabled and unable to return to work; or
 - iii. Died during or as a result of Active Duty.
 - c. The Employer must pay both the employee and Employer contributions in a lump sum upon the Eligible Member returning to employment, receipt of a declaration of disability, or receipt of a death certificate. These contributions are based on the salary the

Eligible Member would have earned if the Eligible Member had not volunteered or been ordered into Active Duty;

- d. The Eligible Member may receive a maximum of 60 months of Service Credit for Military Call-up Service pursuant to A.R.S. § 38-745; and
 - e. The contact individual has the legal power to bind the Employer in transactions with the ASRS.
- B. An Employer shall make the request to purchase Service Credit for Military Call-up Service within 30 days after the earlier of the dates listed in A.R.S. § 38-745(E).
- C. The ASRS calculates the amount the Employer pays to purchase Military Call-up Service pursuant to A.R.S. § 38-745(G) by multiplying the Eligible Member's salary per pay period at the time Active Duty commences, by the contribution rate in effect for the period of Active Duty. Included in the calculation are any salary increases the Eligible Member would have received if the Eligible Member had not left work to participate in a military call-up.
- D. The ASRS shall send the Employer a statement of cost for purchase of the Service Credit for Military Call-up Service based on the calculation in subsection (C). Within 90 days from the date on the ASRS statement of cost, the Employer shall pay to the ASRS the amount on the statement. If the Employer fails to make full payment within 90 days, interest shall accrue on the unpaid balance at the Assumed Actuarial Investment Earnings Rate in effect on the date of the statement of cost as specified in R2-8-118(A). The ASRS may collect the unpaid balance plus interest pursuant to A.R.S. § 38-735(C).
- E. If an Employer remits retirement or long-term disability contributions on behalf of an Eligible Member while the Eligible Member is on military call-up, the Employer shall reverse the contributions after the ASRS receives the information in subsection (A).
- F. If an Employer remits retirement contributions on behalf of an Eligible Member while the Eligible Member is on military call-up, and the Eligible Member does not return to the Employer after separation from active Military Service, the ASRS shall apply the retirement contributions to the Eligible Member's credited service.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-511. Required Documentation and Calculations for Other Public Service Credit

- A. An Eligible Member who requests to purchase Service Credit for Other Public Service under A.R.S. § 38-743 shall provide to the ASRS a completed Other Public Service form, signed and dated by the Eligible Member, that includes the following:
1. The name and mailing address of the Other Public Service employer;
 2. The position the Eligible Member held while working for the Other Public Service employer;
 3. The start date and end date of the Eligible Member's employment with the Other Public Service employer;
 4. The actual months and years the Eligible Member was employed with the Other Public Service employer;
 5. A statement of whether the Eligible Member participated in the Other Public Service employer's retirement plan;

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6. If the Eligible Member participated in the Other Public Service employer's retirement plan, the name of the retirement plan, identifying whichever one of the following applies:
 - a. The approximate date the Eligible Member took a return of retirement contributions;
 - b. The plan is non-contributory and the Eligible Member is not eligible for benefits from the plan; or
 - c. That, if not using all of the retirement contributions as a rollover, the Eligible Member will request a return of retirement contributions and forfeit all rights to any benefits from the plan and provide the ASRS with documentation that the Eligible Member has forfeited all rights to benefits from the plan no later than the due date specified on the SP Invoice; and
7. Acknowledgement that if an audit determines that the Eligible Member is eligible for a benefit from the Other Public Service employer's retirement plan, the Eligible Member is required to take necessary steps to forfeit the benefit, and if the forfeiture is not completed within 90 days of being notified of the audit results, the Service Credit purchase listed on this application will be revoked and any funds paid to purchase the Service Credit will be refunded to the member.
- B. The amount the Eligible Member shall pay to purchase Service Credit for Other Public Service is determined as provided in R2-8-506.
- C. Notwithstanding R2-8-512, the ASRS shall not accept after-tax monies for the purchase of Service Credit for Other Public Service with a territory, commonwealth, overseas possession or insular area pursuant to A.R.S. § 38-743.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-512. Purchasing Service Credit by Check, Cashier's Check, or Money Order

- A. An Eligible Member may purchase Service Credit by personal check in the Eligible Member's name, cashier's check, or money order remitted by the Eligible Member.
- B. By the due date specified by the method of payment the Eligible Member elected, the Eligible Member shall ensure that the ASRS receives a check, cashier's check, or money order made payable to the ASRS in the amount to purchase the requested Service Credit.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-513. Purchasing Service Credit by Irrevocable PDA

- A. An Eligible Member may purchase Service Credit by Irrevocable PDA.
- B. If the Eligible Member elects to pay for Service Credit by Irrevocable PDA, the Eligible Member shall elect the terms of the Irrevocable PDA and submit the Irrevocable PDA to the ASRS and the Employer with the following:
 1. Acknowledgements:
 - a. This Irrevocable PDA is binding and irrevocable;
 - b. This Irrevocable PDA shall remain in effect until the earlier of:
 - i. The authorized payroll deductions are completed; or
 - ii. The Eligible Member terminates employment.
 - c. The ASRS cannot terminate the Irrevocable PDA due to financial hardship;
 - d. The amount of Irrevocable PDA payments the Eligible Member makes is subject to federal laws;
 - e. The cost to purchase Service Credit by Irrevocable PDA includes an administrative interest charge at the Assumed Actuarial Investment Earnings Rate in effect at the time of the authorization as specified in R2-8-118(A);
 - f. Payments specified in this Irrevocable PDA are in addition to the regular contributions required pursuant to A.R.S. §§ 38-736 and 38-797.05;
 - g. The ASRS shall apply credited service to the Eligible Member's account upon receipt of payments authorized by the Eligible Member under this Irrevocable PDA; and
 - h. The ASRS shall not transfer, refund, or disburse the administrative interest that the ASRS charges pursuant to subsection (B)(1)(e); and

2. Statements of Understanding:
 - a. It is the Eligible Member's responsibility to ensure the Eligible Member's Employer properly deducts payments and submits contributions as provided by the terms of the Irrevocable PDA;
 - b. Payments specified by the terms of this Irrevocable PDA shall be made directly to the ASRS from the Eligible Member's Employer and the Eligible Member does not have the option of receiving such payments directly from the Employer;
 - c. The Eligible Member's Employer shall make payments pursuant to this Irrevocable PDA after other mandatory deductions are made;
 - d. The Eligible Member's Employer cannot accept an election to change this Irrevocable PDA;
 - e. The Eligible Member has up to 14 days to request the ASRS calculate the remaining balance of this Irrevocable PDA after the earlier of:
 - i. Terminating employment;
 - ii. Terminating LTD without returning to work with an Employer; or
 - iii. The effective ASRS retirement date;
 - f. The Eligible Member must complete a purchase of the remaining balance on this Irrevocable PDA by the due date specified on the PDA Pay-off Invoice;
 - g. It is the Eligible Member's responsibility to notify the ASRS of any changes in the Eligible Member's employment that may affect the status of this Irrevocable PDA;
 - h. If the Eligible Member terminates employment and returns to work with an Employer within 120 days of terminating employment, this Irrevocable PDA must continue with the new Employer pursuant to R2-8-513.01; and
 - i. If the Eligible member terminates employment and does not return to work with an Employer within 120 days of terminating employment, the ASRS shall terminate this Irrevocable PDA pursuant to R2-8-513.01.

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- C. By submitting the Irrevocable PDA to the ASRS, the Irrevocable PDA is deemed to be signed by the Eligible Member.
- D. At the time the Eligible Member elects the Irrevocable PDA, the Eligible Member may elect to use Termination Pay towards the balance of the Irrevocable PDA if the Eligible Member terminates employment. If the Eligible Member elects to use Termination Pay, the Eligible Member shall submit the Irrevocable PDA to the ASRS with the following information:
1. A statement that the Eligible Member:
 - a. Understands and agrees that the Eligible Member must continue working at least Three Full Calendar Months after the date of submission of the form before Termination Pay may be used on a pre-tax basis;
 - b. Understands that if the Termination Pay exceeds the balance owed on the Irrevocable PDA, the overage will be returned to the Employer to be distributed to the Eligible Member;
 - c. Understands that the election to use Termination Pay is binding and irrevocable;
 - d. The Eligible Member's Termination Pay must be received and processed before the ASRS will accept any other form of payment;
 - e. The Eligible Member's Employer is required to make payment directly to the ASRS after mandatory deductions are made, and the Eligible Member does not have the option of receiving the funds directly from the Employer;
 - f. It is the Eligible Member's responsibility to ensure that the Eligible Member's Employer properly deducts Termination Pay;
 - g. The amount of Termination Pay the Eligible Member elects is irrevocable pursuant to § 414(h)(2) of the IRC;
 - h. If the Eligible Member terminates employment and immediately retires, the Eligible Member's retirement processing may be delayed; and
 2. Whether the Eligible Member is electing either all Termination Pay or a specified amount of Termination Pay to be applied to the balance of the Irrevocable PDA.
- E. The ASRS shall:
1. Charge interest on the unpaid balance at the Assumed Actuarial Investment Earnings Rate in effect at the time the Eligible Member submitted the request to purchase service as specified in R2-8-118(A);
 2. Limit the payroll deduction time period to a maximum of 520 payments; and
 3. Require a minimum payment of \$10.00 per payroll period, or payment in an amount to purchase at least .001 years of Service Credit per payroll period, whichever is greater.
- F. The Employer shall implement the payroll deduction on the first pay period after receiving the Irrevocable PDA.
- G. If a deduction is not made under an Irrevocable PDA within six months after the Eligible Member submits the authorization, the authorization lapses and the Eligible Member may make another request, which is recalculated based on the new request date unless the failure to begin deductions is due to an ASRS error.
- H. A period of leave of absence, LTD, or military call-up shall not cancel the Irrevocable PDA. The Employer shall resume deductions immediately upon the Eligible Member's return to that Employer. The period during which the Eligible Member is on leave of absence, on LTD, or leaves work because of a military call-up is not included in the payment time limitation under subsection (D)(2). If the Eligible Member does not return to active working status, whether due to termination of employment or retirement, the Eligible Member may elect to purchase the balance of unpaid service under the Irrevocable PDA at the time of termination or retirement as specified in this Section.
- I. Deductions made pursuant to an Irrevocable PDA continue until the:
 1. Irrevocable PDA is completed;
 2. Eligible Member retires, whether or not the Eligible Member continues employment as allowed in A.R.S. §§ 38-766.01 and 38-764(I);
 3. Eligible Member terminates all ASRS employment without transferring employment; or
 4. Date of the Eligible Member's death.
 - J. If an Eligible Member retires or terminates employment from all Employers without transferring employment as stated in R2-8-513.01 before all deductions are made as authorized by the Irrevocable PDA, the ASRS shall cancel the Eligible Member's Irrevocable PDA unless the Eligible Member notifies the ASRS of the Eligible Member's intent to purchase the remaining amount within 14 days after the earlier of either termination or retirement.
 - K. When the Eligible Member notifies the ASRS of retirement or termination from all ASRS employment and requests to pay off the Irrevocable PDA, the ASRS shall send the Eligible Member a PDA Pay-off Invoice through the Eligible Member's secure ASRS account. The ASRS shall calculate the amount owed by the Eligible Member.
 - L. By the date payment election is due, the Eligible Member shall ensure that the ASRS receives the information specified in R2-8-502(C).
 - M. The Eligible Member may purchase the remaining Service Credit by one or more of the following methods by the due date specified on the PDA Pay-off Invoice:
 1. By any method specified in R2-8-512;
 2. By making a request to the ASRS for a rollover or transfer under R2-8-514 and completing the rollover or transfer by the due date specified on the PDA Pay-off Invoice; or
 3. By Termination Pay under R2-8-519, if the Eligible Member authorized this option at the time the Eligible Member signed the Irrevocable PDA.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-513.01. Irrevocable PDA and Transfer of Employment to a Different Employer

- A. If an Eligible Member Transfers Employment, the Eligible Member's new Employer shall continue to make deductions pursuant to an Irrevocable PDA.
- B. If an Eligible Member terminates employment without having accepted an offer to work with an Employer, the ASRS shall terminate an Irrevocable PDA.
- C. Notwithstanding subsection (B), if a retirement contribution is due from a new Employer within 120 days from the Eligible

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Member's termination date with the previous Employer, the ASRS shall determine that the Eligible Member Transferred Employment, unless the Eligible Member notified the ASRS of the termination of employment.

- D.** If an Eligible Member who has elected Termination Pay pursuant to R2-8-513(D) Transfers Employment, the ASRS shall not accept any Termination Pay that the ASRS receives from the Eligible Member's previous Employer.

Historical Note

New Section made by final rulemaking at 12 A.A.R.
4667, effective December 5, 2006 (Supp. 06-4).
Amended by final rulemaking at 25 A.A.R. 303, effective
March 18, 2019 (Supp. 19-1).

R2-8-513.02. Termination Date

For the purpose of an Irrevocable PDA, the date an Eligible Member is considered terminated from an Employer is:

1. For an Eligible Member terminating employment, the Eligible Member's last pay period end date with that Employer;
2. For an Eligible Member on military call-up who does not return to the same Employer:
 - a. 90 days from the date of separation from military call-up;
 - b. 90 days from the date released from the hospital, if injured while on military call-up; or
 - c. The date the Eligible Member has been hospitalized for two years for injuries sustained as a result of participating in a military call-up.
3. For an Eligible Member on leave of absence without pay who does not return to the same Employer, the date the Employer required the Eligible Member to return to work;
4. For an Eligible Member who is unable to work because of a disability, the later of:
 - a. The date the Eligible Member's request for long-term disability benefits are denied;
 - b. The date the Eligible Member no longer has leave with pay available; or
 - c. For an Eligible Member on long-term disability who does not return to the same Employer or Transfer Employment, the date long-term disability benefits are terminated.

Historical Note

New Section made by final rulemaking at 12 A.A.R.
4667, effective December 5, 2006 (Supp. 06-4).
Amended by final rulemaking at 25 A.A.R. 303, effective
March 18, 2019 (Supp. 19-1).

R2-8-514. Purchasing Service Credit by Direct Rollover or Trustee-to-Trustee Transfer

- A.** An Eligible Member may purchase Service Credit by Direct Rollover or Trustee-to-Trustee Transfer pursuant to this Article.
- B.** By the due date specified by the method of payment the Eligible Member elected, the Eligible Member shall ensure that the ASRS receives the payment for the service purchase and a completed Direct Rollover/Transfer Certification to Purchase Service Credit form.
- C.** An Eligible Member who chooses to purchase Service Credit shall provide the following to the ASRS:
 1. The name of the financial institution or plan;

2. Whether the Eligible Member is choosing to rollover/transfer the entire balance of their account and if not, the amount of the rollover/transfer;
3. Acknowledgement of the following information:
 - a. After-tax funds are only acceptable from 401(a) and 403(b) plans and must be listed separately from the portion that is pre-tax on the payment as after-tax amounts. This information must be provided to the ASRS with the payment.
 - b. The only fund types that the ASRS accepts are:
 - i. 401(a);
 - ii. 401(k) pre-tax only;
 - iii. 403(b);
 - iv. Governmental 457 pre-tax only;
 - v. 403(a) pre-tax only;
 - vi. 408 Traditional IRA pre-tax only;
 - vii. 408(k) SEP IRA pre-tax only;
 - viii. 408(p) Simple IRA pre-tax only and only if the Eligible Member participated for at least 2 years in this plan;
 - c. The ASRS shall not accept the following fund types:
 - i. Roth funds;
 - ii. Funds already distributed to the Eligible Member from a retirement plan listed in subsection (C)(3)(b);
 - iii. Inherited IRA;
 - iv. Coverdale Education Savings Account funds;
 - v. Hardship distributions;
 - vi. Funds not includable in gross income;
 - vii. Funds required under § 401(a)(9) of the IRC because the Eligible Member have attained age 70 1/2;
 - viii. One of a series of substantially equal periodic payments made at least annually for the Eligible Member's life;
 - ix. One of a series of substantially equal periodic payments made for 10 years or more;
 - x. After-tax contributions from any plan other than a 401(a) or 403(b) qualified plan;
 - d. The funds must be sent as a Direct Rollover from a plan listed in subsection (C)(3)(b) and issued to the ASRS for the benefit of the Eligible Member. If the payment is issued to anyone other than the ASRS, including the Eligible Member, then within 60 days of the plan issuing the payment, the Eligible Member must place the payment into a plan specified in subsection (C)(3)(b) to be reissued directly to the ASRS.
 - e. It is the Eligible Member's responsibility to contact the administrator of the plan from which the Direct Rollover will be made and have it initiated. The Eligible Member must also ensure all rollovers are completed by the due date. If the ASRS does not receive payment by the due date, the invoice will expire and the payment will be returned to the Eligible Member.
 - f. If the ASRS accepts a rollover and later determines that it was not eligible, the ASRS will distribute the invalid payment directly to the Eligible Member. Any taxes, penalties, and interest that the IRS, any taxing authority, or financial institution may assess against the Eligible Member due to an invalid payment are solely the Eligible Member's responsibility.

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- g. The plan from which the Eligible Member is rolling over funds must be solely in the Eligible Member's name. The Eligible Member may be a spousal beneficiary of a deceased person or an alternate payee on the plan from which the Eligible Member is rolling over funds.
- D. An Eligible Member who chooses to purchase Service Credit pursuant to this Section shall submit a Direct Rollover/Transfer Certification to Purchase Service Credit form that includes:
1. The Eligible Member's full name;
 2. The last 4 digits of the Eligible Member's Social Security number;
 3. The Eligible Member's signature certifying that the Eligible Member understands the requirements, limitations, and entitlements for the rollover/transfer that is being used to purchase Service Credit, and has read and understands the Direct Rollover/Transfer Certification to Purchase Service Credit form and any accompanying instructions and information;
 4. The Authorized Representative's name and title;
 5. The Authorized Representative's telephone number; and
 6. Certification by the Authorized Representative's dated signature that:
 - a. The plan is either:
 - i. A qualified pension, profit sharing, or 401(k) plan described in IRC § 401(a), or a qualified annuity plan described in IRC § 403(a);
 - ii. A deferred compensation plan described in IRC § 457(b) maintained by a state of the United States, a political subdivision of a state of the United States, or an agency or instrumentality of a state of the United States;
 - iii. An annuity contract described in IRC § 403(b); or
 - iv. An IRA described in A.R.S. § 38-747(H)(3);
 - b. The rollover/transfer specified on the form from which the pre-tax funds are being rolled over or transferred is intended to satisfy the requirements of the applicable Section of the IRC;
 - c. The Authorized Representative is not aware of any plan provision or any other reason that would cause the plan/IRA not to satisfy the applicable Section of the IRC; and
 - d. The funds will be sent to the ASRS as a direct plan rollover, IRA rollover, or a Trustee-to-Trustee Transfer.
- E. The Eligible Member shall contact the Plan Administrator to have the funds distributed and transferred to the ASRS. Unless the ASRS receives a check for the correct amount from the plan and all documents required by this Article by the due date specified by the method of payment the Eligible Member elected, the ASRS shall cancel the request to purchase Service Credit.
- F. The Eligible Member shall ensure that the ASRS receives a check from the plan, made payable to the ASRS, for an amount that does not exceed the amount specified on the SP Invoice.
- G. If the payment from the eligible plan exceeds the amount specified on the SP Invoice, the ASRS shall return the entire payment to the Eligible Member.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December

5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1). Citations to subsection (C)(3)(b) corrected in subsections (C)(3)(c)(ii) and (C)(3)(d) (Supp. 20-1).

R2-8-515. Repealed**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Repealed by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-516. Expired**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 3195, effective October 11, 2016 (Supp. 16-3).

R2-8-517. Expired**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 3195, effective October 11, 2016 (Supp. 16-3).

R2-8-518. Repealed**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Repealed by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4).

R2-8-519. Purchasing Service Credit by Termination Pay

- A. To purchase Service Credit using Termination Pay, an Eligible Member shall elect to use Termination Pay by the date payment election is due.
- B. An Eligible Member who elects to use Termination Pay pursuant to this Section, shall provide the ASRS with the Eligible Member's anticipated termination date which cannot be more than six months from the date the ASRS issues the SP Invoice and must be at least Three Full Calendar Months after the date the Eligible Member elects and submits Termination Pay as a method of payment.
- C. An Eligible Member who elects to use Termination Pay pursuant to this Section, shall provide the ASRS with a Termination Pay Authorization for the Purchase of Service Credit form with the following information:
1. The name of the Employer that will be submitting the Termination Pay to the ASRS;
 2. Whether the Eligible Member elects to use all Termination Pay or a specific amount of Termination Pay;
 3. Signature of the Eligible Member, certifying that the Eligible Member understands that:
 - a. The Eligible Member is required to continue working at least Three Full Calendar Months after the date the Eligible Member submits the Termination Pay Authorization for the Purchase of Service Credit

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form before Termination Pay may be used on a pre-tax basis;

- b. If the Eligible Member terminates employment more than six months after the date on the SP Invoice, the Eligible Member may purchase the Service Credit at a newly calculated rate and possibly at a higher cost;
 - c. The terms elected in the Termination Pay Authorization for the Purchase of Service Credit form are binding and irrevocable;
 - d. The Eligible Member's Employer is required to make payment directly to the ASRS after mandatory deductions are made, and the Eligible Member does not have the option of receiving the funds directly from the Employer;
 - e. The Eligible Member's Termination Pay must be received and processed before the ASRS will accept any other form of payment;
 - f. It is the Eligible Member's responsibility to ensure that the Eligible Member's Employer properly deducts Termination Pay, as provided in the Termination Pay Authorization for the Purchase of Service Credit form; and
 - g. The amount of Termination Pay the Eligible Member elects is irrevocable pursuant to § 414(h)(2) of the IRC;
 - h. If the Termination Pay exceeds the balance due on the SP Invoice, the ASRS will return the difference to the Eligible Member's Employer to be distributed to the Eligible Member;
 - i. If the Eligible Member terminates employment and immediately retires, the Eligible Member's retirement processing may be delayed; and
 - j. The ASRS will send a notification to the Eligible Member's Employer two weeks prior to the Eligible Member's termination date, as indicated on the Termination Pay Authorization form, to notify the Employer that the Eligible Member's Termination Pay must be sent directly to the ASRS.
- D.** The ASRS shall not apply Termination Pay to an SP Invoice covered by an Irrevocable PDA in effect at the time of termination, unless the Eligible Member elected the Termination Pay pursuant to R2-8-513(D) at the time the member authorized the Irrevocable PDA.
- E.** If an Eligible Member elects to use Termination Pay to purchase Service Credit, the ASRS shall not apply any other form of payment to the Service Credit purchase until the ASRS receives the Termination Pay.
- F.** Notwithstanding any other Section, if an Eligible Member dies prior to terminating employment, the ASRS shall not accept Termination Pay.
- G.** If an Eligible Member Transfers Employment, the ASRS shall not accept Termination Pay from the Eligible Member's previous Employer.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-520. Termination of Employment and Request Return of Retirement Contributions or Death of Member While Purchasing Service Credit by an Irrevocable PDA

- A.** If an Eligible Member terminates employment without transferring employment as specified in R2-8-513.01 while purchasing Service Credit by an Irrevocable PDA and requests return of retirement contributions pursuant to A.R.S. § 38-740, the ASRS shall return any principal payments made for the purchase of Service Credit including interest earned on those principal payments at the interest rate specified in R2-8-118(A), column 3.
- B.** If an Eligible Member dies while purchasing Service Credit, the ASRS shall credit the Eligible Member's account with:
 1. The Service Credit for which the ASRS received payment pursuant to a PDA before the Eligible Member's death;
 2. The principal payments made by the Eligible Member; and
 3. Interest earned on payment through the date of distribution at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A).
- C.** If an Eligible Member dies while purchasing Service Credit, the ASRS shall not permit the survivor or an estate to purchase the remaining balance.
- D.** The ASRS shall not transfer, disburse, or refund the administrative interest the ASRS charged as part of an Irrevocable PDA as specified in R2-8-513.
- E.** The ASRS shall not credit a member's account with the administrative interest the ASRS charged as part of an Irrevocable PDA as specified in R2-8-513.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-521. Adjustment of Errors

- A.** If the ASRS determines an error has been made in the information provided by the member or in the calculations made by the ASRS, the ASRS shall make an adjustment to the member's account and return ineligible payments, if any.
- B.** The ASRS shall notify the member in writing of any adjustments.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

ARTICLE 6. PUBLIC PARTICIPATION IN RULEMAKING**R2-8-601. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "Rulemaking record" means a file the ASRS maintains as specified in A.R.S. § 41-1029.
2. "Oral proceeding" means a public gathering the ASRS holds for the purpose of receiving comment and answering questions about a proposed rule as specified in A.R.S. § 41-1023.
3. "Presiding officer" means an individual selected by the ASRS Director to oversee oral proceedings.
4. "Substantive policy statement" means the same as in A.R.S. § 41-1001(22).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Amended by final

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rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4).

R2-8-602. Reviewing Agency Rulemaking Record and Directory of Substantive Policy Statements

Except on a state holiday, a person may review a rulemaking record or the directory of substantive policy statements at the Phoenix office of the ASRS, Monday through Friday, from 8:00 a.m. until 5:00 p.m.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

R2-8-603. Petition for Rulemaking

- A. A person submitting a petition to the ASRS to make or amend a rule under A.R.S. § 41-1033 shall include the following in the petition:
1. The name and current address of the person submitting the petition;
 2. An identification of the rule to be made or amended;
 3. The suggested language of the rule;
 4. The reason why a new rule should be made or a current rule should be amended with supporting information, including:
 - a. An identification of the persons who would be affected by the rule and how the persons would be affected; and
 - b. If applicable, statistical data with references to attached exhibits;
 5. The signature of the person submitting the petition; and
 6. The date the person signs the petition.
- B. The ASRS shall send a written notice of the ASRS's decision regarding the Petition for Rulemaking to the person within 60 days of receipt of the petition.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

R2-8-604. Review of a Rule, Agency Practice, or Substantive Policy Statement

- A. A person submitting a petition to the ASRS under A.R.S. § 41-1033 requesting that the ASRS review an agency practice or substantive policy statement that the person alleges constitutes a rule shall include the following in the petition:
1. The name and current address of the person submitting the petition,
 2. The reason the person alleges that the agency practice or substantive policy statement constitutes a rule,
 3. The signature of the person submitting the petition, and
 4. The date the person signs the petition.
- B. The person who submits a petition under subsection (A) shall attach a copy of the substantive policy statement or a description of the agency practice to the petition.
- C. The ASRS shall send a written notice of the ASRS's decision regarding the petition to the person within 60 days of receipt of the petition.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended

by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

R2-8-605. Objection to Rule Based Upon Economic, Small Business and Consumer Impact

- A. A person submitting an objection to a rule based upon the economic, small business and consumer impact under A.R.S. § 41-1056.01 shall include the following in the objection:
1. The name and current address of the person submitting the objection;
 2. Identification of the rule;
 3. Either evidence that the actual economic, small business and consumer impact:
 - a. Significantly exceeded the impact estimated in the economic, small business and consumer impact statement submitted during the making of the rule with supporting information attached as exhibits; or
 - b. Was not estimated in the economic, small business and consumer impact statement submitted during the making of the rule and that actual impact imposes a significant burden on persons subject to the rule with supporting information attached as exhibits; or
 - c. Reflects that the ASRS did not select the alternative that imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.
 4. The signature of the person submitting the objection; and
 5. The date the person signs the objection.
- B. The ASRS shall respond to the objection as specified in A.R.S. § 41-1056.01(C).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

R2-8-606. Oral Proceedings

- A. A person requesting an oral proceeding under A.R.S. § 41-1023(C) shall submit a written request to the ASRS that includes:
1. The name and current address of the person making the request;
 2. If applicable, the name of the public or private organization, partnership, corporation or association, or the name of the governmental entity the person represents; and
 3. Reference to the proposed rule including, if known, the date and issue of the Arizona Administrative Register in which the Notice of Proposed Rulemaking was published.
- B. The ASRS shall record an oral proceeding by either electronic or stenographic means and any CDs, cassette tapes, transcripts, lists, speaker slips, and written comments received shall become part of the official record.
- C. A presiding officer shall perform the following acts on behalf of the ASRS when conducting an oral proceeding as prescribed under A.R.S. § 41-1023:
1. Provide a method for a person who attends the oral proceeding to voluntarily note the person's attendance;
 2. Provide a Request to Present Oral Comment form that includes space for:
 - a. The name of the person submitting the Request to Present Oral Comment form,
 - b. The entity the person represents, if applicable, and

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- c. The rule on which the person wishes to comment or about which the person has a question;
 3. Open the proceeding by identifying the rules to be considered, the location, date, time, purpose of the proceeding, and the agenda;
 4. Explain the background and general content of the proposed rulemaking;
 5. Provide for public comment as specified in A.R.S. § 41-1023(D); and
 6. Close the oral proceeding by announcing the location where written public comments are to be sent and specifying the close of record date and time.
- D. A presiding officer may limit comments to a reasonable time period, as determined by the presiding officer. Oral comments may be limited to prevent undue repetition.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

R2-8-607. Petition for Delayed Effective Date

- A. A person who wishes to delay the effective date of a rule under A.R.S. § 41-1032 shall file a petition with the ASRS prior to the proposed rule's close of record date. The petition shall contain the:
1. Name and current address of the person submitting the petition;
 2. Identification of the proposed rule;
 3. Need for the delay, specifying the undue hardship or other adverse impact that may result if the request for a delayed effective date is not granted;
 4. Reason why the public interest will not be harmed by the delayed effective date;
 5. Signature of the person submitting the petition; and
 6. Date the person signs the petition.
- B. The ASRS shall send a written notice of the ASRS's decision to the person within 30 days of receipt of the Petition for Delayed Effective Date.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

ARTICLE 7. CONTRIBUTIONS NOT WITHHELD**R2-8-701. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "218 agreement" means a written agreement between the state, political subdivision, or political subdivision entity and the Social Security Administration, under the provisions of § 218 of the Social Security Act, to provide Social Security and Medicare or Medicare-only coverage to employees of the state, political subdivision, or political subdivision entity.
2. "Documentation" means a pay stub, completed W-2 form, completed Verification of Contributions Not Withheld form, Employer letter or spreadsheet, completed State Personnel Action Request Form, Social Security Earnings Report, employment contract, payroll record, timesheet, or other Employer-provided form that includes:

- a. Whether the employee was covered under the Employer's 218 Agreement prior to July 24, 2014,
 - b. The number of hours the member worked or was Engaged to Work for the Employer per pay period, and
 - c. The amount and type of compensation earned by the member within each pay period.
3. "Eligible service" means employment with an Employer:
- a. That is no more than 15 years before the date the ASRS receives written credible evidence that less than the correct amount of contributions were paid into the ASRS or the ASRS otherwise determines that less than the correct amount of contributions were made as specified in A.R.S. § 38-738(C); and
 - b. In which the member was Engaged to Work for an Employer.
4. "Engaged to Work" means the same as in R2-8-1001.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1). Amended by final expedited rulemaking at 28 A.A.R. 1366 (June 10, 2022), with an immediate effective date of May 18, 2022 (Supp. 22-2).

R2-8-702. General Information

- A. The Employer shall pay the Employer's portion of the contributions the ASRS determines is owed under R2-8-706 whether or not the member pays the member's portion of the contributions.
- B. The person who initiates the claim that contributions were not withheld for Eligible Service has the burden to prove a contribution error was made.
- C. The ASRS shall not waive payment of contributions or interest owed under this Article.
- D. If a member is not able to establish eligibility for purchasing service credit pursuant to this Article, the member may be eligible to purchase service pursuant to A.R.S. § 38-743 and Article 5 of this Chapter.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-703. Employer's Discovery of Error

If an Employer determines that any amount of contributions have not been withheld for a member for a period of Eligible Service, the Employer shall notify the ASRS by submitting through the Employer's secure ASRS account a Verification of Contributions Not Withheld form with the following information:

1. The member's full name;
2. The member's Social Security number;
3. The range of dates that any contribution was not withheld;
4. The member's position title during the date range listed in subsection (3);
5. The amount and type of compensation the member was entitled to receive, and the number of hours the member worked for the Employer per pay period for each fiscal year;
6. The member's hire date;

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7. Whether the member was Engaged to Work for the Employer;
8. Whether the position was covered under the Employer's 218 Agreement for periods prior to July 24, 2014; and
9. The dated signature of the Employer's authorized agent certifying:
 - a. All the dates and salary information is correct;
 - b. The person submitting this form has the legal power to enter into binding transactions with the ASRS;
 - c. Acknowledgement the Employer will receive an invoice for the contributions owed for Eligible Service only, as well as the accumulated interest on the contributions that were not withheld for both the member and Employer contributions; and
 - d. Acknowledgement the member will receive an invoice for their contributions owed.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-704. Member's Discovery of Error

- A. If a member believes that an Employer has not withheld contributions for the member for a period of Eligible Service, the member shall:
 1. Notify the member's Employer that the Employer has not withheld contributions correctly by contacting the Employer directly; or
 2. Submit to the ASRS a Contributions Not Withheld Request form through the member's secure ASRS account with the following:
 - a. The name of the Employer that should have remitted contributions;
 - b. The range of dates that any contribution was not withheld;
 - c. The member's position title during the date range listed in subsection (A)(2)(b);
 - d. Whether the member was Engaged to Work for the Employer; and
 - e. Dated signature of the member certifying the member understands:
 - i. The ASRS will be providing the member's Social Security number to the Employer for verification; and
 - ii. If the member's Employer cannot verify this request, it is the member's responsibility to provide Documentation of Eligible Service.
- B. If the information provided by the eligible member pursuant to subsection (A) is correct, the Employer shall validate the information and submit the information to the ASRS through the Employer's secure ASRS account. If the information provided by the eligible member pursuant to subsection (A) is incorrect, the Employer shall either correct the information and submit the corrected information to the ASRS through the Employer's secure ASRS account, along with the information identified in R2-8-703 or cancel the request by notifying the member through ASRS secure messaging the reason the request was canceled.
- C. If the Employer refuses to fill out the Verification of Contributions Not Withheld form, or if the member disputes the information the Employer completes on the form, the member shall provide the ASRS with the Documentation the member

believes supports the allegation that contributions should have been withheld.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Section amended by final rulemaking at 22 A.A.R. 3326, effective January 1, 2017 (Supp. 16-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1). Amended by final expedited rulemaking at 28 A.A.R. 1366 (June 10, 2022), with an immediate effective date of May 18, 2022 (Supp. 22-2).

R2-8-705. ASRS' Discovery of Error

If the ASRS determines, as specified in A.R.S. § 38-738(B)(7), that all contributions have not been withheld for a member for a period of Eligible Service, the ASRS shall notify the Employer in writing and shall request the Employer submit through the Employer's secure ASRS account a Verification of Contributions Not Withheld form pursuant to R2-8-703.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-706. Determination of Contributions Not Withheld

- A. Upon receipt of the information listed in R2-8-703, R2-8-704, or R2-8-705, the ASRS shall review the information to determine whether or not member contributions should have been withheld by the Employer, the length of time those contributions should have been withheld, and the amount of contributions that should have been withheld.
- B. Except for a member who met the requirements to be an active member while simultaneously contributing to another retirement plan listed in subsection (B)(2), for purposes of this Article, the ASRS shall determine that contributions should not have been withheld for the period of service in question if:
 1. An Employer remits an accurate ACR amount pursuant to R2-8-116; or
 2. The employee participates in:
 - a. Another Arizona retirement plan listed in A.R.S. Title 38, Chapter 5, Articles 3, 4, or 6; or
 - b. In an optional retirement plan listed in A.R.S. Title 15, Chapter 12, Article 3 or A.R.S. Title 15, Chapter 13, Article 2.
- C. Except for returning to work under A.R.S. § 38-766.01, the presence of a contract between a member and the Employer does not alter the contribution requirements of A.R.S. §§ 38-736 and 38-737.
- D. If there is any discrepancy between the Documentation provided by the Employer and the Documentation provided by the member, a document used in the usual course of business prepared at the time in question is controlling.
- E. The ASRS shall provide to each, Employer and the member, an invoice with the following:
 1. The amount of Eligible Service for which contributions were not withheld,
 2. The dollar amount of the contributions to be paid to the ASRS by the Employer,
 3. The interest on the Employer contributions and member contributions to be paid to the ASRS by the Employer pursuant to A.R.S. § 38-738,

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4. The amount of the delinquent interest late charge to be paid to the ASRS by the Employer pursuant to A.R.S. § 38-735, and
 5. The dollar amount of contributions to be paid to the ASRS by the member.
- F. The ASRS shall send the member an invoice according to subsection (E) after the Employer has remitted the full amount due to be paid by the Employer.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Section amended by final rulemaking at 22 A.A.R. 3326, effective January 1, 2017 (Supp. 16-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1). Amended by final expedited rulemaking at 28 A.A.R. 1366 (June 10, 2022), with an immediate effective date of May 18, 2022 (Supp. 22-2).

R2-8-707. Submission of Payment

- A. Within 90 days from the date on the statement invoice identified in R2-8-706(E), the Employer shall pay to the ASRS the amount due to be paid by the Employer. An Employer who makes payment under A.R.S. § 38-738(B)(3) is not liable for additional interest that may accrue as a result of a member's failure to remit payment required by A.R.S. § 38-738(B)(1). If the ASRS does not receive full payment of the Employer's amount due within 90 days after the ASRS notifies the Employer of the amount due, the full amount due will accrue interest as provided in A.R.S. § 38-738. The ASRS may collect the unpaid balance plus interest pursuant to A.R.S. § 38-735(C).
- B. The member shall make payment to the ASRS pursuant to A.R.S. § 38-738 by the due date specified on the member's invoice identified in R2-8-706(E).
- C. If the ASRS does not receive full payment of the member's amount due by the due date specified on the member's invoice identified in R2-8-706(E), the full amount due will accrue interest, as provided in A.R.S. § 38-738.
- D. A member does not receive service credit or credit for salary until both the Employer and member portions of the contributions and all interest has been paid pursuant to A.R.S. § 38-738.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1). Amended by final expedited rulemaking at 28 A.A.R. 1366 (June 10, 2022), with an immediate effective date of May 18, 2022 (Supp. 22-2).

R2-8-708. Expired**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 2982, effective September 15, 2016 (Supp. 16-3).

R2-8-709. Repealed**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Repealed by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

ARTICLE 8. RECOVERY OF OVERPAYMENTS**R2-8-801. Definitions**

For purposes of this Article, the following definitions apply, unless specified otherwise:

1. "Estimated Social Security disability income amount" and "Revised Social Security disability income amount" mean the amount of funds the ASRS is entitled to collect pursuant to R2-8-802.
2. "LTD" means long-term disability program as described in A.R.S. § 38-797 et seq.
3. "LTD benefit" means the same as in R2-8-301.
4. "Overpayment" means:
 - a. Any funds the ASRS distributes in excess of the amount to which the recipient is legally entitled; and
 - b. Any estimated social security disability income amount or revised social security disability income amount the ASRS is entitled to collect pursuant to A.R.S. § 38-765.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 28 A.A.R. 1746 (July 22, 2022), effective September 4, 2022 (Supp. 22-3).

R2-8-802. Estimated Social Security Disability Income Amount and Revised Social Security Disability Income Amount

- A. The ASRS contracted LTD claims administrator shall determine a member's estimated Social Security disability income amount as follows:
1. Prior to the death, retirement, or forfeiture of a member, the estimated Social Security disability income amount shall be equal to the member's full monthly LTD benefit reduced by \$50 per month pursuant to A.R.S. § 38-797.07(A)(9); and
 2. Upon the member's death, retirement, or forfeiture, the estimated Social Security disability income amount shall be equal to the total amount of the member's LTD benefit, reduced by \$50 per month pursuant to A.R.S. § 38-797.07(A)(9).
- B. A member or survivor who disputes the estimated Social Security disability income amount based on the conclusions of a legal proceeding may request a revised Social Security disability income amount by submitting supporting documentation from the legal proceeding to the ASRS contracted LTD claims administrator within 30 days of the date of conclusion of the legal proceeding.
- C. Pursuant to subsection (B), the ASRS or the ASRS contracted LTD claims administrator shall determine whether the estimated Social Security disability income amount needs to be revised based on the conclusions of the legal proceeding.
- D. If the ASRS or the ASRS contracted LTD claims administrator determines the estimated Social Security disability income amount was inaccurate, the ASRS or the ASRS contracted LTD claims administrator shall calculate a revised Social Security disability income amount based on the supporting documentation provided by the member or survivor pursuant to subsection (B).
- E. Pursuant to subsection (B), if the revised Social Security disability amount is less than the amount of the estimated Social Security disability benefit, the ASRS or the ASRS contracted LTD claims administrator shall:
1. Refund a portion of the amount of the estimated Social Security disability benefit that the ASRS retained upon forfeiture of the member in order to offset the difference

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between the estimated Social Security disability income amount and the revised Social Security disability income amount, or

2. Adjust the member's retirement benefits or the survivor's benefits to offset the difference between the estimated Social Security disability income amount and the revised Social Security disability income amount.
- F. If a member or survivor is not satisfied with the determination on the request for a revised Social Security disability income amount, the member or survivor may appeal the determination pursuant to 2 A.A.C. 8, Article 4.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

R2-8-803. Reimbursement of Overpayments

- A. Upon the ASRS discovering that it has made an overpayment to an Employer, member, survivor, or alternate payee, the ASRS shall send a letter to notify the necessary person that an overpayment was provided and the person shall reimburse the ASRS in the amount of the overpayment.
- B. A person, other than Employer, who reimburses the ASRS for an overpayment shall do so by remitting a check or money order, made payable to the ASRS, by the due date specified in the letter providing notice of the overpayment.
- C. An Employer that reimburses the ASRS for an overpayment shall do so by remitting payment through the Employer's secure ASRS account, or by check or money order made payable to the ASRS, by the due date specified in the letter providing notice of the overpayment.
- D. If the ASRS is unable to collect the amount of an overpayment by reducing future payments to Employers, members, survivors, or alternate payees as provided in this Article, the ASRS shall allow the appropriate person to reimburse the ASRS for the amount of the overpayment by making payments over the course of as many months as the number of months in which an overpayment was made by the ASRS, not to exceed 36 months.
- E. A person may request to reimburse the amount of the overpayment to the ASRS sooner than provided in this Article.
- F. If an Employer, member, survivor, or alternate payee does not repay the amount of an overpayment pursuant to this Article, the ASRS may reduce a Health Insurance Premium Benefit that is paid pursuant to Article 2.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).
Amended by final rulemaking at 28 A.A.R. 1261 (June 10, 2022), effective July 17, 2022 (Supp. 22-2).

R2-8-804. Collection of Overpayments from Forfeiture

- A. Unless a member cancels a forfeiture request by submitting written notice to the ASRS within 30 days of the request to forfeit, the ASRS shall reduce a member's refund amount in order to offset the member's overpayment amount pursuant to subsection (B).
- B. The ASRS shall reduce the member's refund amount by the amount of any overpayment and the ASRS shall:
 1. Pursue collection of any remaining overpayment amount pursuant to this Article; and
 2. Distribute the remaining refund amount to the member pursuant to R2-8-115.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

R2-8-805. Collection of Overpayments from Retirement Benefit

- A. Notwithstanding A.R.S. § 38-768, the ASRS may reduce a person's benefit pursuant to this Section.
- B. Upon retirement, the ASRS shall reduce the amount of a member's retirement benefit by the amount of any overpayments that have not been reimbursed to the ASRS, pursuant to R2-8-803 as follows:
 1. If the member elects to receive a lump sum or partial lump sum benefit, the amount of the lump sum or partial lump sum shall be reduced by the amount of the overpayment to no less than \$5.00 and the ASRS shall pursue overpayment collections for any remaining overpayment amount pursuant to this Article;
 2. If the member elects to receive retirement benefits as a monthly annuity and the amount of the overpayment is equal to or less than the amount of the member's first annuity disbursement minus \$5.00, the ASRS shall reduce the amount of the first annuity disbursement by the amount of any overpayment to no less than \$5.00;
 3. If the member elects to receive retirement benefits as a monthly annuity and the amount of the overpayment exceeds the amount of the member's first annuity disbursement plus \$5.00, the ASRS shall reduce the amount of the first annuity disbursement by the amount of the overpayment to no less than \$5.00 and pursue collection pursuant to subsection (C).
- C. The ASRS shall reduce a member's or alternate payee's monthly annuity as follows in order to offset any overpayments which have not been reimbursed or collected pursuant to this Article:
 1. The ASRS shall reduce the member's monthly annuity by up to 10% for 36 months, if the amount of the overpayment can be collected by the ASRS within that time.
 2. If the amount of the overpayment cannot be collected pursuant to subsection (C)(1), the ASRS will notify the member that the member must make payment arrangements within 60 days of the date on the notice. If the member does not make payment arrangements within 60 days of the date on the notice, the ASRS shall actuarially reduce the amount of the member's monthly annuity.
- D. Notwithstanding subsection (B), the ASRS shall not reduce a member's or alternate payee's monthly annuity by an estimated Social Security disability income amount while the member is pursuing a Social Security disability income determination pursuant to R2-8-305, if the member submits documentation to the ASRS every six months informing the ASRS of the status of the member's Social Security disability income request until a determination is made regarding the amount of Social Security disability income.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

R2-8-806. Collection of Overpayments from Survivor Benefit

- A. Notwithstanding A.R.S. § 38-768, the ASRS may reduce a person's benefit pursuant to this Section.
- B. If a member, survivor, or alternate payee does not repay the amount of an overpayment pursuant to this Article, the ASRS

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shall reduce the necessary person's amount of benefits pursuant to subsection (C).

- C. The ASRS shall collect the amount of any remaining overpayment by reducing the necessary person's monthly annuity over the same number of months in which the overpayment was made, up to 3 months for each month an overpayment was made by the ASRS.
- D. If the ASRS is unable to collect the amount of any overpayment pursuant to subsection (C), the ASRS shall pursue collection of any remaining overpayment amount pursuant to this Article.
- E. Notwithstanding subsection (C), the ASRS shall not reduce a survivor's monthly annuity by an estimated Social Security disability income amount while the survivor is pursuing a Social Security disability income determination on behalf of the member pursuant to R2-8-305, if the survivor submits documentation to the ASRS every six months informing the ASRS of the status of the member's Social Security disability income request until a determination is made regarding the amount of Social Security disability income to which the member was entitled.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

R2-8-807. Collection of Overpayments from LTD Benefit

Upon disability of the member, the ASRS shall reduce the amount of the disabled member's LTD benefit by the amount of any overpayment the member received from the ASRS and has not reimbursed pursuant to this Section.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3).

R2-8-808. Collection of Overpayments by the Attorney General

If an Employer, member, survivor, or alternate payee does not reimburse the ASRS for an overpayment pursuant to R2-8-803, the ASRS may submit the overpayment amount for collection by the Arizona Attorney General's Office.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

Amended by final rulemaking at 28 A.A.R. 1261 (June 10, 2022), effective July 17, 2022 (Supp. 22-2).

R2-8-809. Collection of Overpayments by the Arizona Department of Revenue

If an Employer, member, survivor, or alternate payee does not reimburse the ASRS for an overpayment pursuant to R2-8-803, the ASRS may submit the overpayment amount for collection by the Arizona Department of Revenue.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

Amended by final rulemaking at 28 A.A.R. 1261 (June 10, 2022), effective July 17, 2022 (Supp. 22-2).

R2-8-810. Collection of Overpayments by Garnishment or Levy

Pursuant to A.R.S. § 38-723, the ASRS may collect the amount of any overpayment that has not been reimbursed or collected pursuant to this Article by garnishing wages and/or placing a levy on the appropriate person's bank account.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

ARTICLE 9. COMPENSATION**R2-8-901. Definitions**

"Services rendered" means the duties which a member performs for an Employer as required by the member's employment with the Employer.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2). New Section made by final rulemaking at 27 A.A.R. 91, effective March 9, 2021 (Supp. 21-1).

R2-8-902. Remitting Contributions

Pursuant to A.R.S. §§ 38-736, 38-737, and 38-797.05, an Employer shall remit contributions to the ASRS through the Employer's secure ASRS account for any payment the Employer provides to the member that is eligible to be included as compensation under this Section.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2). New Section made by final rulemaking at 27 A.A.R. 91, effective March 9, 2021 (Supp. 21-1).

R2-8-903. Accrual of Credited Service

- A. A member shall accrue service credits pursuant A.R.S. § 38-739 for each month in which the Employer's pay period ends and for which contributions have been remitted to the ASRS, except for pay the member receives from the Employer for services rendered in a prior pay period for which contributions were remitted pursuant to R2-8-902.
- B. Regardless of whether the member meets membership requirements with more than one Employer, a member may not earn more than one month of service credit in a calendar month and not more than one year of service credit during a fiscal year.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2). New Section made by final rulemaking at 27 A.A.R. 91, effective March 9, 2021 (Supp. 21-1).

R2-8-904. Compensation from An Additional Employer

- A. For purposes of remitting contributions pursuant to R2-8-902, compensation includes pay the member receives from an additional Employer if:
 1. The member meets membership pursuant to A.R.S. § 38-711 with at least one Employer;
 2. The member was employed with the additional Employer and did not meet membership with the additional Employer pursuant to A.R.S. § 38-711 between January 1, 2005 through December 31, 2009;

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3. The member resumed or continued employment with the additional Employer and did not meet membership with the additional Employer prior to January 1, 2012; and
 4. The member does not leave employment with an Employer or the additional Employer in an unpaid status for more than 30 consecutive days during the member's service year.
- B.** For purposes of calculating average monthly compensation according to A.R.S. § 38-711, compensation includes the pay identified in subsection (A).
- C.** Notwithstanding any other subsection, for a member whose membership began after December 31, 2009, compensation includes pay the member receives from an additional Employer if the member meets membership pursuant to A.R.S. § 38-711 with the additional Employer.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2). New Section made by final rulemaking at 27 A.A.R. 91, effective March 9, 2021 (Supp. 21-1).

R2-8-905. Expired

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2).

ARTICLE 10. MEMBERSHIP

R2-8-1001. Definitions

The following definitions apply to this Article unless otherwise specified:

1. "218 Agreement" means the same as in R2-8-701.
2. "218 Resolution" means written authorization for a potential Employer to provide Social Security and Medicare or Medicare-only coverage to employees under the provisions of § 218 of the Social Security Act.
3. "Acceptable Documentation" means the same as in R2-8-115.
4. "Designated Employer Administrator" means an individual designated by the Employer and who has authorized access to the Employer's secure ASRS account in order to fulfill the Employer's responsibilities.
5. "Engaged To Work" means the earlier of:
 - a. The date the employee begins rendering services for the Employer and the Employer intends the employee to work for at least 20 hours a week for at least 20 weeks in a fiscal year or;
 - b. The week an employee renders services to an Employer for at least 20 hours a week for at least 20 weeks in a fiscal year.
6. "Leasing An Employee From A Third Party" means the same as "Leased from a third party" in R2-8-116.
7. "State Social Security Administrator" means the Arizona Department of Administration staff designated to approve 218 Agreements and 218 Resolutions.
8. "Week" means 12:00 a.m. on Sunday through 11:59 p.m. on the following Saturday.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4). Amended

by final rulemaking at 30 A.A.R. 742 (April 12, 2024), effective May 17, 2024 (Supp. 24-1).

R2-8-1002. Employee Membership

- A.** For purposes of active member eligibility, an employee of an Employer becomes a member of the ASRS pursuant to A.R.S. § 38-711(23) when the employee is Engaged To Work for the Employer.
- B.** If the Employer does not provide an accurate date for which an employee was Engaged To Work pursuant to subsection (A), the ASRS shall determine that an employee's membership effective date will be the member's hire date, if provided by the Employer and within 30 days of the first pay period end date after the hire date, for which the Employer was required to submit contributions.
- C.** If the Employer does not provide a hire date pursuant to subsection (B), the effective date is the first pay period end date of contributions received for that member.
- D.** Unless a member terminates employment or retires from the ASRS, for purposes of determining active member eligibility, a member will continue to be an active member for the remainder of a fiscal year in which the employee met the requirements to be an active member in the ASRS with that Employer pursuant to A.R.S. § 38-711.
- E.** Within 30 days of employment, an employee who is eligible for ASRS membership pursuant to A.R.S. § 38-711(23) shall create a secure ASRS account and submit to the ASRS through the employee's secure ASRS account the following information:
 1. The Employee's full name;
 2. The Employee's Social Security number;
 3. The Employee's date of birth;
 4. The Employee's gender;
 5. The Employee's marital status;
 6. The Employee's primary phone number;
 7. The Employee's personal email address;
 8. The Employee's current mailing address; and
 9. The Employee's designated beneficiary.
- F.** Within 30 days of a change in the member's name, the member shall submit to the ASRS through the member's secure ASRS account a Change of Name form that contains:
 1. The member's full name that is on file with the ASRS;
 2. The member's Social Security number;
 3. The member's current mailing address;
 4. The member's date of birth;
 5. The member's personal email address;
 6. The member's primary phone number;
 7. The member's gender;
 8. The member's marital status;
 9. The member's retired, active, inactive, or LTD status with the ASRS;
 10. The member's new full name;
 11. The type of legal document establishing the member's new name;
 12. A copy of the legal document establishing the member's new name; and
 13. The member's dated signature.
- G.** Within 30 days of a change in the member's contact information, the member shall notify the ASRS of the change.
- H.** If an employee of an Employer meets the requirements of A.R.S. § 38-727(A)(8), the employee may elect to not participate in the ASRS.
- I.** Within 30 days after employment, an Employer whose employee is 65 years of age or older as of the date of employment and who has elected not to participate in the ASRS pur-

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suant to subsection (H), shall submit to the ASRS through the Employer's secure ASRS account a 65+ Membership Waiver form that contains:

1. The employee's full name;
2. The employee's Social Security number;
3. The employee's current mailing address;
4. The employee's date of birth;
5. The employee's dated signature acknowledging the following statements:
 - a. The employee is electing to waive any rights to ASRS membership and the employee will not be eligible for any retirement, disability, or health insurance benefits offered by the ASRS;
 - b. The employee is not a member of the ASRS as of the date of employment; and
 - c. The employee understands that this election is irrevocable for the remainder of the employee's employment with that Employer and the time the employee works under this election is not eligible for purchase in the ASRS;
6. The Employer's name;
7. The date employee's employment began; and
8. The name and dated signature of the Employer's representative.

- J.** A corrected and completed 65+ Membership Waiver form must be resubmitted to the ASRS pursuant to subsection (I) within 14 days of the date the ASRS notifies the employee that the 65+ Membership Waiver form is incorrect or incomplete.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

R2-8-1003. Charter School Employer Membership

- A.** Pursuant to A.R.S. § 15-187(C), a charter school in Arizona is considered a political subdivision that is eligible to participate in the ASRS if the charter school is sponsored by:
1. A state university;
 2. A community college district;
 3. A group of community college districts;
 4. The state board of education; or
 5. The state board for charter schools.
- B.** In order to participate as an Employer in the ASRS, a charter school shall notify the ASRS in writing of the charter school's intent to join the ASRS and provide:
1. A copy of the current and active Charter Contract, including any amendments, which is approved by the entity sponsoring the charter school pursuant to subsection (A);
 2. Documentation showing the name and location of all schools authorized by the Charter Contract identified in subsection (B)(1); and
 3. Documentation showing the charter school board's approval to pursue ASRS membership and complete ASRS requirements for membership.
- C.** Upon receipt of the information contained in subsection (B), the ASRS shall determine if the charter school is eligible to participate in the ASRS. If the charter school is not eligible to participate in the ASRS, the ASRS shall send the charter school a notice of ineligibility. If the charter school is eligible to participate, the ASRS shall provide the charter school a Potential New Employer Letter.
- D.** In order to participate as an Employer in the ASRS, an eligible charter school shall submit to the ASRS by the due date listed on the Potential New Employer Letter:
1. The following original documents:

- a. The current retirement plan or a statement signed by the designated authorized agent for the charter school acknowledging there is no current retirement plan.
 - b. Two ASRS Agreements showing:
 - i. The legal name and current mailing address of the charter school as sponsored pursuant to subsection (A);
 - ii. What amount of prior service the charter school shall purchase for employees pursuant to R2-8-1006;
 - iii. The approximate number of employees that will become members upon the effective date of the ASRS Agreement;
 - iv. The name, title, email address, and telephone number of the designated authorized agent for the charter school;
 - v. The designated authorized agent is authorized and directed to conduct all negotiations, conclude all arrangements, and sign all documents necessary to administer the supplemental ASRS retirement plan pursuant to A.R.S. Title 38, Chapter 5, Articles 2 and 2.1; and
 - vi. The ASRS Agreement is binding and irrevocable;
 - vii. The effective date of the ASRS Agreement;
 - viii. The charter school agrees to be bound by the provisions of A.R.S. Title 38, Chapter 5, Article 2 and Article 2.1 unless otherwise indicated by law; and
 - ix. The dated signature of the designated authorized agent for the charter school.
 - c. Two ASRS Resolutions showing:
 - i. The legal name of the charter school as sponsored pursuant to subsection (A);
 - ii. The charter school is adopting a supplemental ASRS retirement plan pursuant to A.R.S. § 38-729;
 - iii. The charter school agrees to be bound by the provisions of A.R.S. Title 38, Chapter 5, Article 2 and Article 2.1 unless otherwise indicated by law;
 - iv. The designated authorized agent for the charter school;
 - v. The designated authorized agent is authorized and directed to conduct all negotiations, conclude all arrangements, and sign all documents necessary to administer the supplemental ASRS retirement plan pursuant to A.R.S. Title 38, Chapter 5, Articles 2 and 2.1; and
 - vi. The dated and notarized signature of the designated authorized agent.
2. The following copies if the eligible charter school has elected coverage pursuant to a 218 Agreement:
- a. A 218 Agreement. If the charter school is electing coverage pursuant to a 218 Agreement, the 218 Agreement must be completed and approved by the Social Security Administration prior to joining the ASRS.
 - b. A 218 Resolution. The 218 Resolutions must be completed and approved by the Social Security Administration prior to joining the ASRS.
- E.** Upon receipt of Acceptable Documentation identified in subsection (D), the ASRS may approve the charter school's

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request for membership pursuant to A.R.S. § 38-729. If the request to join the ASRS is approved, the ASRS Director shall sign the ASRS Agreements before the ASRS shall send one of each of the original documents identified in subsection (D) to the charter school.

- F. Any charter school that is established under the charter contract of a participating charter school shall participate in the ASRS.
- G. Upon joining the ASRS, a charter school has a one-time opportunity to identify and exclude current employees from ASRS membership based on a classification of those employees that is established by the charter school consistent with federal law and that is not designed to, and does not result in, the cost of providing the benefits to the charter school's employees being greater than the cost of providing benefits to the employees of Employers as determined by the ASRS.
- H. A charter school that elects to identify and exclude a classification of employees according to subsection (G) shall provide the ASRS with all information the ASRS requests in order for the ASRS to determine the cost of providing the benefits to the charter school's employees is not greater than the cost of providing benefits to the employees of Employers as determined by the ASRS.
- I. Notwithstanding subsection (G), all other current and future employees of the charter school who meet membership eligibility requirements are required to participate in the ASRS as of the effective date of the charter school joining the ASRS according to A.R.S. §§ 38-711 *et seq.*

Historical Note

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4). Amended by final rulemaking at 30 A.A.R. 742 (April 12, 2024), effective May 17, 2024 (Supp. 24-1).

R2-8-1004. Other Political Subdivision and Political Subdivision Entity Employer Membership

- A. A political subdivision or political subdivision entity, other than a charter school, may be eligible to participate in the ASRS pursuant to A.R.S. §§ 38-711 and 38-729 if it notifies the ASRS in writing of the political subdivision's or political subdivision entity's intent to join the ASRS and provides to the ASRS:
 - 1. A copy of the current legal authority establishing the political subdivision or political subdivision entity;
 - 2. Documentation showing the name and location of the political subdivision or political subdivision entity; and
 - 3. Documentation showing the political subdivision or political subdivision entity has taken the necessary legal action to be eligible to participate pursuant to A.R.S. § 38-729.
- B. Upon receipt of the information contained in subsection (C), the ASRS shall determine if the political subdivision or political subdivision entity is eligible to participate in the ASRS. If the political subdivision or political subdivision entity is not eligible to participate in the ASRS, the ASRS shall send the political subdivision or political subdivision entity a notice of ineligibility. If the political subdivision or political subdivision entity is eligible to participate, the ASRS shall provide the political subdivision or political subdivision entity a Potential New Employer Letter.
- C. In order to participate as an Employer in the ASRS, an eligible political subdivision or political subdivision entity shall submit to the ASRS by the due date listed on the Potential New Employer Letter:

- 1. The following original documents:
 - a. The current retirement plan or a statement signed by the designated authorized agent for the political subdivision or political subdivision entity acknowledging there is no current retirement plan.
 - b. Two ASRS Agreements showing:
 - i. The legal name and current mailing address of the political subdivision or political subdivision entity;
 - ii. What amount of prior service the political subdivision or political subdivision entity shall purchase for employees pursuant to R2-8-1006;
 - iii. The approximate number of employees that will become members upon the effective date of the ASRS Agreement;
 - iv. The name, title, email address, and telephone number of the designated authorized agent for the political subdivision or political subdivision entity;
 - v. The designated authorized agent is authorized and directed to conduct all negotiations, conclude all arrangements, and sign all documents necessary to administer the supplemental ASRS retirement plan pursuant to A.R.S. Title 38, Chapter 5, Articles 2 and 2.1; and
 - vi. The ASRS Agreement is binding and irrevocable;
 - vii. The effective date of the ASRS Agreement;
 - viii. The political subdivision or political subdivision entity agrees to be bound by the provisions of A.R.S. Title 38, Chapter 5, Article 2 and Article 2.1 unless otherwise indicated by law; and
 - ix. The dated signature of the designated authorized agent for the political subdivision or political subdivision entity.
 - c. Two ASRS Resolutions showing:
 - i. The legal name of the political subdivision or political subdivision entity;
 - ii. The political subdivision or political subdivision entity is adopting a supplemental ASRS retirement plan pursuant to A.R.S. § 38-729;
 - iii. The political subdivision or political subdivision entity agrees to be bound by the provisions of A.R.S. Title 38, Chapter 5, Article 2 and Article 2.1 unless otherwise indicated by law;
 - iv. The designated authorized agent for the political subdivision or political subdivision entity;
 - v. The designated authorized agent is authorized and directed to conduct all negotiations, conclude all arrangements, and sign all documents necessary to administer the supplemental ASRS retirement plan pursuant to A.R.S. Title 38, Chapter 5, Articles 2 and 2.1; and
 - vi. The dated and notarized signature of the designated authorized agent.
- 2. The following copies if the eligible political subdivision or political subdivision entity has elected coverage pursuant to a 218 Agreement:
 - a. A 218 Agreement. If the political subdivision or political subdivision entity is electing coverage pursuant to a 218 Agreement, the 218 Agreement must be completed and approved by the Social Security Administration prior to joining the ASRS.

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- b. A 218 Resolution. The 218 Resolutions must be completed and approved by the Social Security Administration prior to joining the ASRS.
- D. Upon receipt of Acceptable Documentation identified in subsection (B), the ASRS may approve the political subdivision's or political subdivision entity's request for membership pursuant to A.R.S. § 38-729. If the request to join the ASRS is approved, the ASRS Director shall sign the ASRS Agreements before the ASRS shall send one of each of the original documents identified in subsection (B) to the political subdivision or political subdivision entity.
- E. Upon joining the ASRS, a political subdivision or political subdivision entity has a one-time opportunity to identify and exclude current employees from ASRS membership based on a classification of those employees that is established by the political subdivision or political subdivision entity consistent with federal law and that is not designed to, and does not result in, the cost of providing the benefits to the political subdivision's or political subdivision entity's employees being greater than the cost of providing benefits to the employees of Employers as determined by the ASRS.
- F. A political subdivision or political subdivision entity that elects to identify and exclude a classification of employees according to subsection (E) shall provide the ASRS with all information the ASRS requests in order for the ASRS to determine the cost of providing the benefits to the political subdivision's or political subdivision entity's employees is not greater than the cost of providing benefits to the employees of Employers as determined by the ASRS.
- G. Notwithstanding subsection (E), all other current and future employees of the political subdivision or political subdivision entity who meet membership eligibility requirements are required to participate in the ASRS as of the effective date of the political subdivision or political subdivision entity joining the ASRS according to A.R.S. §§ 38-711 *et seq.*
- Historical Note**
- New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4). Amended by final rulemaking at 30 A.A.R. 742 (April 12, 2024), effective May 17, 2024 (Supp. 24-1).
- R2-8-1005. Employer Reporting**
- A. An Employer shall submit contribution information and contribution payments pursuant to A.R.S. § 38-735, through the Employer's secure ASRS account.
- B. Within 14 days of receiving the information contained in subsection R2-8-1002(E)(1) through (E)(3), the Employer shall:
1. Verify the information the employee provided;
 2. Confirm the employee meets membership requirements pursuant to A.R.S. § 38-711; and
 3. Submit the verified information to the ASRS through the Employer's secure ASRS account.
- C. For an Employer whose employee elects to participate in an Optional Retirement Plan in lieu of the ASRS pursuant to A.R.S. §15-1628, within 30 days of electing to participate in an Optional Retirement Plan, the Employer shall submit to the ASRS through the Employer's secure ASRS account the:
1. Employee's full name;
 2. Employee's Social Security number;
 3. Date of the employee's employment; and
 4. Date of the employee's Optional Retirement Plan election.
- D. For an Employer who has submitted information pursuant to subsection (C), within 30 days of that employee terminating employment with that Employer, the Employer shall notify the ASRS through the Employer's secure ASRS account of the employee's termination date.
- E. Within 14 days before the effective date of joining the ASRS, an Employer shall submit an initial online authorization and designation form in writing to the ASRS with the following information:
1. The Employer's name;
 2. The following information for the person authorized by the Employer to approve the Employer's Designated Employer Administrator:
 - a. The person's full name;
 - b. The person's title;
 - c. The person's phone number;
 - d. The person's email address;
 - e. The person's dated signature affirming that person has the authority to approve the Employer's Designated Employer Administrator;
 3. The full name of the individual the Employer is designating as the Employer's Designated Employer Administrator;
 4. The title of the individual the Employer is designating as the Employer's Designated Employer Administrator;
 5. The phone number of the individual the Employer is designating as the Employer's Designated Employer Administrator;
 6. The email address of the individual the Employer is designating as the Employer's Designated Employer Administrator;
 7. The dated signature of the individual the Employer is designating as the Employer's Designated Employer Administrator.
- F. An Employer's Designated Employer Administrator shall establish a new Employer's Designated Employer Administrator as needed through the Employer's secure ASRS account.
- G. Within 30 days of an Employer no longer having an Employer's Designated Employer Administrator, the Employer shall submit in writing an initial online authorization and designation form pursuant to subsection (E).
- H. Within 30 days of change in the Employer's address, the Employer shall notify the ASRS of the change through the Employer's secure ASRS account.
- I. Within 10 days of any change in the name or ownership of the Employer, the Employer shall provide written notice of the change to the ASRS through the Employer's secure ASRS account by providing the Employer's previous account information and the changes to that information.
- J. Within 30 days of any change in the character of an Employer's organizational structure, the Employer shall send to the ASRS through the Employer's secure ASRS account, written notice of the previous organizational structure and the effective changes to the Employer's organizational structure.
- K. Within 30 days of Leasing An Employee From A Third Party, an Employer shall submit the following information:
1. The employee's full name;
 2. The number of hours per week the employee works for the Employer;
 3. The title of the employee's position;
 4. A copy of the agreement showing the Employer Leasing An Employee From A Third Party; and
 5. Whether the employee is retired from the ASRS.

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Historical Note

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

R2-8-1006. Prior Service Purchase Cost for New Employers

- A. Pursuant to A.R.S. § 38-729, upon the effective date of joining the ASRS, an Employer may elect to purchase service credit for a period of employment prior to the effective date of joining the ASRS for employees Engaged To Work for the Employer on the effective date of joining the ASRS who are members of the ASRS as of the effective date of joining the ASRS.
- B. The ASRS may provide to a potential Employer an estimated cost to purchase service credit pursuant to this Section. In order for the ASRS to estimate the cost to purchase service credit pursuant to this Section, a potential Employer shall provide the following information to the ASRS for each employee of the potential Employer who is Engaged To Work for the potential Employer and for whom the potential Employer intends to purchase service credit pursuant to this Section:
 1. The employee's full name;
 2. The employee's date of birth;
 3. The employee's Social Security number;
 4. The employee's current salary; and
 5. The date the employee began employment with the potential Employer.
- C. An Employer who elects to purchase service credit pursuant to this Section shall submit the following information for each member for which the Employer is purchasing service credit:
 1. Member's full name;
 2. Member's date of birth;
 3. Member's Social Security number;
 4. Member's date of employment;
 5. Documentation showing the Member is Engaged To Work for the Employer as of the effective date of joining the ASRS;
 6. Member's current salary as of the effective date of joining the ASRS; and
 7. The number of years the Employer is electing to purchase for the member pursuant to this Section or the dollar amount the Employer is electing to pay to purchase service for the member pursuant to this Section.
- D. The cost to purchase service credit pursuant to this Section shall be determined using an actuarial present value calculation.
- E. An Employer who elects to purchase service credit pursuant to this Section shall submit payment for the full cost of the service purchase to the ASRS within 90 days of the date of notification by the ASRS.
- F. If an Employer who elects to purchase service credit pursuant to this Section does not submit payment for the full cost of the service purchase within 90 days of the date of notification, the Employer is not eligible to purchase service credit pursuant to this Section.
- G. An employer may not purchase service credit pursuant to this Section for a time period for which the employee is eligible to receive retirement benefits from another public employee retirement system.
- H. For purposes of this Section, "another public employee retirement system" means the same as in R2-8-505.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4). Amended

by final rulemaking at 28 A.A.R. 1257 (June 10, 2022), effective July 17, 2022 (Supp. 22-2).

ARTICLE 11. TRANSFER OF SERVICE CREDIT**R2-8-1101. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "Actuarial present value" means an amount in today's dollars of a member's future retirement benefit calculated using appropriate actuarial assumptions and the:
 - a. Member's Current Years of Credited Service;
 - b. Member's age as of the date the Member submits to the ASRS a request to transfer service credit pursuant to this Article; and
 - c. Member's most recent annual compensation.
2. "Current years of credited service" means:
 - a. For Transfer In Service, the amount of credited service a member has earned or purchased, and the amount of service credit for which an Irrevocable PDA is in effect for which the member has not yet completed payment, but does not include any current requests to purchase service credit for which the member has not yet paid; and
 - b. For transferring service credit to the Other Retirement Plan, the amount of credited service a member has earned or purchased, but does not include service credit for which the member has not yet paid.
3. "Irrevocable PDA" means the same as in R2-8-501.
4. "Funded Actuarial Present Value" means the Actuarial Present Value reduced to the extent funded on market value basis as of the most recent actuarial evaluation of the ASRS.
5. "Member's accumulated contribution account balance" means the sum of all the member's retirement contributions and any principal payments made for:
 - a. The purchase of service credit;
 - b. Contributions not withheld; and
 - c. Previous transfers of service credit.
6. "Other retirement plan" means the state retirement plans specified in A.R.S. § 38-921, other than the ASRS, or a retirement plan of a charter city as specified in A.R.S. § 38-730.
7. "Other Retirement Plan's cost" means the amount determined by the ASRS pursuant to R2-8-1102(D).
8. "Other public service" means the same as in R2-8-501.
9. "Transfer in service" means credited service with the Other Retirement Plan that a member is eligible to transfer to the ASRS pursuant to A.R.S. §§ 38-730 and 38-921.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-1102. Required Documentation and Calculations for Transfer In Service Credit

- A. A member who is eligible to Transfer In Service credit, may request to transfer service credit by providing a Transfer In form to the ASRS with the following:
 1. The name of the Other Retirement Plan;
 2. The date the member either terminated employment with an employer of the Other Retirement Plan or ceased to participate in the Other Retirement Plan;

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CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

3. The date the member began employment with the employer through which the member was participating in the Other Retirement Plan;
 4. The number of years the member participated in the Other Retirement Plan;
 5. Acknowledgement the member agrees that:
 - a. Knowingly making a false statement or falsifying or permitting falsification of any record of the ASRS with an intent to defraud ASRS is a Class 6 felony, pursuant to A.R.S. § 38-793; and
 - b. The Transfer In Service credit transaction is subject to audit and if any errors are discovered, the ASRS shall adjust a member's account, or if the member is already retired, adjustments to the member's account may affect the member's retirement benefit.
- B.** Upon receipt of the information specified in subsection (A), the ASRS shall submit the information to the Other Retirement Plan and request:
1. The Other Retirement Plan's Funded Actuarial Present Value pursuant to A.R.S. §§ 38-730 and 38-922;
 2. The Member's Accumulated Contribution Account Balance in the Other Retirement Plan;
 3. The amount of service credit the member has accumulated in the Other Retirement Plan; and
 4. The start date and end date for the member's participation in the Other Retirement Plan.
- C.** Upon receipt of the information specified in subsection (B), the ASRS shall calculate the Actuarial Present Value as specified in R2-8-506 necessary to transfer full service credit to the ASRS.
- D.** The ASRS shall calculate the Other Retirement Plan's Cost as follows:
1. If the ASRS Actuarial Present Value is greater than the Other Retirement Plan's Funded Actuarial Present Value, then the Other Retirement Plan's Cost is the greater of:
 - a. The Other Retirement Plan's Funded Actuarial Present Value; or
 - b. The Member's Accumulated Contribution Account Balance in the Other Retirement Plan;
 2. If the ASRS Actuarial Present Value is less than or equal to the Other Retirement Plan's Funded Actuarial Present Value, then the Other Retirement Plan's Cost is the greater of:
 - a. The ASRS Actuarial Present Value; or
 - b. The Member's Accumulated Contribution Account Balance in the Other Retirement Plan.
- E.** The ASRS shall compare the Other Retirement Plan's Cost to the ASRS Actuarial Present Value calculated pursuant to subsection (C) and:
1. If the Other Retirement Plan's Cost is less than the ASRS Actuarial Present Value, then the member may elect to transfer service credit to the ASRS and:
 - a. Pay the difference between the Other Retirement Plan's Cost and the ASRS Actuarial Present Value; or
 - b. Accept a proportionately reduced amount of service credit;
 2. If the Other Retirement Plan's Cost is greater than or equal to the ASRS Actuarial Present Value, then the member may elect to transfer the service to the ASRS pursuant to subsection (F).
- F.** Upon completion of the comparison specified in subsections (D) and (E), the ASRS shall send the member a transfer in invoice notifying the member of the member's options to complete the transfer of service credit through the member's secure ASRS account.
- G.** The member may elect to complete a transfer of service credit pursuant to this Section by submitting the member's election by the election due date specified on the transfer in invoice.
- H.** Upon receipt of the member's election to complete a transfer of service credit, the ASRS shall send the transfer in invoice to the Other Retirement Plan and the Other Retirement Plan shall make payment to the ASRS by submitting a check made payable to the ASRS for the Other Retirement Plan's Cost specified on the transfer in invoice by the payment due date specified on the transfer in invoice.
- I.** If a member elects to pay the total difference between the ASRS Actuarial Present Value and the Other Retirement Plan's Cost pursuant to R2-8-1102(E), the member shall elect the method of payment by the payment due date specified on the transfer in invoice.
- J.** A member may elect to pay the total difference between the ASRS Actuarial Present Value and the Other Retirement Plan's Cost pursuant to R2-8-1102(E) by any one or more methods specified in R2-8-512, R2-8-513, R2-8-514, or R2-8-519.
- K.** For a member who elects to accept a proportionately reduced amount of service pursuant to subsection (E)(1)(b), the ASRS shall calculate the proportionately reduced amount of service credit based on the member's service credits in the Other Retirement Plan multiplied by the ratio of the Other Retirement Plan's Cost to the ASRS Actuarial Present Value.
- L.** The member shall submit payment to transfer service credit pursuant to this Section by the payment due date specified on the transfer in invoice.
- M.** If the member does not submit payment for the total difference in the calculations pursuant to R2-8-1102(E) by the payment due date specified on the transfer in invoice, the member may be eligible to purchase the remaining service credit as Other Public Service, and the member is not eligible to purchase the remaining service credit based on the cost specified in the transfer in invoice.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-1103. Transferring Service to Other Retirement Plans

- A.** Upon receipt of a request to transfer a member's service credit from the ASRS to the Other Retirement Plan, the ASRS shall calculate:
1. The ASRS Funded Actuarial Present Value pursuant to A.R.S. §§ 38-730 and 38-922; and
 2. The Member's Accumulated Contribution Account Balance in the ASRS.
- B.** Upon completing the calculations specified in subsection (A), the ASRS shall submit the calculations and member information to the Other Retirement Plan with a due date for the Other Retirement Plan to submit a fund request to the ASRS pursuant to subsection (C).
- C.** If a member elects to transfer service credit to the Other Retirement Plan, the member shall ensure that the Other Retirement Plan submits a fund request on the Other Retirement Plan's letterhead by the due date specified in subsection (B) to the ASRS with the following information:
1. The member's full name;
 2. The last four digits of the member's Social Security number;
 3. The name of the Other Retirement Plan; and

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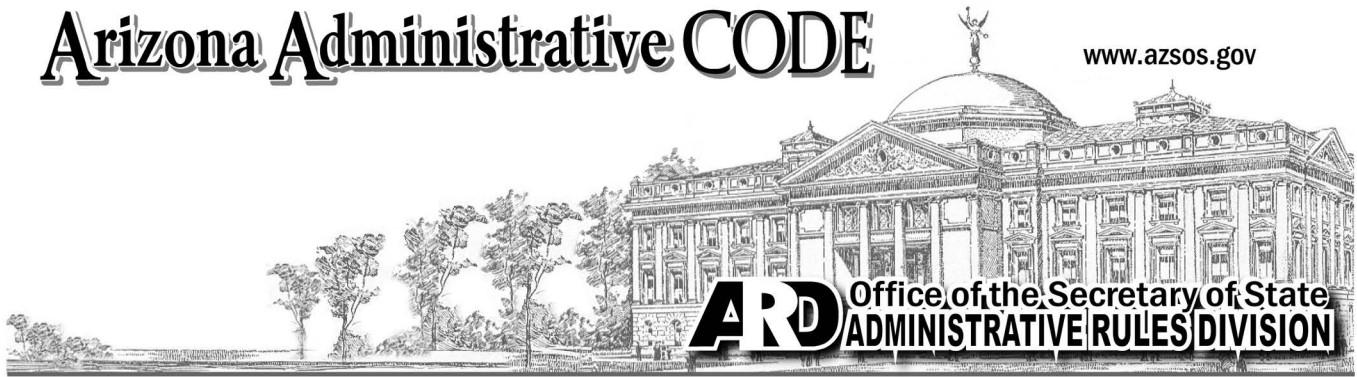
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4. The Actuarial Present Value necessary to transfer full service credit to the Other Retirement Plan.
- D.** Upon receipt of the information specified in subsection (C), the ASRS shall compare the calculations specified in subsection (A) to the Other Retirement Plan's Actuarial Present Value specified in subsection (C) and transfer funds as follows:
1. If the Other Retirement Plan's Actuarial Present Value specified in subsection (C) is greater than the ASRS Funded Actuarial Present Value specified in subsection (A), then the ASRS shall transfer the greater of:
 - a. The ASRS Funded Actuarial Present Value specified in subsection (A); or
 - b. The Member's Accumulated Contribution Account Balance in the ASRS.
 2. If the Other Retirement Plan's Actuarial Present Value specified in subsection (C) is less than or equal to the ASRS Funded Actuarial Present Value, then the ASRS shall transfer the greater of:
 - a. The Other Retirement Plan's Actuarial Present Value specified in subsection (C); or
 - b. The Member's Accumulated Contribution Account Balance in the ASRS.
- E.** Transferring service credit to the Other Retirement Plan pursuant to this Section constitutes a withdrawal from ASRS membership and results in a forfeiture of all other benefits under ASRS.
- F.** Notwithstanding subsection (E), pursuant to A.R.S. § 38-750, a transferred employee who continues an Irrevocable PDA after transferring service credit to the Other Retirement Plan may be eligible to:
1. Transfer service credit associated with the remaining balance of the Irrevocable PDA for which the transferred employee paid for the purchase of service credit plus interest at the Assumed Actuarial Investment Earnings Rate pursuant to A.R.S. § 38-922, not including any administrative interest charge the transferred employee paid pursuant to an Irrevocable PDA; or
 2. Receive a return of contributions plus interest as specified in R2-8-118(A), column 3, pursuant to A.R.S. § 38-740.
- G.** If the ASRS has a DRO on file for a member, the ASRS shall not transfer a member's service credit from the ASRS to the Other Retirement Plan unless the DRO indicates whether the member may transfer all ASRS service credit to the Other Retirement Plan.
- H.** Notwithstanding subsection (G), if the ASRS has a DRO on file for a member that does not indicate whether the member may transfer all ASRS service credit to the Other Retirement Plan, the ASRS shall not transfer a member's service credit from the ASRS to the Other Retirement Plan unless the alternate payee submits written acceptance of the transfer with the alternate payee's notarized signature.

Historical Note

New Section made by final rulemaking by final rulemaking at 28 A.A.R. 1746 (July 22, 2022), effective September 4, 2022 (Supp. 22-3).

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3 A.A.C. 2

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TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE - ANIMAL SERVICES DIVISION

The table of contents on page one contains links to the referenced page numbers in this Chapter.
Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
January 1, 2024 through March 31, 2024

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The release of this Chapter in Supp. 24-1 replaces Supp. 23-4, 1-57 pages.

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

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division

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TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE - ANIMAL SERVICES DIVISION

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

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(Authority: A.R.S. § 3-701 et seq.)

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

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(Authority: A.R.S. § 3-2901 et seq.)

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

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

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ARTICLE 1. GENERAL PROVISIONS

R3-2-101. Definitions

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

“Accredited veterinarian” means a veterinarian approved by the State Veterinarian and USDA Area Veterinarian In Charge (A.V.I.C.) to perform functions required by cooperative State-Federal animal disease control and eradication programs.

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

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

“Beef cattle” means all cattle other than dairy cattle.

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

“Dairy cattle” means any domesticated bovine dairy animal or crosses of the Bos genus that show at least 50 percent phenotypic characteristics of a dairy breed, including; Ayrshire, Brown Swiss, Canadienne, Dutch Belt, Holstein, Jersey, Guernsey, Kerry, Milking Devon, Milking Shorthorn, or Norwegian Red.

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

“Entry permit number” or “Import permit number” means a serialized number issued by the State Veterinarian’s Office that conforms to the requirements of this chapter and allows the regulated movement of certain animals into Arizona.

“Equine Infectious Anemia” or “EIA” means an infectious, noncontagious, and potentially fatal viral disease of members of equine caused by a RNA virus classified in the Lentivirus genus, family Retroviridae.

“Official Identification” as defined in 9 CFR 71.19 (b) as revised on January 1, 2018 for swine; 9 CFR 79.2 (a)(2) as revised on January 1, 2018 for sheep and goats; and 9 CFR 86.4 as revised on January 1, 2018 for cattle.

“Poultry” means any bird except psittacine, whether live or dead, including but not limited to chickens, turkeys, ducks, geese, guineas, ratites, squabs, and any exotic birds not regulated as restricted wildlife by the Arizona Game and Fish Department. The definition “poultry” also includes hatching eggs, which are fertilized eggs produced by breeding poultry.

“Psittacine” means a bird belonging to the family Psittacidae, which includes macaws, parakeets, and parrots.

“USDA” means the United States Department of Agriculture.

“VS” means the Veterinary Services branch of APHIS.

Historical Note

Reserved Section R3-2-101 renumbered from R3-9-101 (Supp. 91-4). New Section adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-101 recodified to R3-2-1101 (Supp. 97-1). New Section adopted effective May 7, 1997 (Supp. 97-2). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-102. Licensing Time-frames

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

Historical Note

Reserved Section R3-2-102 renumbered from R3-9-102 (Supp. 91-4). New Section adopted effective September

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11, 1996 (Supp. 96-3). Section R3-2-102 recodified to R3-2-1102 (Supp. 97-1). New Section R3-2-102 adopted effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-103. Recodified

Historical Note

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

R3-2-104. Recodified

Historical Note

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

R3-2-105. Recodified

Historical Note

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

R3-2-106. Recodified

Historical Note

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

R3-2-107. Recodified

Historical Note

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

R3-2-108. Recodified

Historical Note

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

R3-2-109. Recodified

Historical Note

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

Table 1. Time-frames (Calendar Days)

| License | Authority | Administrative Completeness Review | Response to Completion Request | Substantive Completeness Review | Response to Additional Information | Overall Time-frame |
|------------------------------------------------------------------------------|---------------------------------------|------------------------------------|--------------------------------|---------------------------------|------------------------------------|----------------------|
| MEAT AND POULTRY INSPECTION | | | | | | |
| License to Slaughter | A.R.S. §§ 3-2002 & 3-2003 R3-2-208 | 14 | 14 | 30 | 14 | 44 |
| Transfer of license without fee | A.R.S. § 3-2009 | 14 | 14 | 30 | 5 | 44 |
| State Meat Inspection Service | A.R.S. § 3-2047 | 14 | 14 | 30 | 14 | 44 |
| Sale or Exchange of Meat or Poultry | A.R.S. § 3-2081 R3-2-208 | 14 | 14 | 30 | 14 | 44 |
| Rendering Facility Certification | A.R.S. § 3-2081 | 14 | 14 | 30 | 14 | 44 |
| Transfer of License | A.R.S. § 3-2086 | 14 | 14 | 30 | 5 | 44 |
| Official Slaughter Meat Licenses | A.R.S. § 3-2122 R3-2-208 | 14 | 14 | 30 | 14 | 44 |
| FEEDING OF ANIMALS | | | | | | |
| Feed Lot License | A.R.S. § 3-1452 | 14 | 14 | 60 | 14 | 74 |
| Permit to Feed Garbage to Swine | A.R.S. § 3-2664 | 14 | 14 | 60 | 14 | 74 |
| DAIRY PRODUCTS AND CONTROL | | | | | | |
| Milk Distributing Plant New Renewal | A.R.S. § 3-607 | 14 14 | 14 14 | 14 14 | 14 14 | 28 28 |
| Milk Processing Plant New Renewal Plant Licensing New Renewal | A.R.S. § 3-607 A.R.S. § 3-665 | 14 14 14 14 | 14 14 14 14 | 14 14 14 14 | 14 14 14 14 | 28 28 28 28 |
| Request to market a product as a milk product | A.R.S. § 601.01 | 14 | 14 | 14 | 14 | 28 |
| Tester License | A.R.S. § 3-619 | 7 | 7 | 7 | 7 | 14 |
| Trade Product Label | A.R.S. § 3-667 | 14 | 14 | 30 | 30 | 44 |

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| License | Authority | Administrative Completeness Review | Response to Completion Request | Substantive Completeness Review | Response to Additional Information | Overall Time-frame |
|-----------------------------------------------|---------------------------|------------------------------------|--------------------------------|---------------------------------|------------------------------------|--------------------|
| LIVESTOCK INSPECTION | | | | | | |
| Equine Trader Permit | A.R.S. § 3-1348 | 7 | 7 | 7 | 7 | 14 |
| Ownership and Hauling Certificate for Equines | A.R.S. §§ 3-1344 & 3-1345 | 14 | 14 | 14 | 14 | 28 |
| EGG PRODUCTS AND CONTROL | | | | | | |
| Annual Licensing | A.R.S. § 3-714 | 10 | 10 | 10 | 10 | 20 |
| AQUACULTURE | | | | | | |
| Aquaculture Facility | A.R.S. § 3-2907 | 14 | 14 | 30 | 14 | 44 |
| Fee Fishing Facility | R3-2-1004 | 14 | 14 | 30 | 14 | 44 |
| Processor | R3-2-1005 | 14 | 14 | 30 | 14 | 44 |
| Transporter | R3-2-1006 | 14 | 14 | 30 | 14 | 44 |
| Special Licenses | R3-2-1007 | 14 | 14 | 30 | 14 | 44 |
| | A.R.S. § 3-2908 | 14 | 14 | 30 | 14 | 44 |

Historical Note

Adopted effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 3625, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

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

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

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

Historical Note

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

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

All meat and poultry inspection, slaughtering, production, processing, labeling, storing, handling, transportation and sanitation procedures shall be conducted as prescribed in 9 CFR Chapter III, revised January 1, 2016, as amended by 80 FR 75590-01 (December 2, 2015), except sections 302.2, 307.5, 307.6, 312, 322, 327, 329.7, 329.9, 331, 335, 351, 352, 354, 355, 381.38, 381.39, 381.96 through 381.112, 381.195 through 381.209, 381.218 through

381.225, 390, 391, 392, 590 and 592. This material is incorporated by reference and does not include any later amendments or editions. A copy of the incorporated material is available from the Department and may also be viewed online at www.gpo.gov/fdsys.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective June 4, 1987 (Supp. 87-2). Amended subsection (A) effective February 28, 1989 (Supp. 89-1). Section R3-2-202 renumbered from Section R3-9-202 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Amended effective March 5, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 465, effective January 5, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 3625, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 10 A.A.R. 1971, effective May 4, 2004 (Supp. 04-2). Amended by emergency rulemaking at 15 A.A.R. 1890, effective October 21, 2009 for 180 days (Supp. 09-4). Emergency expired; Section amended by final rulemaking at 16 A.A.R. 351, effective April 3, 2010 (Supp. 10-1). Amended by emergency rulemaking at 19 A.A.R. 150, effective January 9, 2013 (Supp. 13-1). Amended by final rulemaking at 19 A.A.R. 1789, effective July 9, 2013 (Supp. 13-3). Amended by final rulemaking at 22 A.A.R. 2167, effective October 2, 2016 (Supp. 16-3).

R3-2-203. Licenses; Registration; Records

- A. Any person operating a business in any of the following categories shall obtain the appropriate license from the Department.
1. Types of slaughter licenses.
 - a. Official slaughter – the slaughtering of animals in a slaughterhouse for sale for human consumption.
 - b. Exempt slaughter.
 - i. Exempt non-mobile slaughter – the slaughtering or dressing of an animal in a stationary building for human consumption, that is not sold or offered for sale.
 - ii. Exempt mobile slaughter – the slaughtering or dressing of an animal for human consumption

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by using a mobile structure on the property of the animal's owner, that is not sold or offered for sale.

2. Types of meat licenses.

- a. Broker – any person, firm or corporation engaged in buying or selling carcasses, parts of carcasses, meat or poultry food products, or by-products from state or federally inspected establishments. A broker negotiates purchases or sales of these products other than for the broker's own account, as an employee of another person, and is paid a commission.
- b. Exempt – any person, firm, or corporation engaged in processing meat or poultry products without meat inspection, for an individual owner of meat that is not for sale.
- c. Distributor – any person, firm, or corporation engaged in receiving carcasses, parts of carcasses, meat or poultry food products, or by-products from state or federally inspected establishments and storing or distributing these products to commercial outlets, processors, or individuals. A distributor does not process any of these products.
- d. Jobber – any person, firm, or corporation with an established place of business that buys meat or poultry food products and offers the products for sale to someone other than the end-use consumer.
- e. Pet food manufacturer – any person, firm, or corporation engaged in manufacturing animal food from meat or poultry unfit for human consumption.
- f. Processor – any person, firm, or corporation that changes meat or poultry food products by cutting, mixing, blending, canning, curing or otherwise preparing meat or meat food products wholesale for human consumption.
- g. Renderer – any person, firm, or corporation that renders and tallows and any person, firm, or corporation engaged commercially in the hide, hair, or pelt removal, cutting up, or rendering of animals.

B. Applications for a license or registration pursuant to A.R.S. § 3-2081(A), shall be made on forms provided by the Department and shall contain the following:

1. The name of the applicant and the applicant's partners, officers or directors of the business, if any;
2. The business name, mailing address, telephone number, and Social Security number of the applicant;
3. The exact location of the business, if different from subsection (B)(2).

C. All persons licensed or registered under this Section, and all other persons described in A.R.S. § 3-2081, shall maintain the records required under A.R.S. § 3-2081 for a minimum of one year. In addition, all registered dead animal haulers, licensed rendering and tallow plants, and pet food manufacturing plants shall prepare and submit the reports required under A.R.S. § 3-2695 and shall include copies of those reports as part of records maintained under this Section and A.R.S. § 3-2081.

D. During fiscal year 2024, the fee to obtain or renew a license to slaughter is:

1. Not to exceed 45 head of cattle, and not to exceed 55 head of sheep, goats or swine in one calendar year: \$250.
2. For more than 45 and not to exceed 150 head of cattle and more than 45 and not to exceed 160 head of sheep, goats or swine in one calendar year: \$300.
3. For more than 150 head of cattle and more than 160 head of sheep, goats or swine in any one calendar year: \$450.

E. During fiscal year 2024, the fee to obtain or renew a meat license is:

1. For a broker, \$450.
2. For exempt processing, \$300.
3. For a distributor, \$500 for a large distributor (more than \$100,000 in sales per calendar year) and \$150 for a small distributor (not to exceed \$100,000 in sales per calendar year).
4. For a jobber, \$450.
5. For a pet food manufacturer, \$300.
6. For a processor, \$300.
7. For meat storage, \$450.
8. For transportation, \$300.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-208 renumbered from Section R3-9-208 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Former Section R3-2-203 renumbered to R3-2-208; new Section R3-2-203 renumbered from Section R3-2-208 and amended by final rulemaking at 5 A.A.R. 1593, effective May 5, 1999 (Supp. 99-2). Amended by exempt rulemaking at 16 A.A.R. 1331, effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1756, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3). Amended by exempt rulemaking at 19 A.A.R. 3127, effective September 14, 2013 (Supp. 13-3). Amended by exempt rulemaking at 20 A.A.R. 2449, effective July 24, 2014 (Supp. 14-3). Amended by exempt rulemaking pursuant to Laws 2015, Ch. 10, § 14, at 21 A.A.R. 2404, effective July 3, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 1937, effective August 9, 2017 (Supp. 17-2). Amended by final exempt rulemaking at 24 A.A.R. 2219, effective August 3, 2018 (Supp. 18-3). Amended by final exempt rulemaking at 25 A.A.R. 2081, effective August 27, 2019 (Supp. 19-3). Amended by final exempt rulemaking at 26 A.A.R. 1471, effective August 25, 2020 (Supp. 20-3). Amended by final exempt rulemaking at 27 A.A.R. 1264, effective September 29, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 28 A.A.R. 2017 (August 12, 2022), effective September 24, 2022 (Supp. 22-3). Amended by exempt rulemaking at 29 A.A.R. 3483 (November 3, 2023), effective October 30, 2023 (Supp. 23-4).

R3-2-204. Official Slaughter Establishment

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

1. Cattle.
 - a. A metal knocking box or concrete box with metal door to confine the animals prior to stunning;
 - b. A separately drained, dry landing area at least five feet wide in front of the knocking box;
 - c. A curbed-in bleeding area at least eight feet wide and seven feet long, located so that blood will not splash upon stunned animals lying in the dry landing area or upon carcasses being skinned on the siding bed. Curbing shall be at least six inches high and six inches wide;
 - d. A separately drained area at least five feet from the curbed-in bleeding area to the siding bed;
 - e. A distance of at least 14 feet from the vertical of the dropoff to the vertical of the hoist where carcasses

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- are eviscerated. For multiple-bed plants, this distance shall be increased to 16 feet;
- f. A distance of at least 14 feet between the vertical of the hoist where carcasses are eviscerated and the header rail leading to the cooler. This distance may be shortened when a single rail hang-off is used;
 - g. A distance of at least three feet from the header rail to the adjacent wall;
 - h. A bleeding rail with its top at least 16 feet above the floor or a traveling hoist on an I-beam which will provide an equivalent distance of the carcass from the floor;
 - i. Floor space for a head-flushing cabinet and head inspection rack with removable hooks;
 - j. When hides are dropped to a room below, a hide chute near the point where hides are removed from the carcasses. The chute shall have a vented hood with a self-closing, push-in door. The vent shall be approximately 10 inches in diameter and extend to a point above the roof. Additional chutes, which meet the requirements of this subsection, for inedible and condemned materials shall be provided separate from the hide chutes;
 - k. A two-level viscera inspection truck for evisceration, except when a moving top viscera inspection table is used;
 - l. An area for washing and shrouding carcasses which shall be curbed and sloped to a separate drain or have a slope of approximately 1/2 inch to the foot leading to a separate drain;
 - m. Dressing rails and cooler rails at least 11 feet in height.
2. Calves and sheep.
 - a. A bleeding rail with its top approximately 11 feet from the floor. The floor of the bleeding area shall be curbed and separately drained;
 - b. Dressing and cooler rails of such height as to provide a clearance of at least eight inches from the carcasses to the floor. Calves which are of such size that there is not a clearance of at least eight inches above the floor, or whose viscera cannot be transferred manually and unaided to the inspection stand, shall be skinned and eviscerated as cattle;
 - c. Facilities for washing hides of calves before any incision is made (except the sticking wound) when carcasses are dressed hide on. The heads of calves and veal slaughtered by the Kosher method shall be skinned prior to the washing of the carcasses;
 - d. Facilities for flushing, washing, and inspecting calf heads, including head-flushing cabinet and head inspection rack with removal calf loops;
 - e. Facilities for the inspection of the viscera. A hopped metal stand shall be provided which accommodates two removal inspection pans. One inspection pan is for the thoracic viscera; the other is for the abdominal viscera. The pans shall have perforated bottoms and handles or hand holes for removal. A sterilizing receptacle shall be provided for sterilization of contaminated pans;
 - f. Facilities for washing sheep carcasses after removal of the pelt. Calves and sheep shall be washed again after they have been eviscerated.
 3. Hogs.
 - a. Facilities for bleeding hogs in a hanging position, over a separately drained, curbed-in bleeding area;
 - b. A scalding vat and gambreling table, including the platforms, of metal construction;
 - c. A shaving rail to assure that carcasses are cleaned;
 - d. A hopped metal stand for the inspection of viscera. A sterilizing receptacle shall be provided at a convenient location for the sterilization of contaminated pans;
 - e. Dressing and cooler rails at least nine feet high or of such height as to provide a clearance of at least eight inches between the lowest point of the carcass, or head if left attached, and the floor.
 4. Coolers. A chill cooler and separate holding coolers may be provided or both may be combined in one room. The chill cooler shall have floors of concrete sloped to a drain. The walls shall be smooth, light colored, impervious, and the room shall be sealed. The other coolers shall have floors of concrete; the walls shall be smooth, free of cracks, light colored, impervious, and the room shall be sealed. The door between the slaughtering department and the chill cooler shall be clad with rust-resistant metal. Rails shall be spaced at least two feet from walls, columns, refrigerating equipment, or other fixed equipment to prevent contact with the carcasses. Header rails shall be three feet from the walls. When overhead refrigerating facilities are provided, insulated drip pans must be installed beneath them and the pans connected to the drainage system. If wall coils are installed, a drip gutter of impervious material and connected with the drainage system shall be installed beneath the coils. When edible offal is chilled or stored in a cooler other than a separate offal cooler, that area shall be separately drained.
 5. Other edible products departments.
 - a. Floors, walls, and ceilings in the various edible products departments of the plant shall be constructed of material that can be readily kept clean. Wooden structures and equipment shall be kept at a minimum. Floors requiring drainage shall be constructed of dense concrete or floor brick laid on a concrete base. The interior walls and, where practical, ceiling surfaces shall be smooth and flat. Walls shall be constructed of glazed tile, smooth cement plaster, or other USDA-approved impervious material. Walls shall be free of cracks and crevices, and, where brick or tile is used, the mortar joints shall be flush with the surface of the walls. Walls shall be light colored.
 - b. The floors of the plant shall be well-drained; a slope of not less than 1/4 inch to the foot to drainage inlets is required. The floors shall be smooth, impervious, and in good repair; they shall be free from cracks and depressions which could hold floor liquids. Wooden floors are not permitted. Junctions of floors and walls shall be coved.
 - c. Walls, ceilings, beams, and hangers shall be cleaned. Rails may be oiled instead of painted. Rust and scale shall be removed from hangers and meat trolleys. Smooth Portland cement plaster walls shall not be painted.
 6. Hide room. The floor of the hide room, if provided, shall be of concrete and drained. Walls shall be smooth and impervious to at least the highest point of the hide pile. The hide room shall not connect with the slaughtering

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- department except for one opening which shall be equipped with a tight-fitting, self-closing door. The hide room shall not connect with any other room in which edible products are stored, processed, or handled.
7. Disposal of blood. When blood is not permitted to drain into the sewage system, it may be collected in a metal tank and removed from the premises or blown to the blood drier in a manner that will not mask odors or create a harborage for pests.
 8. Other inedible products departments.
 - a. An inedible products department, completely separate and apart from edible products departments, shall be provided. Walls shall be of smooth, finished, Portland cement plaster, glazed tile, or other USDA-approved material impervious to moisture. Floors shall be constructed of dense concrete or floor tile, sloped to drain. Hot and cold water connections shall be provided. With the exception of one opening to the slaughtering department, there shall be no openings between an inedible products department and an edible products department. This one opening shall be approximately five feet in width to allow the free passage of materials and shall be equipped with a close-fitting, self-closing door of solid construction. This door shall be kept closed at all times, except when in actual use, to prevent the entrance of undesirable odors to the slaughtering department. The area at the loading dock shall be paved, drained, and of sufficient size to accommodate the largest truck used. If inedible offal is stored in an edible offal room, the room is classed as an inedible products department. Paunches may be opened in the slaughtering department only when a hydraulic mechanically operated paunch lift table is provided and used for this purpose. Otherwise, the paunches shall be opened in the inedible offal rooms.
 - b. Requests for permission for rendering of shop scraps and outside dead animals shall be made to the inspector who shall grant or deny the request pursuant to Article 2.
 9. Pens.
 - a. Holding pens shall be surfaced with an impervious material, sloped to drains. A curb shall be installed around the outside of the pens to prevent the wash from escaping. Water under pressure shall be available for washing out the pens. Feeding pens shall be at least 300 feet from the plant and shall not be located in front of the plant.
 - b. Holding and shackling pens shall be located outside of, or separated from, the slaughtering department.
 10. Drainage
 - a. Floors which require flushing during operations shall have sloped floor drains to carry off the floor drainage. Each floor drain shall be equipped with a deep-seal trap; the drainage lines shall be vented to the outside in accordance with local plumbing codes. In no case shall a drain line be less than four inches in diameter.
 - b. Sewage may be disposed of into a municipal sewer system, if permitted by local ordinance, or it may be disposed of into a stream or other similar body of water, provided that:
 - i. This method is acceptable to local health authorities having jurisdiction over sewage disposal, and
 - ii. The flow of the stream or other body of water is sufficient to carry the sewage away from the plant at all seasons of the year. When cesspools are used, they shall be of sufficient size to receive the sewage from the plant at all times; they shall be so constructed that they do not create a nuisance by breeding flies or other insects.
 - c. Grease recovery basins shall not mask odors or create a harborage for pests.
 11. Equipment and utensils.
 - a. Equipment shall be constructed of metal and shall be so constructed that it can be easily cleaned. Cutting boards may be of hard wood or synthetic material, but equipment, such as the framework of boning or cutting tables, scalding vats, offal racks and trees, product storage racks, and product trucks shall be of metal construction. Rusty or worn-out equipment shall be replaced.
 - b. All equipment shall be thoroughly cleaned following each day's operations. The use of a clear, colorless, odorless, tasteless, edible mineral oil may be used on metal equipment, such as choppers, grinders, mixers, tables, meat trucks, offal racks, hooks, and trolleys. Scale shall not be permitted to accumulate on metal equipment.
 - c. Sterilizing receptacles equipped with drains to permit draining and cleaning shall be placed at convenient locations in the slaughtering department for the cleaning and sterilization of contaminated tools and equipment. Water wasting from equipment shall not flow across the floor.
 - d. Shovels used for transferring ice or other edible materials from one container to another shall not touch the floor.
 12. Ventilation and lighting. Natural ventilation may be supplemented by artificial means and shall be sufficient to assure the absence of dust, masking odors, or steam vapors. Points where inspection is conducted may require special lighting. The glass area shall be at least 1/4 of the floor area in all nonrefrigerated work rooms. To assure adequate lighting at all times and at all places, natural lighting must be supplemented by well-distributed artificial lighting.
 13. Water supply, wash basins, sterilizing facilities.
 - a. Hot and cold running water, under pressure, shall be available at all parts of the establishment and in conformity with the requirements of the Arizona Department of Health Services. The hot water used for sterilizing equipment, floors, and walls that may be contaminated by the dressing procedure or handling of diseased carcasses, viscera, and other animal parts, shall be at least 180° F. A thermometer shall be installed to verify the temperature of the water at the point of use. A cleanup hose shall be available for use.
 - b. Foot-pedal operated wash basins shall be placed in or near dressing rooms. These wash basins shall be equipped with running hot and cold water, delivered through a combination mixing faucet with an outlet at least 12 inches above the rim of the bowl. The

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drainage outlet shall lead directly into the sewage lines. Soap and towels, and a receptacle for dirty paper towels or other trash, shall be convenient to the wash basin.

- c. One or more wash basins shall be located in the slaughtering department, and one or more in the sausage manufacturing room and at any other place in the establishment essential to ensure cleanliness of all persons handling products. The wash basins shall be equipped with hot and cold running water, delivered through a combination mixing faucet with an outlet at least 12 inches above the rim of the bowl. The water delivery shall be foot-pedal operated, and the drainage outlet shall lead directly into the sewage lines. Soap and disposable towels shall be convenient to the wash basins.
 - d. Water for sterilizing purposes shall be maintained at a temperature of at least 180° F. One or more sterilizing receptacles of rust-resisting, impervious material shall be placed at convenient locations in the slaughtering department for the sterilization of all implements that have been contaminated or used on a diseased carcass or part of a diseased carcass. The sterilizer shall be equipped with a cold water and steam line, or other means to maintain water at a temperature of at least 180° F during slaughtering operations. The sterilizer shall contain a drain so that water may be completely drained out for daily cleaning. Boilers and water heaters shall not be located in the slaughtering department or in any edible products department. To prevent possible back siphonage, vacuum breakers shall be provided on all steam and water lines when open ends are submerged or connected to equipment.
14. Protection against flies, rodents, or other vermin.
- a. Plants must be kept free of flies, rats, mice, roaches, and other pests or vermin. The plant shall be constructed to prevent entrance of rodents to the premises and to eliminate their breeding places from the surrounding areas and in the establishment. Construction of the plant shall be such as to eliminate roach and other insect harbors. Windows, doors, and other openings to the plant shall be provided with insect screens, or other measures to prevent entrance of flies or other insects. The screens shall be kept in good repair. Sprays containing residual-acting chemicals shall not be used in edible products departments.
 - b. Animal-handling facilities such as stock pens and runways shall be cleaned as often as necessary and the manure or other waste materials removed shall not be permitted to accumulate at or near the plant.

Historical Note

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

R3-2-205. Expired**Historical Note**

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

tion expired under A.R.S. § 41-1056(J) at 23 A.A.R. 135, effective December 15, 2016 (Supp. 16-4).

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

- A. A person shall not buy, sell, offer for sale, store, transport, receive, or collect any meat or meat food product except as provided in this subsection.
 - 1. Any of the following meat or meat food products may be bought, sold, or offered for sale as animal food and may be stored, transported, received, or collected anywhere within the state:
 - a. Any meat or meat food product that is processed in an animal food manufacturing plant licensed by the Department;
 - b. Any meat or meat food product that comes from an animal that died by slaughter or is approved or passed for animal food by either state or federal meat inspectors;
 - c. Any meat or meat food product that is thoroughly cooked at a minimum temperature of 180° F for 30 minutes and is certified by a state or a federal meat inspector having jurisdiction at the place of processing.
 - 2. A carcass with the hide, hair, or pelt still on the carcass may be bought, sold, offered for sale, collected and transported to or received by the following only:
 - a. A rendering or tallow plant;
 - b. A state or county diagnostic laboratory, a veterinarian's clinic, or crematory;
 - c. An animal food manufacturing plant;
 - d. A landfill regulated by the Arizona Department of Environmental Quality;
 - e. An out-of-state landfill regulated by that state's landfill regulatory authority; or
 - f. A landfill located on a Native American reservation that is regulated by equivalent standards to those prescribed by the Arizona Department of Environmental Quality.
 - 3. Any meat or meat food product described in subsection (A)(1) or a carcass with the hide, hair, or pelt still on the carcass from an official state or federal slaughter establishment shall be denatured with a denaturant that will not leave a toxic residue and is removable when steam-distilled at atmospheric pressure.
 - 4. Any meat or meat food product that has been condemned by state or federal meat inspectors shall be treated as provided in 9 CFR 314.3, which has been incorporated by reference in R3-2-202, and may be disposed of as provided in that rule or may be collected and transported to or received by a rendering or tallow plant or a state or county diagnostic laboratory or crematory.
- B. A person engaged commercially in the collection or transportation of dead animal carcasses or inedible meat shall register with the Department as a dead animal hauler as prescribed in R3-2-203(B) and shall maintain and keep all records for the time required by R3-2-203(C).
- C. A vehicle or other means of conveyance used to transport a dead animal carcass or inedible meat shall be:
 - 1. Leak-proof,
 - 2. Constructed of impervious materials that permit thorough cleaning and sanitizing,
 - 3. Equipped to control insects and odors and prevent the spread of disease, and

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4. Comply with the Department of Environmental Quality vehicle requirements prescribed in R18-13-310(A) and (B).
- D. Except as provided in subsection (E), a dead animal carcass may be rendered or made into animal food only at a licensed rendering or animal food manufacturing plant as prescribed in A.R.S. § 3-2088 and this Article.
- E. Dead animals diagnosed with anthrax or an animal disease foreign to the United States shall be handled as directed by the State Veterinarian.
- F. Discarded animal bone, animal fat, and animal offal generated by a wholesale food manufacturer shall be transported to and received by only a:
 1. Licensed rendering plant, or
 2. Landfill, as prescribed in subsections (A)(2)(d), (A)(2)(e), and (A)(2)(f).

Historical Note

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

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

- A. The following are minimum requirements for animal food manufacturing plants:
 1. Hot and cold water shall be provided with facilities for its distribution in the plant which shall conform with the minimum requirements of the state Department of Health Services. The hot water shall be at least 180° F and shall be used for the cleaning of equipment, floors, and walls.
 2. There shall be a drainage and plumbing system and a sewage disposal system that will not serve as a breeding place for flies, constitute a hazard, or endanger public health. Both systems shall meet the minimum requirements of the state Department of Health Services.
 3. The floors, walls, ceilings, partitions, posts, doors, and other parts of all structures shall be of materials, construction, and finish that are capable of being thoroughly cleaned. The floors shall be tile, cement or other material impervious to water and shall have sufficient drainage to preclude stagnant accumulations of moisture.
 4. All outside windows and doors shall be screened.
 5. All rooms shall have natural or artificial lighting and well-distributed ventilation sufficient to prevent uncontrolled mold growth and filth or bacteria that may endanger health.
 6. The plant shall be kept free from flies, rats, mice, and other vermin. Dogs and cats shall be excluded from the plants.
 7. Tables, benches, and other equipment shall be provided so that processing can be performed free from filth or bacteria that may endanger health.
 8. Each plant shall provide toilets, wash basins, towels, hot and cold running water, and soap for the employees with separate facilities when both sexes are employed. Toilets and wash basins shall be kept free from filth or bacteria that may endanger health. The rooms in which the toilet facilities are located shall be ventilated and shall be separated from the rooms in which the animal food is manufactured.

9. Coolers shall be maintained below 40° F. Freezers shall be maintained below 10° F.
- B. Decharacterizing or denaturant agents: The following USDA-approved denaturant agents may be used: Charcoal (finely powdered) with a minimum 1 lb. per 100 lbs. meat, F-D & C Blue 1, F-D & C Blue 2, F-D & C Green 3, or liquid charcoal.
 1. In addition to the application of the denaturing agents listed, meat or meat products shall be identified with the following information:
 - a. The kind of animal,
 - b. The following phrases:
 - i. For pet food only from dead animals,
 - ii. Denatured with _____,
 - c. The correct statement of net weight, and
 - d. The name and address of processor or manufacturer.
 2. Before the denaturing agents are applied to pieces more than four inches in diameter, the pieces shall be freely slashed or sectioned. The application of any of the denaturing agents listed in this Section to the outer surfaces of molds or blocks of boneless meat, meat by-products, or meat food products shall not be considered adequate. The denaturing agent shall be mixed thoroughly with all of the material to be denatured and shall be applied in such quantity and manner that it cannot easily and readily be removed by washing or soaking. Denaturant shall be used to give the meat, meat by-products, raw animal fat, or rendered animal fats and oils, a distinctive color, odor, or taste so that such material cannot be confused with an article of human food.
 3. All denaturing shall be done immediately upon condemnation of the meat or product, or immediately after the meat or product is prepared or during preparation.
 4. True containers shall be legibly marked with the words "Beef or horse meat from dead animals for pet food only and not for human consumption" in letters at least 3/4 inch in height, on all sides and in at least two places if the container has less than four sides.
 5. Every carrying container in which meat obtained from a dead animal is packaged shall have an exterior surface sufficiently absorbent so that the markings on at least two sides, in letters two inches high "Pet food only," will not become illegible during handling, storage, or transportation of the container.
- C. Sales of meat obtained from a dead animal are permitted only to kennels, zoos, and animal food manufacturing plants registered by the Department, and records of sales shall be maintained by the purchaser and animal food manufacturing plant.
- D. Each vehicle used for the transportation of fresh or frozen pet food shall be clearly and legibly marked with the name of the manufacturer in letters not less than four inches in height on both sides of the cab or body.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-207 renumbered from Section R3-9-207 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3).

R3-2-208. Diseased and Injured Animals

- A. Diseased animals.
 1. No meat from any diseased animal shall be processed, sold or stored at premises where food is sold or prepared for human consumption, unless it is decharacterized and clearly identified "Not for Human Consumption."
 2. Subsection (A)(1) does not apply to meat from animals affected by any disease that does not render the meat unfit

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for human consumption if the affected animals are slaughtered in establishments where meat inspection is maintained under A.R.S. § 3-2051 and 9 CFR, Chapter III, Subchapter A, which is incorporated by reference in R3-2-202(A).

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

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

C. Non-ambulatory disabled cattle. Non-ambulatory disabled cattle shall not be slaughtered by any official or exempt slaughterer. Non-ambulatory disabled cattle are cattle that cannot rise from a recumbent position or that cannot walk, including, but not limited to, those with broken appendages, severed tendons or ligaments, nerve paralysis, fractured vertabul column, or metabolic conditions.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-203 renumbered from Section R3-9-203 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Former Section R3-2-208 renumbered to R3-2-203; new Section R3-2-208 renumbered from Section R3-2-203 and amended by final rulemaking at 5 A.A.R. 1593, effective May 5, 1999 (Supp. 99-2). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

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

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

1. General.
 - a. A metal knocking box or concrete box with metal door to confine the animal before stunning;
 - b. A distance of at least three feet from the header rail to the adjacent wall;
 - c. A bleeding rail with its top at least 16 feet above the floor; and

- d. Dressing rails and cooler rails placed so the lowest part of the carcass is at least 12 inches from the floor.
2. Coolers. A chill cooler and separate holding cooler may be provided or both may be combined in one unit. The walls shall be light colored, smooth, free from cracks, and impervious to moisture. The door between the slaughtering department and the chill cooler shall be clad with rust-resistant material. Rails shall be spaced at least two feet from walls, columns, refrigeration equipment, or other fixed equipment to prevent contact with the carcasses.
3. Disposal of blood. If blood is not permitted to drain into the sewage system, it may be collected in a metal tank and removed from the premises.
4. Drainage.
 - a. Floors that require flushing during operations shall have sloped floor drains to carry off the effluent. Drainage systems shall conform to state and local plumbing codes.
 - b. Grease recovery systems shall not mask odors or create a harborage for pests.
5. Ventilation and lighting. Natural ventilation may be supplemented by artificial means and shall be sufficient to ensure the absence of dust, masking odors, or steam vapors. To ensure adequate lighting at all times and at all places, natural lighting shall be supplemented by well-distributed artificial lighting.
6. Potable water supply, wash basins, sterilizing facilities.
 - a. Hot and cold running water, under pressure, shall be available in all parts of the plant and in conformity with the requirements of the Arizona Department of Health Services. The hot water used for sterilizing equipment, floors, and walls that may be contaminated by the dressing procedure or handling of diseased carcasses, viscera, and other animal parts, shall be at least 180° F. A thermometer shall be installed to verify the temperature of the water at the point of use. A cleanup hose shall be available for use.
 - b. One or more wash basins shall be located in the slaughtering department. The wash basins shall be equipped with hot and cold running water, delivered through a combination mixing faucet with an outlet at least 12 inches above the rim of the bowl. The water delivery shall be foot-pedal operated, and the drainage outlet shall lead directly into the sewage lines. Soap and disposable towels shall be convenient to the wash basins.
 - c. The tool sterilizer shall be maintained at 180° F and be in operation at all times during slaughter activities.
7. Protection against flies, rodents, or other vermin.
 - a. Establishments shall be free of flies, rats, mice, roaches, and other pests or vermin. The establishment shall be constructed and maintained to prevent entrance of pests to the premises and to eliminate breeding places from the surrounding area and in the establishment.
 - b. Animal handling facilities such as stock pens and runways shall be clean and manure or other waste materials removed shall not accumulate at or near the establishment.

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

ARTICLE 3. FEEDING OF ANIMALS**R3-2-301. Repealed****Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-301 renumbered from Section R3-9-301 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

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

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

1. An approved cooker is installed, is in operating condition on the premises, and fenced off from all swine.
2. A concrete slab, trough, or other easily cleanable area, and equipment for feeding garbage is provided.
3. Premises utilized for swine garbage feeding are reasonably clean, free of litter, adequately drained, and provide for removal of animal excrement and garbage not consumed.
4. Individually operated swine garbage feeding premises are separated from other swine premises by a minimum distance of 200 feet in all directions and constructed to prevent the escape of any swine.
5. In addition, all swine garbage feeding permit holders shall follow all federal garbage feeding regulations as outlined in 9 CFR Part 166 as revised on January 1, 2018.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-302 renumbered from Section R3-9-302 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

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

1. "Animal Name" refers to the shelter impound number of the animal.
2. "Anti-Rabies Vaccine" is an active immunizing agent used to prevent infection caused by the rabies virus approved by the State Veterinarian pursuant to A.R.S. § 11-1002.
3. "Approved Rabies Vaccinator Curriculum" means an in-person vaccination training curriculum approved by the State Veterinarian of Arizona and administered by a supervising veterinarian.
4. "Biologics" means medical preparations made from living organisms and their products, including serums, vaccines, antigens, and antitoxins.
5. "Certified Rabies Vaccinator" means an unlicensed individual who is appointed and certified by a supervising veterinarian and authorized under A.R.S. § 32-2240.02 to vaccinate domestic animals against rabies, who is employed by a shelter, as defined herein, and who in the absence of a licensed veterinarian, has agreed to supervise the acquisition, storage, administration, and record keeping of the anti-rabies vaccine.

6. "Compendium of Animal Rabies Prevention and Control" refers to the 2016 edition of the NASPHV Compendium of Animal Rabies Prevention and Control, incorporated by reference, and does not include any later amendments or editions of the incorporated matter, and is on file with the Department.
7. "Domestic animal" means a mammal, not regulated by title 3, that is kept primarily as a pet or companion or that is bred to be a pet or companion.
8. "Foreign Animal Disease" means a transboundary animal disease or pest, or an aquatic animal disease or pest, not known to exist in the United States.
9. "NASPHV" refers to the National Association of State Public Health Veterinarians.
10. "Rabies Certificate" refers to the NASPHV FORM 51 (revised 2007) or equivalent computer-generated form.
11. "Shelter" means an animal care and control shelter or pound operated by any town, city, county or the state, including privately run animal shelters that are utilized by a town, city, county or the state.
12. "State Veterinarian" means the person appointed as the State Veterinarian under A.R.S. § 3-1211.
13. "Supervising Veterinarian" means a veterinarian licensed by the Arizona Veterinary Medical Examining Board, who is authorized under these rules to designate a Certified Rabies Vaccinator.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-401 renumbered from Section R3-9-401 (Supp. 91-4). Former Section R3-2-401 renumbered to R3-2-402; new Section R3-2-401 adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2). Amended by final rulemaking at 30 A.A.R. 311 (February 16, 2024), effective March 24, 2024 (Supp. 24-1).

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

- A. All veterinarians and laboratories performing diagnostic services on animals shall:
- B. Notify the State Veterinarian at (602) 542-4293 and diseasereporting@azda.gov, within four hours of diagnosing or suspecting any disease or clinical signs of disease listed below:
 1. African horse sickness
 2. African swine fever
 3. African trypanosomiasis
 4. Anthrax
 5. Avian influenza
 6. Bovine Babesiosis
 7. Bovine spongiform encephalopathy
 8. Classical Swine Fever
 9. Contagious agalactia
 10. Contagious bovine pleuropneumonia
 11. Contagious caprine pleuropneumonia
 12. Crimean Congo Hemorrhagic Disease
 13. Dourine
 14. Enterovirus encephalomyelitis
 15. Equine infectious anaemia

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16. Equine Neurologic Diseases (Eastern, Western, Venezuelan, West Nile Virus, Equine Herpesvirus-1/ Equine Herpesvirus Myeloencephalopathy)
 17. Foot and Mouth Disease
 18. Glanders
 19. Heartwater (Ehrlichia ruminantium)
 20. Hemorrhagic septicemia (Pasteurella multocida)
 21. Hendra virus (Equine morbillivirus)
 22. Infectious haematopoietic necrosis of fish
 23. Japanese encephalitis
 24. Lumpy skin disease
 25. Malignant catarrhal fever
 26. Melioidosis (Burkholderia pseudomallei)
 27. Nairobi sheep disease
 28. Newcastle Disease
 29. Nipah
 30. Peste des Petits Ruminants
 31. Rabies
 32. Rabbit Hemorrhagic Disease
 33. Rift Valley Fever
 34. Rinderpest
 35. Schmallenberg virus/Akabane
 36. Senecavirus A
 37. Screwworm myiasis
 38. Sheep and goat pox
 39. Surra (Trypanosoma evansi)
 40. Swine Vesicular Disease
 41. Theileriosis (T. parva or T. annulata)
 42. Tuberculosis (Mycobacterium bovis)
 43. Tularemia
 44. Turkey rhinotracheitis (Avian metapneumovirus)
 45. Trypanosomiasis
 46. Viral hemorrhagic septicemia of fish
 47. Vesicular exanthema of swine virus
 48. Vesicular stomatitis
- B.** Notify the State Veterinarian at (602) 542-4293 and diseasereporting@azda.gov, within 24 hours of diagnosing or suspecting any disease or clinical signs of disease listed below:
1. Brucellosis (Brucella spp.)
 2. Chronic Wasting Disease in Cervids
 3. Contagious Equine Metritis
 4. Epizootic Lymphangitis
 5. Equine Piroplasmiasis
 6. Equine Viral Arteritis
 7. Fowl typhoid (Salmonella gallinarum)
 8. Ornithosis (Psittacosis, Avian Chlamydiosis, Chlamydophila psittaci)
 9. Pigeon Fever (Corynebacterium pseudotuberculosis)
 10. Pseudorabies (Aujeszky's disease)
 11. Q fever
 12. Pullorum disease (Salmonella pullorum)
 13. Scrapie
 14. Sheep scabies
 15. Strangles (Strep equi spp. equi)
 16. Swine enteric coronavirus diseases
 17. Trichomoniasis (Trichomonas foetus)
- Aquatic Diseases**
1. Crayfish plague
 2. Epizootic hematopoietic necrosis disease
 3. Epizootic ulcerative syndrome
 4. Gyrodactylosis
 5. Abalone Viral Ganglioneuritis
 6. Bonamiosis (B. exitiosa/ostreae)
 7. Marteiliiosis (M. refringens)
 8. Perkinsosis (P. marinus /olseni)
 9. Salmonid alphavirus infection
 10. Infection with Xenohalotus californiensis
 11. Infectious hematopoietic necrosis
 12. Infectious hypodermal and haematopoietic necrosis
 13. Infectious myonecrosis
 14. Infectious salmon anemia
 15. Koi herpesvirus disease
 16. Necrotizing hepatopancreatitis
 17. Red sea bream iridoviral disease
 18. Spring viremia of carp
 19. Taura syndrome
 20. Tilapia Lake Virus (TiLV)
 21. Viral hemorrhagic septicemia
 22. Viral nervous necrosis (VNN)
 23. White spot disease
 24. White tail disease
 25. Yellowhead
- C.** Notify the State Veterinarian by email at diseasereporting@azda.gov or facsimile at (602) 542-4290 within 30 days after diagnosing any of the diseases listed below:
1. Anaplasmosis
 2. Avian infectious bronchitis
 3. Avian infectious laryngotracheitis
 4. Bluetongue
 5. Bovine cysticercosis
 6. Bovine genital campylobacteriosis
 7. Bovine viral diarrhea
 8. Camelpox
 9. Caprine arthritis/encephalitis
 10. Duck viral hepatitis
 11. Echinococcosis/hydatidosis
 12. Enzootic abortion of ewes
 13. Enzootic bovine leukosis (BLV)
 14. Epizootic hemorrhagic disease
 15. Equine Herpesvirus - 4
 16. Equine influenza
 17. Infectious bovine rhinotracheitis
 18. Infectious bursal disease
 19. Johne's disease
 20. Leishmaniasis
 21. Leptospirosis
 22. Maedi-visna (OPP)
 23. Marek's disease
 24. Mycoplasma Gallisepticum
 25. Mycoplasma Synoviae
 26. Myxomatosis in rabbits
 27. Porcine cysticercosis
 28. Porcine Reproductive and Respiratory Syndrome
 29. Paratyphoid abortion in Ewes (Salmonella abortusovis)
 30. Swine influenza
 31. Trichinellosis (Trichinella spiralis)
- Historical Note**
Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-402 renumbered from Section R3-9-402 (Supp. 91-4). Former Section R3-2-402 renumbered to R3-2-403; new Section R3-2-402 renumbered from R3-2-401 and amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26

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A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-403. Quarantine for Diseased Animals

- A. A quarantine order shall be issued by the Director or his designee when the presence of a Foreign Animal Disease is suspected or diagnosed.
- B. A quarantine order may be issued by the Director or his designee on the advice of the State Veterinarian when the presence of a disease is suspected or diagnosed.
- C. The quarantine order may isolate specific animals, premises, counties, districts, or sections of the state and shall restrict the movement of animals.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-403 renumbered from Section R3-9-403 (Supp. 91-4). Former Section R3-2-403 repealed; new Section R3-2-403 renumbered from Section R3-2-402 and amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 135, effective December 15, 2016 (Supp. 16-4). New Section made by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-404. Importation, Manufacture, Sale, and Distribution of Biologics

- A. Any person importing, manufacturing, selling, or distributing any biologic intended for diagnostic or therapeutic treatment of animals shall request, in writing, permission from the State Veterinarian.
- B. The State Veterinarian shall not approve the importation, manufacture, sale, or distribution of any biologic that will interfere with the state's animal disease control programs.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-404 renumbered from Section R3-9-404 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

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

When a Foreign Animal Disease is diagnosed, the State Veterinarian may order the owner, agent, or feedlot operator to immediately depopulate and dispose of all infected and exposed animals on the premises if necessary to prevent the spread of the disease among animals.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-405 renumbered from Section R3-9-405 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2).

Emergency expired December 19, 2016 (Supp. 16-4).
Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-406. Disease Control; Designated Feedlots

- A. Designated feedlots are subject to the following restrictions:
- B. A designated feedlot shall have a restricted feeding pen. A restricted feeding pen shall:
 - 1. Be isolated from all other pens,
 - 2. Have separate loading and unloading chutes, alleys, and handling facilities from all other pens,
 - 3. Not share water or feeding facilities accessible to other areas,
 - 4. Be posted at all corners with permanently affixed signs stating "Restricted Feeding Area,"
 - 5. Have a minimum of eight feet between restricted and other pens and facilities, and
 - 6. Have no common fences or gates with other pens.
- C. An operator may place diseased cattle or bison that are under state quarantine into a restricted feeding pen as follows:
 - 1. All cattle or bison, except steers and spayed heifers, shall be branded with an "F" at least two inches in height, adjacent to the tailhead before entering the pen; and
 - a. Imported cattle or bison, of any age and from any area shall be transported under seal and shall be accompanied by an entry permit number and a Certificate of Veterinary Inspection or federal restricted movement document; or
 - b. Native Arizona cattle or bison shall be accompanied by an Arizona livestock inspection certificate, as approved by the State Veterinarian or designee.
- D. An operator may move cattle or bison from a restricted feeding pen to slaughter or to another designated feedlot only by prior written approval of the State Veterinarian or APHIS veterinarian.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-406 renumbered from Section R3-9-406 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-407. Disease Control; Equine Infectious Anemia

- A. The Arizona official test for EIA is either the agar-gel immunodiffusion test, known as the Coggins Test, or the Competitive Enzyme-Linked Immunosorbent Assay test, known as the CELISA test. The test shall be performed in a laboratory approved by APHIS, and required samples shall be drawn by an accredited veterinarian, the State Veterinarian, the State Veterinarian's designee, or an APHIS veterinarian.
- B. Disposal of equine testing positive.
 - 1. When an Arizona equine tests positive to EIA, the testing laboratory shall notify the State Veterinarian by telephone at (602) 542-4293 and email at diseasereporting@azda.gov, within four hours.
 - 2. The EIA-positive equine shall be quarantined at its current location, segregated from other equine, and shall not be moved unless authorized by the State Veterinarian. The equine shall be retested by the State Veterinarian, the State Veterinarian's designee, or an APHIS veterinarian within two weeks of the notification.
 - 3. Within 14 days of being notified by the testing laboratory of a positive test conducted under subsection (B)(2), the State Veterinarian or the State Veterinarian's designee

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shall brand the equine on the left side of its neck with "86A" not less than two inches in height.

4. Within 10 days after being branded, the EIA-positive equine shall be:
 - a. Humanely destroyed,
 - b. Confined to a screened stall marked "EIA Quarantine" that is at least 200 yards from other equine, or
 - c. Consigned to slaughter at a slaughtering establishment. If consigned to slaughter, the equine shall be accompanied by a Permit for Movement of Restricted Animals, VS 1-27, issued by the State Veterinarian, the State Veterinarian's designee, or an APHIS veterinarian.
5. Offspring of mares testing EIA-positive shall be quarantined, segregated from other equine, and tested for EIA at six months of age. Offspring testing positive shall be handled as prescribed in subsections (B)(3) and (B)(4).
6. If an EIA-positive equine is located on premises other than those of the owner at the time a quarantine under this Section, the State Veterinarian may authorize movement of the EIA-positive equine to the owner's premises if requested by the owner. Movement shall be under the direct supervision of the State Veterinarian or the State Veterinarian's designee. If the owner lives in another state, the owner may move the equine to that state with the permission of the chief livestock health official of the state and APHIS.
- C. The State Veterinarian shall require testing of any equine located in the same facility as the EIA-positive equine or any equine considered exposed to the EIA-positive equine. The owner of the equine tested shall pay the expenses for the testing.
- D. The owner of any equine found to be EIA-positive shall not be indemnified by the state for any loss caused by the destruction or loss of value of the equine.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-407 renumbered from Section R3-9-407 (Supp. 91-4). Amended effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

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

Livestock bitten by a known or suspected rabid animal shall be handled using the methods prescribed in the NASPHV Compendium of Animal Rabies Control.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-408 renumbered from Section R3-9-408 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2). Amended by final rulemaking at 30 A.A.R. 311 (February 16, 2024), effective March 24, 2024 (Supp. 24-1).

24-1).

R3-2-409. Rabies Vaccines for Animals

- A. All animals in Arizona vaccinated against rabies shall be vaccinated as prescribed in the NASPHV Compendium of Animal Rabies Control.
- B. A person who is not a licensed veterinarian may be certified as a rabies vaccinator by a licensed veterinarian after completing the approved rabies-vaccinator curriculum. Initial certification shall be valid for one year and renewals after the first year shall be valid for two years. Each renewal shall only be granted upon completion of the current rabies-vaccinator curriculum.
- C. Anti-rabies vaccines may be administered under the supervision of a licensed veterinarian or by a Certified Rabies Vaccinator to animals on the premises of shelters before release.
- D. Duties and responsibilities of the Certified Rabies Vaccinator are to:
 1. Abide by all local, state, and federal laws and regulations pertaining to the operation of a shelter, including those laws and regulations governing possession and use of anti-rabies vaccine.
 2. Comply with the Compendium of Animal Rabies Prevention and Control, including storage of anti-rabies vaccine at the required temperature, and administration of anti-rabies vaccine in an aseptic manner that meets the current standards of veterinary practice.
 3. Refer for appropriate treatment domestic animals that experience an adverse event to a licensed veterinarian; and report the adverse event to the supervising veterinarian and the vaccine manufacturer.
 4. Procure anti-rabies vaccine through the state veterinary license number of the supervising veterinarian.
 5. A Rabies Certificate must be completed in full for every vaccinated domestic animal, shall include the legible name of the Certified Rabies Vaccinator, and shall be signed by the Certified Rabies Vaccinator or supervising veterinarian.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective October 16, 1986 (Supp. 86-5). Amended effective January 6, 1989 (Supp. 89-1). Section R3-2-409 renumbered from Section R3-9-409 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2). Amended by final rulemaking at 30 A.A.R. 311 (February 16, 2024), effective March 24, 2024 (Supp. 24-1).

R3-2-409.01. Requirements of Certified Rabies Vaccinator Approved Curriculum; Recordkeeping; Inspection

- A. Approved curriculum training shall include an instructional section and a practical exam showing competency; and shall include, but not be limited to, the following topics:
 1. Anatomy.
 2. Personnel safety.
 3. Acceptable methods of disposal of supplies.
 4. Humane methods of handling domestic animals.
 5. Proper vaccine storage and handling.
 6. Proper vaccine administration.
 7. Record keeping.

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8. Management and reporting of adverse events.
- B.** These rules are provided as components of a certified rabies-vaccinator program, and no fee shall be charged by the State Veterinarian, however the State Veterinarian takes no position on establishment of reasonable fees by a supervising veterinarian for implementation of a certified rabies-vaccinator program.
- C.** The Certified Rabies Vaccinator shall keep records of all vaccination-related activities for three years including, but not limited to:
1. Rabies certificates.
 2. Adverse event reports, including reports of human exposure to rabies vaccines.
- D.** A shelter is subject to periodic random inspection by the Office of the State Veterinarian. Upon request by the Office of the State Veterinarian, the responsible supervising veterinarian or Certified Rabies Vaccinator shall immediately produce requested records.
- E.** Following an audit or inspection, if evidence exists of non-compliance with the above standards, the State Veterinarian reserves the right to terminate a Certified Rabies Vaccinator's certification.

Historical Note

New Section made by final rulemaking at 30 A.A.R. 311 (February 16, 2024), effective March 24, 2024 (Supp. 24-1).

R3-2-410. Trichomonas Testing Requirements

- A.** Definitions. For purposes of this Section, the following definitions shall apply.

"Accredited Veterinarian" means an individual who is currently licensed to practice veterinary medicine in the State of Arizona and is an Accredited Level II by the United States Department of Agriculture, Animal Plant Health Inspection Service.

"Approved Laboratory" means any laboratory designated and approved by the State Veterinarian for examining *T. foetus* samples and reporting all results to the State Veterinarian.

"Bull" means an intact male bovine 12 months of age and older and is not confined to a drylot dairy.

"Change of Ownership" means when a bull is sold, leased, gifted, or exchanged and changes premises for breeding purposes in Arizona.

"Commingle" means cattle of opposite sex in the same enclosure or pasture with a reasonable opportunity for sexual contact.

"Direct to Slaughter" means transporting an animal from site of testing to a sale yard or directly to a slaughter plant without unloading or commingling prior to arrival.

"Official *T. foetus* bull test" means the sampling of a bull by a licensed, accredited veterinarian. Such test must be conducted after at least seven days separation from all female bovine. The bull and sample must be officially and individually identified and documented for laboratory submission. The official laboratory test shall be a polymerase chain reaction (PCR), or other technologies as approved by the State Veterinarian and adopted through a Director's Administrative Order. The test is not considered official until results are reported by the testing laboratory.

"Official *T. foetus* laboratory testing" means the laboratory procedures that shall be approved by the State Veterinarian for identification of *T. foetus*.

"Positive *T. foetus* bull" means a bull that has had a positive official *T. foetus* bull test.

"*Trichomonas foetus*" OR "*T. foetus*" means a protozoan parasite that is the causative agent to the contagious venereal disease Trichomoniasis.

- B.** Testing requirements for Official *T. foetus*.
1. All Arizona origin bulls sold, leased, gifted, exchanged or otherwise changing possession for breeding purposes in Arizona shall be tested for *T. foetus* via Official *T. foetus* bull test prior to sale or change of ownership in the state, unless going to direct slaughter. *T. foetus* testing shall be performed on bulls prior to change of ownership of that bull.
 2. The Official *T. foetus* test shall be collected by an Accredited Veterinarian and performed through an Approved Laboratory.
 3. Pooled testing is not an official test.
 4. The *T. foetus* negative test is valid for 60 days after the test is performed, providing the bull is kept separated from all female bovine.
- C.** Positive bull identification.
1. When a positive *T. foetus* bull is identified, the Accredited Veterinarian shall notify the producer upon receipt of the positive test results.
 2. Regardless of R3-2-402, the Accredited Veterinarian and Approved Laboratory shall notify the State Veterinarian of a positive *T. foetus* bull within 24 hours of receiving the results. The State Veterinarian's Office, working in coordination with the regional livestock inspection staff, shall to the best of their ability notify the regional bovine producers about the positive test within 14 days upon notification of positive test. The State Veterinarian and/or livestock inspection staff is not required to reveal any details of the test just that there is a positive test in the region.
 3. The Accredited Veterinarian that performed the test shall return to place of testing to verify the Official Identification of the positive bull.
 4. The Accredited Veterinarian, or a person under direct supervision of the Veterinarian, shall brand the bull with an official "S" brand adjacent to the tailhead on the right hip.
 5. If the bull testing positive is not at the premises where the *T. foetus* testing occurred, the Accredited Veterinarian will immediately notify the State Veterinarian's Office.
 6. If an Accredited Veterinarian is unable to return to the premises in a time that is reasonable for sale of the bull, the producer shall take the positive *T. foetus* bull directly to the regional livestock sale yard.
 - a. The producer shall immediately notify the sale yard of the positive *T. foetus* bull. Failure to notify the sale yard of the positive *T. foetus* bull will result in a violation of this Section and the producer shall be subject to the penalties of A.R.S. § 3-1205(D).
 - b. Prior to sale at the sale yard, a Livestock Officer shall verify the official identification of the positive *T. foetus* test bull.
 - c. After the official identification is verified, the bull shall be branded with an official "S" brand adjacent to the tailhead on the right hip. The branding shall be

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done under direct supervision of a Livestock Officer or Livestock Inspector.

7. If a bull arrives at a livestock auction without an Official *T. foetus* bull test, the bull shall be quarantined at the auction and tested at the expense of the owner or shall be branded with an "S" brand and be sold only for slaughter.

D. Disposal of bull testing positive.

1. A bull testing positive for *T. foetus* or branded with the official "S" brand shall go direct to slaughter or shall be placed under State Quarantine and fed in a restricted feeding pen within a designated feedlot according to R3-2-406.
2. The *T. foetus* positive bull shall not be commingled with any other female bovine. The bull shall go from the testing premises to direct slaughter or to the restricted feeding pen within 30 days of the positive *T. foetus* test.
3. All remaining herd bulls shall be under a Trichomonas Herd Management Program overseen by the Herd Veterinarian until two negative *T. foetus* tests are performed and documented.
4. "S" branded bulls purchased at a sale yard shall go direct to a slaughter plant without unloading or commingling prior to arrival.

E. Trespassing or Stray Bulls.

1. In the event of a trespassing or stray bull, the herd owner who locates the bull, may request an Official *T. foetus* bull test for that bull. In the event of a positive Official *T. foetus* bull test, subsections (B) and (C) shall apply.
2. The cost of the veterinary services and Official *T. foetus* bull test shall be the responsibility of the herd owner. In the event of a stray bull, the animal will be subject to A.R.S. § 3-1401 et seq.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020; new Section made by final rulemaking at 26 A.A.R. 812, effective June 8, 2020 (Supp. 20-2).

R3-2-411. Repealed

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 4812, effective December 7, 2000 (Supp. 00-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by exempt rulemaking under Laws 2016, Ch. 160, § 9 at 22 A.A.R. 2400, effective August 6, 2016 (Supp. 16-3). Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-412. Repealed

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

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

- A. Before intrastate movement of a sheep more than 18 months of age, or a sheep or goat of any age not in a slaughter channel, the producer shall identify the animal to the flock of birth using official identification before leaving the flock of birth. A sheep or goat not in a slaughter channel includes an animal not for sale, transfer, or movement to:
 1. A slaughter facility,
 2. Custom slaughter, or
 3. A feeding operation before movement to slaughter.
- B. Subsection (A) does not apply if the first point of commingling with animals other than those in the flock of birth is an Arizona auction market that is an approved tagging site.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3628, effective January 1, 2003 (Supp. 02-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

ARTICLE 5. STATE-FEDERAL COOPERATIVE DISEASE CONTROL PROGRAM

R3-2-501. Tuberculosis Control and Eradication Procedures

- A. Procedures for tuberculosis control and eradication in cattle, bison, and goats shall be as prescribed in 9 CFR Part 77 as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.
- B. Procedures for tuberculosis control and eradication in cervidae not listed as restricted live wildlife in A.A.C. R12-4-406 shall be as prescribed in 9 CFR 77 Subpart C as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Amended subsection (A) effective October 16, 1986 (Supp. 86-5). Section R3-2-501 renumbered from Section R3-9-501 (Supp. 91-4). Amended effective March 5, 1997 (Supp. 97-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-502. Repealed

Historical Note

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

R3-2-503. Brucellosis Control and Eradication Procedures

- A. Procedures for brucellosis control and eradication in cattle and bison shall be as prescribed in 9 CFR 78 as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.
- B. Procedures for brucellosis control and eradication in swine shall be as prescribed in 9 CFR 78 Subpart D as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.

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- C. Procedures for brucellosis control and eradication in animals not listed as restricted live wildlife in A.A.C. R12-4-406, shall be as prescribed in the USDA publication, Brucellosis in Cervidae: Uniform Methods and Rules, effective September 30, 2003. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4).
Amended effective October 16, 1986 (Supp. 86-5).
Amended effective January 6, 1989 (Supp. 89-1). Section R3-2-503 renumbered from Section R3-9-503 (Supp. 91-4). Amended March 5, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-504. Pseudorabies Procedures for Eradication

Procedures for pseudorabies control and eradication in swine shall be as prescribed in 9 CFR 85 as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.

Historical Note

Adopted effective March 5, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-505. Scrapie Procedures for Eradication

The Department controls and eradicates scrapie using the procedures outlined in 9 CFR 79 as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

ARTICLE 6. HEALTH REQUIREMENTS GOVERNING ADMISSION OF ANIMALS**R3-2-601. Repealed****Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-601 renumbered from Section R3-9-601 (Supp. 91-4). Amended effective March 5, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney

general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2).
Emergency expired December 19, 2016 (Supp. 16-4).
Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-602. Importation Requirements

- A. All animals transported or moved into the state of Arizona, shall be accompanied by a valid, official Certificate of Veterinary Inspection from the state of origin, or a VS 9-3 form for National Poultry Improvement Plan flocks. All animals shall be imported in accordance with this Section and the species-specific Section in this Article. Any violation of this Article is subject to a hold order pursuant to R3-2-605.
- B. Livestock may not enter the state of Arizona unless accompanied by an Arizona entry permit number documented on the Certificate of Veterinary Inspection. This requirement applies regardless of the species, breed, sex, class, age, point of origin, place of destination, or purpose of the movement of the livestock entering the state, except:
1. Equine;
 2. Livestock consigned directly to slaughter at a state or federally licensed slaughter establishment; or
 3. Livestock being transported through the state.
- C. An animal affected with or recently exposed to any infectious, contagious, or communicable disease, or which originates in a state or federal quarantine area, shall not be transported or moved into the state of Arizona unless a permit for the entry is first obtained from the Arizona State Veterinarian's Office. All conditions for the movement of animals from a quarantined area established by the quarantining authority or APHIS shall be met. Animals imported from a quarantine area may be subject to additional import requirements by the State Veterinarian prior to entry into Arizona.
- D. The owner or owner's agent shall obtain prior permission from the State Veterinarian to ship or move into the state of Arizona any animal from a lot or herd from which an animal shows clinical signs of disease or positive reaction to a test required for admission to Arizona.
- E. The Director may enter into an agreement to allow New Mexico livestock consigned directly to an Arizona livestock auction to enter the state on a New Mexico brand inspection certificate in place of a Certificate of Veterinary Inspection. If the agreement is entered, it shall be posted on the Arizona Department of Agriculture's website. In the event the agreement is terminated or expires, the Department shall put notice of the termination on the website. The livestock owner or owner's agent is responsible for ensuring that the agreement is current prior to shipping the livestock. This process is subject to the restrictions included in the agreement.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-602 renumbered from Section R3-9-602 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-603. Repealed**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section

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R3-2-603 renumbered from Section R3-9-603 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-604. Repealed**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-604 renumbered from Section R3-9-604 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-605. Hold Order for Animals Entering Illegally

- A. Animals entering the state in violation of any Section under this Article, may be placed under a hold order at the risk and expense of the owner until released by an authorized representative of the State Veterinarian. Animals placed under a hold order for noncompliance with this Article may be released only after the State Veterinarian is satisfied by testing, dipping, or observation over time, that the animals are not a threat to the livestock industry.
- B. The State Veterinarian may order that an imported animal failing to meet entry requirements be returned to the state of origin, consigned directly to slaughter, confined to a designated feedlot, or consigned to a feedlot in another state within two weeks of the request. Any extension to this time-frame must be approved in writing by the State Veterinarian.
- C. If the owner or owner's agent fails to comply with an order to return an animal to the state of origin within the time-frame required in subsection (B), the Department shall require that the animal be immediately gathered and tested at the owner's risk and expense to avoid exposure of Arizona animals to disease. The owner shall pay the expenses no later than five days after receipt of the bill. Failure to do so will result in an auction of sufficient livestock to pay the expenses which shall be held within 10 days at public auction. If additional expenses occur due to lack of cooperation by the owner or the owner's agent, the Director shall order the further sale of livestock.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Former Section R3-9-605 renumbered to R3-2-605 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-606. Certificate of Veterinary Inspection

- A. A Certificate of Veterinary Inspection is valid for not more than 30 days after the date of issue, except where otherwise noted in this Article, and shall contain:
 1. The name and address of the Consignor and Consignee;

2. The physical address of the origin of the animal;
3. The physical address of the animal's final destination;
 - a. Entry permit number if applicable;
 - b. Official identification if applicable; and
 - c. Certificate of Veterinary Inspection individual certificate number.
 - d. Qualifying required tests with completion dates.
- B. The Certificate of Veterinary Inspection shall be forwarded to the State Veterinarian in Arizona within 14 days of issue.
- C. A VS form 17-30 is deemed a valid international CVI if the following conditions are met:
 1. Accompanied by a valid brand inspection certificate from a southern border state with an entry permit number; and
 2. Official identification as documented on the VS form 17-30.
- D. Official Certificates of Veterinary Inspection may be used in electronic or paper form.
- E. Additions, deletions, and unauthorized or uncertified changes inserted or applied to a Certificate of Veterinary Inspection renders the certificate void and may be subject to state or federal penalties.
- F. The veterinarian issuing a Certificate of Veterinary Inspection shall certify that the animals shown on the Certificate of Veterinary Inspection are free from evidence of any infectious, contagious, or communicable disease or known exposure.
- G. An accredited veterinarian shall inspect animals for entry into the state.
- H. The Director may limit the period for which a Certificate of Veterinary Inspection is valid to less than 30 days if advised by the State Veterinarian of the occurrence of a disease that constitutes a threat to the livestock industry.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-606 renumbered from Section R3-9-606 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 884, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-607. Entry Permit Number

- A. An entry permit number for interstate movement may be obtained from the Office of the State Veterinarian, by calling (602) 542-4293 during the hours of 8 a.m. to 5 p.m. Monday through Friday, excluding state holidays. Any person applying for an entry permit number shall provide the following information:
 1. The name and address of the Consignor and Consignee;
 2. The number and kind of animals;
 3. The physical address of the origin of shipment;
 4. The physical address of the shipment's final destination;
 5. The method of transportation; and
 6. Any other information required by the State Veterinarian.

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- B.** An entry permit number is valid for a maximum of 30 calendar days from the date of issuance unless otherwise indicated on the CVI.
- C.** An entry permit number shall be issued if the animals listed on the Certificate of Veterinary Inspection are in compliance with this Article. To cope with changing disease conditions, the State Veterinarian may refuse to issue an entry permit number or may require additional conditions not specifically established in this Article if necessary to protect animal health in Arizona.
- D.** The entry permit number issued shall be affixed or written on the Certificate of Veterinary Inspection, brand inspection certificate, and any other official documents as follows: "Arizona Permit No. _____" followed by the serialized number.
- E.** The State Veterinarian shall refuse to grant an entry permit number to any person who repeatedly commits the following:
1. Giving false information concerning an entry permit number for transportation of animals,
 2. Failing to fulfill the conditions of an entry permit number, or
 3. Failing to obtain an entry permit number.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-607 renumbered from Section R3-9-607 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-608. Repealed**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-608 renumbered from Section R3-9-608 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-609. Diversion; Prohibitions

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

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-609 renumbered from Section R3-9-609 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R.

781, effective June 8, 2020 (Supp. 20-2).

R3-2-610. Tests; Official Confirmation

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

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-610 renumbered from Section R3-9-610 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

R3-2-611. Transporter Duties

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

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-611 renumbered from Section R3-9-611 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-612. Importation of Cattle and Bison

- A.** The Certificate of Veterinary Inspection for cattle and bison shall include:
1. A valid entry permit number.

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2. The number of cattle and bison covered by the Certificate of Veterinary Inspection, an accurate description and official identification, if applicable except for "F" branded heifers consigned to a designated feedlot identified by brand.
 3. The health status of the cattle and bison including:
 - a. The date of the inspection;
 - b. The dipping date, if applicable;
 - c. The date of negative results for required testing under this Article; and
 - d. The vaccination status as required by this Article.
 4. The method of transportation; and
 5. For bulls subject to testing under R3-2-612(I), a statement that the bulls:
 - a. Tested negative for *Tritrichomonas foetus* within 30 days prior to shipment using a polymerase chain reaction test; and
 - b. Have had no breeding activity during the interval between the collection of the samples and the date of shipment.
- B.** The owner of cattle and bison entering Arizona or the owner's agent shall comply with the requirements in this Article. Failure to comply with entry requirements will incur the following conditions:
1. Pay the expenses incurred by a hold order to test and retest the imported cattle or bison or return them to the state of origin.
 2. For imported beef breeding cattle, breeding bison, and dairy cattle, ensure that an accredited veterinarian applies official identification to each bovine or bison.
- C.** Arizona shall not accept:
1. Cattle or bison from brucellosis infected, exposed, or quarantined herds regardless of their vaccination or test status, or both, except:
 - a. Steers and spayed females, and
 - b. Cattle or bison shipped directly for immediate slaughter to an official state or federal slaughter establishment;
 2. Cattle or bison of unknown brucellosis exposure status, unless consigned for feeding purposes to a designated feedlot;
 3. Dairy cattle from a state or region within a foreign country without brucellosis status comparable to a Class-Free State, or without tuberculosis status comparable to an Accredited-Free State;
 4. Dairy and dairy cross steers, and dairy and dairy cross spayed heifers from Mexico;
 5. Beef breeding cattle or breeding bison from a state or region within a foreign country without brucellosis status comparable to a Class A State, or without tuberculosis status comparable to a Modified Accredited State.
- D.** Brucellosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from other states.
1. Brucellosis testing is not required in dairy and beef cattle from a brucellosis Class-Free State that does not have free-ranging brucellosis infected bison or wildlife.
 2. Brucellosis not required for any cattle or bison consigned to a designated feedlot that are branded with an "F" adjacent to the tail head as long as the State Veterinarian grants permission to apply the "F" brand upon arrival. All "F" branded cattle or bison that leave the designated feedlot shall be shipped directly to:
 - a. An official state or federal slaughter establishment for immediate slaughter,
 - b. Another designated feedlot, or
 - c. Another state if shipping is permitted by the State Veterinarian in the state of destination.
3. All female dairy cattle four months of age or older, imported into Arizona, shall be official calfhood vaccinates, officially identified, certified, and legibly tattooed except for the following:
- a. Show cattle for exhibition,
 - b. Cattle consigned directly to an official state or federal slaughter establishment for immediate slaughter, and
 - c. Cattle consigned for feeding purposes to a designated feedlot with an entry permit number.
4. For beef breeding cattle, breeding bison, and dairy breeding cattle from a Class A state the owner or owner's agent:
- a. Shall ensure that the cattle remain under quarantine and isolation until the cattle test negative for brucellosis. The test shall be performed no earlier than 45 days and no later than 120 days after entry.
 - b. Shall retest dairy cattle if the State Veterinarian determines there is a potential risk of the introduction of brucellosis in the state.
 - c. Is not required to quarantine or test for brucellosis official calfhood vaccinates less than 18 months of age, if permission is granted by the State Veterinarian.
5. The owner or owner's agent:
- a. Shall notify the State Veterinarian within seven days of moving cattle or bison that are under quarantine from the destination listed on the import permit and Certificate of Veterinary Inspection.
 - b. Shall notify the State Veterinarian at the time animals are retested for brucellosis, if the animals are under quarantine and are not moved from the destination listed on the import permit and Certificate of Veterinary Inspection.
 - c. Is not required to notify the State Veterinarian if the cattle or bison are shipped directly to an official state or federal slaughter establishment for immediate slaughter.
- E.** Tuberculosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from other states.
1. No tuberculosis test is required for:
 - a. Beef breeding cattle or breeding bison, from a tuberculosis accredited Free State if the state accredited status is documented on the Certificate of Veterinary Inspection and entry permit; or
 - b. Steers and spayed heifers.
 2. Beef breeding cattle and breeding bison from a Tuberculosis Modified Accredited State or Tuberculosis Class Free State with a Tuberculosis Quarantine in effect, shall test negative for Bovine Tuberculosis within 60 days prior to entry into Arizona.
 3. All dairy breeding cattle greater than 120 days of age shall test negative for Bovine Tuberculosis within 60 days prior to entry into Arizona.
- F.** Brucellosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from Mexico.

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1. Prior to entry into Arizona, beef breeding cattle, breeding bison, or dairy cattle from Mexico shall meet the requirements of 9 CFR 93.424 through 93.427, as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007.
 2. The owner or owner's agent shall ensure that beef breeding cattle, breeding bison, and dairy cattle from Mexico remain under import quarantine and isolation until tested negative for brucellosis. The test shall not be performed earlier than 60 days nor later than 120 days after entry into Arizona. All cattle or bison consigned to a designated feedlot shall be branded with an "F" adjacent to the tail head before entry into Arizona unless the State Veterinarian grants permission to apply the "F" brand on arrival. Unless neutered, all beef breeding cattle, breeding bison, and dairy cattle leaving the designated feedlot shall go directly to an official state or federal slaughter establishment for immediate slaughter or to another designated feedlot. The owner of the designated feedlot shall ensure that official identification records are kept on all incoming consignments and then submit the records monthly to the State Veterinarian. An accredited veterinarian shall identify, on a form approved by the State Veterinarian, all cattle and bison leaving the designated feedlot. A copy of the form shall accompany the cattle or bison to slaughter and a copy shall be submitted to the State Veterinarian.
 3. Dairy cattle from Mexico shall test for brucellosis again 30 days after calving, unless the dairy cattle were consigned directly to a feedlot.
- G. Tuberculosis testing requirements for cattle and bison imported into Arizona from Mexico.**
1. Prior to entry into Arizona, cattle and bison from Mexico shall meet the requirements of 9 CFR 93.424 through 93.427 as revised on January 1, 2018, incorporated by reference in subsection (F)(1).
 2. Steers and spayed heifers from states or regions in Mexico shall not enter the state if they have not been determined by the State Veterinarian to have fully implemented the Control, Eradication, or Free Phase of the bovine tuberculosis eradication program of Mexico.
 3. Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have fully implemented the Control Phase of the bovine tuberculosis eradication program of Mexico shall not be imported into Arizona without permission of the State Veterinarian.
 4. Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have fully implemented the Eradication Phase of the bovine tuberculosis eradication program of Mexico may be imported into Arizona, if they have either:
 - a. Tested negative for tuberculosis in accordance with procedures equivalent to the 9 CFR Part 77 as amended on January 9, 2013 within 60 days before entry into the United States, or
 - b. Originated from a herd that is equivalent to an accredited herd in the United States and are moved directly from the herd of origin across the border as a single group and not commingled with other cattle or bison before arriving at the border.
 5. Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have achieved the Free Phase of the bovine tuberculosis eradication program of Mexico may move directly into Arizona without testing or further restrictions if they are moved as a single group and not commingled with other cattle before arriving at the border.
- 6. Beef breeding cattle and breeding bison from states or regions in Mexico may be imported into Arizona if the State Veterinarian determines the Eradication or Free Phase of the bovine tuberculosis eradication program of Mexico has been fully implemented and the breeding cattle and breeding bison remain under quarantine and isolation until retested negative for tuberculosis in accordance 9 CFR Part 77 as revised on January 1, 2018. The test shall be performed not earlier than 60 days but not later than 120 days after entry unless consigned to a designated feedlot for feeding purposes only. Unless neutered, all beef breeding cattle or breeding bison consigned to a designated feedlot shall be branded with an "F" adjacent to the tail head before entry into Arizona, unless permission is granted by the State Veterinarian to apply the "F" brand on arrival. All beef breeding cattle or breeding bison leaving the designated feedlot shall go directly to an official state or federal slaughter establishment for immediate slaughter or to another designated feedlot. The owner of the designated feedlot shall ensure that official identification records are kept on all incoming consignments and submit the records monthly to the State Veterinarian. An accredited veterinarian shall identify, on a form approved by the State Veterinarian, all beef breeding cattle and breeding bison leaving the designated feedlot. A copy of the form shall accompany the cattle and bison to slaughter and a copy shall be submitted to the State Veterinarian.**
- H. Bovine scabies requirements.**
1. The owner or owner's agent shall ensure that no cattle or bison affected with or exposed to scabies is shipped, trailed, driven, or otherwise transported or moved into Arizona except cattle or bison identified and moving under a VS Form 1-27 and seal for immediate slaughter at an official state or federal slaughter establishment.
 2. The owner or owner's agent of cattle or bison from an official state or federal scabies quarantined area shall comply with the requirements of 9 CFR 73, Scabies in Cattle, as revised on January 1, 2018, before moving the cattle or bison into Arizona. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.
 3. The State Veterinarian may require that breeding and feeding cattle and bison from known scabies infected areas and states be dipped or treated even if the animals are not known to be exposed. The State Veterinarian shall require that dairy cattle be dipped only if the animals are known to be exposed; otherwise an accredited veterinarian's examination and certification shall be sufficient.
- I. Trichomoniasis requirements for bulls imported into Arizona from other states.**
1. The owner or owner's agent shall ensure bulls:
 - a. Test negative for *Tritrichomonas foetus* within 30 days prior to shipment using a polymerase chain reaction test or a diagnostic test approved by the state veterinarian, except for bulls:
 - i. Less than 12 months of age,
 - ii. Consigned directly to a state or federal licensed slaughter facility,

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- iii. Consigned directly to a dairy,
- iv. Consigned directly to an exhibition or rodeo,
- v. Consigned directly to a licensed feedlot for castration on arrival,
- vi. Branded with an "F" adjacent to the tailhead and consigned directly to a designated feedlot for feeding and later movement directly to slaughter, and
- b. Have no breeding activity during the interval between the collection of a sample and the date of shipment.
- c. The following statements documented on the CVI in reference to R3-2-612(A)(5):
 - i. Test negative for *Tritrichomonas foetus* within 30 days prior to shipment using a polymerase chain reaction test; and
 - ii. Have had no breeding activity during the interval between the collection of the samples and the date of shipment.
- 2. An accredited veterinarian approved to collect samples for *Tritrichomonas foetus* testing by the state animal health official in the state of origin shall collect the *Tritrichomonas foetus* test samples.
- 3. A laboratory approved to conduct tests for *Tritrichomonas foetus* by the state animal health official in the state of origin shall perform the test for *Tritrichomonas foetus*.
- J. For purposes of this Section beef breeding cattle means intact beef cattle.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-612 renumbered from Section R3-9-612 (Supp. 91-4). Amended effective March 5, 1997 (Supp. 97-1). Amended effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 14 A.A.R. 884, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-613. Importation of Swine

- A. A Certificate of Veterinary Inspection for swine shall include:
 - 1. A valid entry permit number;
 - 2. The following statements recorded on the CVI:
 - a. The swine listed on this CVI have never been fed garbage; and
 - b. The swine listed on this CVI have not been vaccinated for pseudorabies;
 - 3. Official Identification; and
 - 4. If applicable, the validated brucellosis-free herd number and last test date for swine originating from a validated brucellosis-free herd.
- B. Brucellosis test requirements. Swine imported into Arizona from other states shall:
 - 1. Originate from a validated swine brucellosis-free herd or from a swine brucellosis-free state; or
 - 2. Test negative for brucellosis within 30 days before entry.
- C. For purposes of this Section, breeding swine means intact swine that have had breeding activity.
- D. It is unlawful for any person to import into the state of Arizona live feral swine. Any person or corporation owning or possessing a live feral swine in this state shall at all times keep such feral swine in a safe and suitable enclosure so that it may not run at large or damage the person or property of others. For

purposes of this Section, feral swine means a hog, boar, or pig that appear to be untamed, undomesticated, or in a wild state; or appear to be contained for commercial hunting or trapping.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective June 29, 1984 (Supp. 84-3). Section R3-2-613 renumbered from Section R3-9-613 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 4812, effective December 7, 2000 (Supp. 00-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-614. Importation of Sheep and Goats

- A. A Certificate of Veterinary Inspection for sheep and goats shall include:
 - 1. A valid entry permit number; and
 - 2. A statement that:
 - a. The sheep or goats are not infected with bluetongue, or exposed to scrapie, and do not originate from a scrapie-infected or source flock; and
 - b. The sheep or goats test negative for *Brucella ovis* if a test is required by subsection (B); and if applicable
 - c. Breeding rams have been individually examined and are free of gross lesions of ram epididymitis.
- B. A breeding ram six months of age or older shall test negative for *Brucella ovis* within 30 days of entry or originate from a certified brucellosis-free flock. An exhibition ram that returns to the out-of-state flock of origin within five days of the conclusion of the exhibit is exempt from the testing requirement of this subsection.
- C. Arizona native commercial flocks participating in a *Brucella ovis* control program through testing performed by an accredited and licensed veterinarian may return to Arizona from another state without testing, provided the flock has not mingled with other flocks.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-614 renumbered from Section R3-9-614 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-615. Importation of Equine

- A. A Certificate of Veterinary Inspection for equine shall include:
 - 1. An accurate identification for each equine including age, sex, breed, color, name, brand, tattoo, scars, microchip if any, and distinctive markings; and
 - 2. A statement that the equine has a negative test for EIA, including:
 - a. The date and results of the test;
 - b. The name of the testing laboratory; and
 - c. The laboratory accession number.

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- B. Equine entering the state are not required to obtain an entry permit number.
- C. All equine six months of age or older shall, using a test established in R3-2-407(A), test negative for EIA within 12 months before entry. Testing expenses shall be paid by the owner.
- D. Extended Equine Certificates of Veterinary Inspection (EECVI) are valid for the life of the certificate (up to 6 months) in the state of Arizona. The equine listed on the EECVI shall be officially identified with a microchip.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-615 renumbered from Section R3-9-615 (Supp. 91-4). Amended effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-616. Importation of Cats and Dogs

A dog or cat shall be accompanied by a Certificate of Veterinary Inspection that documents the animal is currently vaccinated against rabies if older than three months of age according to the requirements of the National Association of State Public Health Veterinarians' Compendium of Animals Rabies Control, incorporated by reference in R3-2-409.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-616 renumbered from Section R3-9-616 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-617. Importation of Poultry

Poultry entering the state shall appear healthy, not originate from a poultry quarantine area, comply with all interstate requirements of APHIS, and be accompanied by a Certificate of Veterinary Inspection or Form 9-3 from the National Poultry Improvement Program.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-617 renumbered from Section R3-9-617 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Repealed by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-618. Importation of Psittacine Birds

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

- B. The Certificate of Veterinary Inspection shall accompany the psittacine bird at the time of entry into Arizona.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-618 renumbered from Section R3-9-618 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Repealed by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-619. Repealed**Historical Note**

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

R3-2-620. Importation of Zoo Animals

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

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-620 renumbered from Section R3-9-620 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-621. Expired**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 135, effective December 15, 2016 (Supp. 16-4).

R3-2-622. Expired**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in

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the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 135, effective December 15, 2016 (Supp. 16-4).

ARTICLE 7. LIVESTOCK INSPECTION**R3-2-701. Department Livestock Inspection**

- A. A Division employee shall inspect range cattle, as defined in R3-2-702(A), at a ranch if the owner or agent of livestock is:
 1. Moving cattle out-of-state,
 2. Transferring cattle ownership, or
 3. Shipping cattle for custom slaughter.
- B. An owner or agent of cattle cannot be issued both non-range and range self-inspection certificates.
- C. With prior approval from a Division employee, livestock can be moved to a licensed custom slaughter facility using the livestock owner's or agent's or feedlot operator's self-inspection certificate. A Division employee must validate the self-inspection certificate prior to slaughter.
- D. The Department shall not issue a self-inspection certificate to an owner or agent of livestock or feedlot operator if that individual has been convicted of a felony under A.R.S. Title 3 within the three-year period before the date on the self-inspection application. The Department may deny self-inspection to an applicant if within the five-year period before the date on the self-inspection application, the applicant was convicted of any A.R.S. Title 3 offense or an A.R.S. Title 13 offense related to livestock. A Division employee shall inspect livestock if an applicant is denied self-inspection authority.
- E. During fiscal year 2024, livestock officers and inspectors shall collect from the person in charge of cattle, dairy cattle, or sheep inspected a service charge of \$10 plus the per head inspection fee set out in A.R.S. § 3-1337 for making inspections for the transfer of ownership, sale, slaughter or transportation of the animals.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-701 renumbered from Section R3-9-701 (Supp. 91-4). Section R3-2-701 repealed; new Section R3-2-701 adopted effective February 4, 1998 (Supp. 98-1). Error in subsection (A)(3) corrected under R1-1-109, filed with the Office of the Secretary of State October 18, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1). Amended by exempt rulemaking at 16 A.A.R. 1331, effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1756, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3). Amended by exempt rulemaking at 19 A.A.R. 3127, effective September 14, 2013 (Supp. 13-3). Amended by exempt rulemaking at 20 A.A.R. 2449, effective July 24, 2014 (Supp. 14-3). Amended by exempt rulemaking pursuant to Laws 2015, Ch. 10, § 14, at 21 A.A.R. 2404, effective July 3, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 1937, effective August 9, 2017 (Supp. 17-2). Amended by final exempt rulemaking at 24 A.A.R. 2219, effective August 3, 2018 (Supp. 18-3). Amended by final exempt rulemaking at 25 A.A.R. 2081, effective August 27, 2019 (Supp. 19-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2). Amended by final exempt rulemaking at 26 A.A.R. 1471, effective August 25, 2020 (Supp. 20-3). Amended by final exempt rulemaking at 27 A.A.R. 1264, effective

September 29, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 28 A.A.R. 2017 (August 12, 2022), effective September 24, 2022 (Supp. 22-3). Amended by exempt rulemaking at 29 A.A.R. 3483 (November 3, 2023), effective October 30, 2023 (Supp. 23-4).

R3-2-702. Livestock Self-inspection

- A. Definitions.

"Dairy" means an owner or agent of a place or premise where one or more lactating animals are kept for milking purposes and from which a part or all of the milk is provided, sold, or offered for sale that meets both of the following conditions: the livestock is not permitted to range and the dairy is permitted by the Department. If these conditions are met, then a Division employee may grant the applicant dairy status.

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

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

"Feedlot" means an operator of a beef cattle feedlot or feed yard in which the livestock is not permitted to range and that is licensed by the Department. If these conditions are met, then a Division employee may grant the applicant feedlot status.

"Livestock" means cattle, sheep, goats, and swine.

"Livestock broker" means an owner or agent who engages in the business of buying and selling livestock and has immediate possession of the livestock for 10 days or less in which the livestock is not permitted to range. If these conditions are met, then a Division employee may grant the applicant livestock broker status.

"Non-range" means any owner or agent of an enclosed property that is 100 acres or less that meets all of the following conditions: the fence enclosing the livestock is well maintained, the livestock is not permitted to range, and the owner or agent of the livestock lives where the livestock are kept. If these conditions are met, then a Division employee may grant the applicant non-range status.

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

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

B. Application.

1. Owners or agents of livestock or feedlot operators shall request a book of self-inspection certificates from the Department. The applicant shall submit a written application form obtained from the Department and provide the following information:
 - a. Name, mailing address, physical address, telephone number, and email address;
 - b. Name of business and type of livestock operation;
 - c. Whether the applicant has been convicted of a violation of A.R.S. Title 3, or a violation of A.R.S. Title

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- 13 related to livestock within the past five years, and if so, the case number, court, charge, and sentence;
- d. Recorded brand number;
 - e. Individual or individuals designated to sign self-inspection certificates, if applicable; and
 - f. Signature and date.
2. The holder of a self-inspection book shall advise the Department within 30 days of any change to the information provided on an application form.
 3. The holder of a self-inspection book shall renew registration with the Department every three years from the date the initial or renewal application form is signed.
 4. If a holder with self-inspection privileges has been convicted of a criminal violation under A.R.S. Title 3, or a violation of Title 13 related to livestock, that holder shall notify the Department immediately and their privileges shall be revoked.
 5. Prior to a Department employee issuing a book of self-inspection certificates, the owner shall submit the following payment amount and the Department shall receive the payment in full prior to issuing the book:
 - a. \$25.00 for a twenty five page feedlot or livestock broker book;
 - b. \$20.00 for a twenty page dairy book; or
 - c. \$10.00 for a ten page non-range, range, sheep, goat, or swine book.
- C. Self-inspection certificate.**
1. An owner or agent of livestock or feedlot operator shall provide the following information, as applicable, on a self-inspection certificate whenever livestock subject to self-inspection are moved or ownership is transferred:
 - a. Name, address, and signature, of the owner or agent of livestock or feedlot operator;
 - b. Date of the shipment or transfer of ownership;
 - c. If moved, location from which and to which the livestock are moved, including the name of the auction, feedlot, arena, slaughter establishment, pasture, or other premises, and physical location;
 - d. Name of transporter;
 - e. Number and description of livestock;
 - f. Official identification of each dairy cattle and sexually intact cattle over 18 months of age shipped out of state and back tag numbers of culled dairy cattle;
 - g. Brand number, expiration date, and location;
 - h. Name and address of buyer;
 - i. Number of head of cattle sold for which Beef Council fees are payable under A.R.S. §§ 3-1236 and 3-1238.
 2. The owner or agent of livestock or feedlot operator shall complete a self-inspection certificate, except when livestock are subject to inspection by a Division employee under R3-2-701, and distribute copies of the certificate as follows:
 - a. One copy and any fees that are owed under subsection (C)(1)(i) shall be sent to the Department within 10 days after the end of the month in which it was used;
 - b. If the livestock are shipped, the original certificate shall accompany the livestock whenever they are in transit and one copy shall be retained by the person transporting the livestock; or
 - c. If ownership of the livestock is transferred without shipment, two copies shall be provided to the new owner or agent of livestock or feedlot operator; and one copy shall be retained by the seller.
3. A certificate may be used once to either transfer livestock ownership or to move livestock to a specific destination. If the livestock are diverted to a destination other than that stated on the self-inspection certificate, the certificate is void. The owner or agent of livestock, or feedlot operator shall complete a new certificate and send both the voided and new certificates to the Department within 10 days after the end of the month in which the certificates are used or voided.
 4. An owner or agent of livestock or feedlot operator shall use a self-inspection certificate only with a shipment of livestock matching the description for which the certificate is issued and only for the self-inspection issued date. If any of the information on the self-inspection certificate changes, the certificate is void and the owner or agent of livestock or feedlot operator shall complete a new certificate.
 5. An altered, erased, completed but unused, or defaced self-inspection certificate is void. A voided certificate shall be returned to the Department within 10 days after the end of the month in which it is voided.
 6. Upon request, certificates shall be returned to the Department by the owner or agent of livestock or feedlot operator. If an operation licensed for self-inspection is sold, leased, transferred, or otherwise disposed of, the owner or agent of livestock or feedlot operator shall notify the Department and return all self-inspection certificates to the Department within 30 days of the transaction.
 7. If the owner or agent of livestock or feedlot operator cannot find an unused or used certificate, they must sign an affidavit provided by the Department verifying the certificate is lost and cannot be found. New certificates will not be issued until the signed affidavit has been received by the Department.
- D. Sale of livestock.** A seller shall document a sale by completing a self-inspection certificate as prescribed in subsection (C) and providing a bill of sale to the purchaser as required under A.R.S. § 3-1291.
- E. Feedlot receiving form.**
1. The operator of a feedlot shall document receipt of incoming cattle on a form obtained from the Department. The operator shall include the following information on the form:
 - a. Name of feedlot and location;
 - b. Month and year for which report is made;
 - c. Number of cattle received, date received, and name and address of owner;
 - d. Description of the cattle;
 - e. If not Arizona native cattle, the import permit and Certificate of Veterinary Inspection numbers;
 - f. If native Arizona cattle, self-inspection certificate number or Department inspection certificate number; and
 - g. Pen number to which cattle are initially assigned.
 2. The operator shall return the completed form within 10 days after the end of the month of the reporting period.
- F. Quarantine.** Livestock under quarantine by the Department shall not be shipped or sold by use of a self-inspection certificate.
- G. Violations.** The Department shall process violations of this Section as prescribed under A.R.S. § 3-1203(D).

Historical Note

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Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-702 renumbered from Section R3-9-702 (Supp. 91-4). Section R3-2-702 repealed; new Section R3-2-702 adopted effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1). Amended by exempt rulemaking under Laws 2016, Ch. 160, § 9 at 22 A.A.R. 2400, effective August 6, 2016 (Supp. 16-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-703. Seasonal Self-inspection Certificate

Exhibition cattle, sheep, goats, and swine.

1. An applicant for a seasonal self-inspection certificate prescribed under A.R.S. § 3-1346 shall request a seasonal self-inspection certificate from the Department. The applicant shall provide the following information, as applicable:
 - a. Name, mailing address, physical address if different from mailing address, telephone number, and email address;
 - b. Name of 4-H or FFA group, and group leader;
 - c. Physical description of livestock;
 - d. Official identification of livestock, except for native cattle born and raised in Arizona;
 - e. Permit number and Certificate of Veterinary Inspection number for livestock imported from another state;
 - f. Name of seller and self-inspection certificate number or Department inspection certificate number for livestock purchased from an Arizona seller; and
 - g. Signature and date of signature of the owner or lessee. If the owner or lessee is under 18 years of age, a signature of the parent or guardian and date of signature are required.
2. The Department employee who records the information required in subsection (1) shall advise the applicant of the required fee prescribed under A.R.S. § 3-1346(A). The Department shall issue a seasonal self-inspection certificate upon receipt of the fee.
3. An exhibitor shall provide the following information, as applicable, on a seasonal self-inspection certificate whenever livestock subject to seasonal self-inspection is moved or ownership is transferred:
 - a. Name, address, telephone number, email address, and signature;
 - b. Date of movement;
 - c. Name of exhibition and location;
 - d. Final disposition of the livestock (sale, death, or retention) and date of occurrence; and
 - e. If the livestock is sold, name, address, and phone number of purchaser (person or slaughter plant).
4. The holder of a seasonal self-inspection certificate shall return the certificate to the Department within two weeks of the sale or slaughter of the livestock or at the end of the show season if the livestock is retained.

Historical Note

Adopted effective November 27, 1987 (Supp. 87-4). Section R3-2-703 renumbered from Section R3-9-703 (Supp. 91-4). Section R3-2-703 repealed; new Section R3-2-703 adopted effective February 4, 1998 (Supp. 98-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1). Amended by exempt rulemaking under Laws 2016, Ch.

160, § 9 at 22 A.A.R. 2400, effective August 6, 2016 (Supp. 16-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-704. Emergency Expired**Historical Note**

Adopted effective February 4, 1998 (Supp. 98-1). Section repealed by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1). Section made by emergency rulemaking at 24 A.A.R. 3589, with an immediate effective date of December 13, 2018, valid for 180 days (Supp. 18-4). Emergency expired (Supp. 20-2).

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

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

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

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

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

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

Historical Note

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

R3-2-708. Equine Rescue Facility Registration

- A. "Arizona Equine Rescue Standards" means the American Association of Equine Practitioners Care Guidelines for Equine Rescue and Retirement Facilities, 2004 Edition. This material, which includes the Veterinary Checklist for Rescue/Retirement Facilities, is incorporated by reference, does not include any later amendments or editions, and is available for inspection at the Department of Agriculture, 1688 W. Adams St., Phoenix, Arizona 85007. A copy of this material may also be obtained from the American Association of Equine Practitioners web site at http://www.aaep.org/pdfs/rescue_retirement_guidelines.pdf. The American Association of Equine Practitioners is located at 4033 Iron Works Parkway, Lexington, Kentucky 40511.
- B. An equine rescue facility shall pay the annual registration fee and file the following documents with the Department's Animal Services Division for the facility to be included on the Department's registry of equine rescue facilities:
 1. An application form containing the facility's name, physical and mailing address, and contact person and the contact person's phone number and email address.
 2. A copy of documents filed with the Arizona Corporation Commission demonstrating the facility's current status as a nonprofit corporation in good standing in this state.
 3. A letter from a licensed veterinarian, dated within 15 days of filing, certifying that the facility is not inadequate with respect to any of the Arizona Equine Rescue Stan-

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dards and attaching a signed copy of the completed Arizona Equine Rescue Standards' veterinary checklist.

- C. Registration is valid for one year. Registration may be renewed annually by complying with subsection (B).
- D. The annual registration fee is \$75.
- E. A nonprofit corporation owning multiple equine rescue facilities must file the letter and checklist described in subsection (B)(3) and pay the annual registration fee for each location it wants included on the registry.
- F. The Department shall remove a facility from the registry if it determines that the facility is not presently incorporated as a nonprofit corporation in this state or is inadequate with respect to any of the Arizona Equine Rescue Standards.

Historical Note

New Section made by final rulemaking at 16 A.A.R. 876, effective July 3, 2010 (Supp. 10-2). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

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

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

"3-A Sanitary Standards" and "3-A Accepted Practices," as published by the International Association for Food Protection, effective on or before October 15, 2017, means the criteria for design, materials, construction and use of dairy processing equipment. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007 and is also available at <http://www.3-A.org>.

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

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

"Fluid milk" means milk and any other product made by the addition of a substance to milk or to a liquid form of milk product if the milk or other product is produced, processed, distributed, sold or offered or exposed for sale for human consumption.

"Fluid trade product" means any trade product as defined in A.R.S. § 3-661(5) that resembles or imitates any fluid milk product.

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

"Frozen desserts mix" or "mix" means any frozen dessert before being frozen.

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

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

"Plant" means any place, premise, or establishment, or any part, including specific areas in retail stores, stands, hotels,

restaurants, and other establishments where frozen desserts are manufactured, processed, assembled, stored, frozen, or converted for distribution or sale, or both. A plant may consist of rooms or space where utensils or equipment is stored, washed, or sanitized and where ingredients used in manufacturing frozen desserts are stored. Plant includes:

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

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

"PMO" means the Grade A Pasteurized Milk Ordinance, 2017 Revision. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007. A copy of the incorporated material may also be viewed at <http://agriculture.az.gov>.

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

Historical Note

Former Regulations 1-11. Section R3-2-801 renumbered from R3-5-01 (Supp. 91-4). R3-2-801 renumbered to R3-2-803; new Section R3-2-801 adopted effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 7 A.A.R. 2215, effective May 9, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 12 A.A.R. 3030, effective September 30, 2006 (Supp. 06-3). Amended by final rulemaking at 14 A.A.R. 889, effective May 3, 2008 (Supp. 08-1). Amended by emergency rulemaking at 20 A.A.R. 1134, effective May 2, 2014, for 180 days (Supp. 14-2). Emergency expired. Amended by exempt rulemaking at 21 A.A.R. 2407, effective September 22, 2015 (Supp. 15-3). Amended by final rulemaking at 22 A.A.R. 2169, effective October 2, 2016 (Supp. 16-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-802. Milk and Milk Products Standards

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

Historical Note

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

R3-2-803. Milk and Milk Products Labeling

- A. The manufacturer or processor shall ensure that milk and milk products listed in A.R.S. § 3-601(10), and Sections 1 and 2 of the PMO are designated by the name of the product and shall conform to its definition.
- B. The manufacturer or processor of milk and milk products shall conform with the labeling requirements in A.R.S. §§ 3-601.01 and 3-627, Section 4 of the PMO, and 21 CFR 101, 131, and 133, amended April 1, 2017. This CFR material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department.

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- C. The name of the manufacturer or processor shall be on all cartons or closures where it can be easily seen. A manufacturer or processor that has plants in other states shall use a code number or letter to designate the state in which a carton or closure is manufactured or processed. If a manufacturer or processor has a plant within Arizona, the Dairy Supervisor shall issue a code number or letter for each plant and shall keep a record of the number or letter issued. Manufacturers and processors shall include the Arizona code, 04, with the plant code assigned by the Dairy Supervisor.
- D. If milk or milk products are manufactured or processed and packaged at a plant for other retailers and the container or closure is not labeled the same as the manufacturer's or processor's like product, the manufacturer or processor shall include the statement "Manufactured or Processed at (name and address of plant or code number or letter)" on the carton or closure. The carton or closure may also contain the statement, "Distributed by: (name of person or firm)."
- E. Any person planning to use a new or modified label on a container shall submit the proposed label to the Dairy Supervisor for review.
 1. If the proposed label does not meet labeling standards specified in subsection (B), the Dairy Supervisor shall note the required changes on the proposed label, and sign and return the proposed label to the applicant.
 2. A person who requests additional time to use the inventory amounts of slow moving cartons or closures before using a modified label shall submit a written request to the Dairy Supervisor. The Dairy Supervisor may approve continued use of the existing cartons and closures if:
 - a. The use does not present a public health issue, and
 - b. The information on the cartons and closures is not misleading.

Historical Note

Former Regulations 1 - 21; Amended effective August 4, 1978 (Supp. 78-4). Section R3-2-803 renumbered from R3-5-03 (Supp. 91-4). R3-2-803 renumbered to R3-2-804; new Section R3-2-803 renumbered from R3-2-801 and amended effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-804. Trade Products

- A. Any fluid trade product containing milk solids shall be regulated as a fluid milk product.
- B. Advertising, display, and sale:
 1. Any retail food store may submit its methods and techniques for the advertising, display, and sale of trade products and real products to the Dairy Supervisor to determine compliance with this Section.
 2. No food establishment shall sell or provide any patron or employee, for use as food, any trade product or food whose main ingredient is a trade product, unless one of the following disclosures is posted for each trade product, in a prominent place on the premises, or is plainly visible on each menu where other food items are described:
 - a. "_____ served here
(brand or common name of trade product)
instead of _____."
(common name of dairy product)
 - b. "Nondairy products served here."
 3. No food establishment shall advertise or otherwise represent to the public that it serves, or uses in the preparation

of a food, a real product when it actually serves or uses a trade product.

- C. Labeling: Except as follows, all labels shall comply with the PMO and 21 CFR 101, 131, and 133.
 1. The Dairy Supervisor shall approve a new or modified trade product label before the label is used. The applicant shall file a written request with duplicate copies of the proposed label and any supporting materials necessary to establish the truthfulness, reasonableness, relevancy, and completeness of the label.
 2. Unless each ingredient of a trade product is homogenized or pasteurized, the whole product shall not be labeled or advertised as an homogenized or pasteurized product. Individual ingredients that are homogenized or pasteurized may be identified as homogenized or pasteurized in the listing of ingredients.
 3. Except for combined ingredients constituting less than 1% of the whole product or unless each ingredient of a trade product qualifies as grade A, the whole product shall not be labeled or advertised as a grade A product. Ingredients that qualify as grade A may be identified as grade A in the listing of ingredients.
 4. Any trade product produced outside the state and labeled as prescribed in R3-2-802 and R3-2-803, may be sold within the state provided that the product meets the requirements of A.R.S. §§ 3-663 and 3-665.

Historical Note

Former Regulations 1 - 8; Amended effective December 7, 1976 (Supp. 76-5). Correction, subsection (A)(2) through (H) omitted, Supp. 76-5 (Supp. 79-4). Section R3-2-804 renumbered from R3-5-04 (Supp. 91-4). R3-2-804 renumbered to R3-2-805; new Section R3-2-804 renumbered from R3-2-803 and amended effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

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

- A. All cattle and other dairy animals from which Grade A raw milk is produced shall be tested and found free of tuberculosis before any milk is sold. All herds shall be tested for tuberculosis at least every 12 months. All cattle and other dairy animals from which Grade A raw milk is produced shall be tested and found free of brucellosis before any milk is sold, and shall be tested every 12 months or have negative brucellosis ring tests of the milk at least once each month, or both, as determined by the State Veterinarian.
- B. Grade A raw milk shall be cooled immediately after completion of milking to 45° F or less and shall be maintained at that temperature until delivery.
- C. Grade A raw milk shall be bottled on the farm where it is produced. Raw milk products authorized under A.R.S. § 3-606, except for hard cheeses aged 60 days or more as defined in 7 CFR 58.439, shall be processed, manufactured and packaged on the farm where the milk is produced. Bottling and capping shall be done in a sanitary manner on approved equipment. Hand-capping is prohibited. Caps and cap stock shall be kept in sanitary containers until used.
- D. All vehicles used for the distribution of Grade A raw milk shall prominently display the distributor's name.
- E. Grade A raw milk shall be labeled as prescribed in R3-2-803 and A.R.S. § 3-606.

Historical Note

Former Regulations 1, 2. Section R3-2-805 renumbered

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

Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-806. Parlors and Milk Rooms**A. Construction Plans.**

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

B. Site.

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

C. Surroundings.

1. Dirt or unpaved corrals and unpaved lanes shall not be closer than 25 feet to the parlor or closer than 50 feet to the milk room; corrals shall be constructed to remove runoff from the lowest point of the grade.
2. A paved (concrete or equivalent) ramp or corral shall be provided to allow the animals to enter and leave the parlor. This paved area shall be curbed sufficiently high enough to contain waste material and water used to clean this area.

D. Drains and waste disposal systems shall be adequate to drain the volume of water used in rinsing and cleaning, as well as the waste created by animals in the parlor. Instead of natural drainage, automatic pumps or other means shall be provided for drainage disposal.**E. Milk room.**

1. The milk room shall consist of one or more rooms for the handling of the milk and the cleaning, sanitization, and storage of the milk-handling equipment. Hot and cold running water outlets shall be provided as needed for sanitation. There shall be a minimum of five feet between a farm milk tank at the widest point and the milk room wall where the wash vats are installed. Except for currently installed milk tanks, there shall be at least three feet between any farm tank or farm tank appurtenance and the milk room walls.
2. Passageway. The passageway between the milk room and parlor shall have at least a 3-foot clearance for ingress and egress. Equipment such as milk receivers, dump tanks, or coolers that are part of an enclosed milk line system may be installed in the passageway if:
 - a. A 3-foot clearance is allowed for the walkway;
 - b. Space is provided between walls and equipment to permit the disassembly of equipment for cleaning or inspection;
 - c. The passageway between the parlor and the milk room may be closed at one end. The parlor may be separated from the passageway by a pipe rail fence if the slope of the parlor floor is away from the passageway. If the slope of the parlor floor is toward the

passageway, a concrete wall between the passageway and parlor floor of at least 12 inches in height shall be provided.

- d. Rustless pipe sleeves with tight-fitting flanges and protective closures shall be installed where the milk lines, hoses for tankers, and wash lines go through the walls of the passageway.

3. Floors.

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

4. Walls and ceilings.

- a. All walls and ceilings shall be constructed of a light colored, impervious material with a smooth finish. If concrete block or masonry construction is used, all voids below the floor line shall be filled with concrete.
- b. The main ceiling height shall allow sufficient room for access to, and sampling from, the bulk milk storage tank.

5. Doors and windows.

- a. All opening windows shall have at least 16-inch mesh screen.
- b. Exterior doors of the milk room shall open outward, be solid, self-closing, and tight fitting. Any door from the passageway shall be a solid door, metal covered on both sides of the bottom half. Wooden door jambs or frames shall terminate six inches above the floor, and the concrete floor cove shall extend to the jambs or frames.
- c. All working areas in the milk room shall contain at least 30 foot-candles of natural and/or artificial lighting.

6. Ventilation. The milk room shall provide adequate ventilation to minimize condensation on ceilings, walls and equipment. Vents shall be protected from the penetration of insects, dust and other contaminants. The milk room shall contain one or more ceiling vents. Ceiling vents shall not be installed directly above bulk milk storage tanks.**7. Tanker loading area. A tanker-loading area, at least 10 feet by 12 feet, paved, curbed, and sloped to drain, shall be provided adjacent to the milk room where milk is transferred from a farm tank to a milk tanker. If a tanker is used instead of a farm tank, a tanker shelter shall be provided that complies with the construction, light, drainage, and general maintenance requirements of the milk room.****8. Farm tank installations. All farm tanks for the cooling and storing of milk shall be installed in the milk room. Bulk milk tanks equipped with agitator shaft opening seals may, if approved by the Dairy Supervisor, be bulk-headed through a wall.**

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F. Parlor.

1. Floors.

a. The floors shall be constructed of four-inch thick concrete or other, light-colored, impervious material, finished smooth. The floors, alleys, gutters, mangers, and curbs shall slope lengthwise toward a drain or gutter. The cow standing platform in the elevated stall parlor shall slope sufficiently to provide for adequate drainage and cleaning.

b. Floor and wall junctions shall have at least a two-inch radius cove and shall be an integral part of the floor.

c. The cow standing platform, litter alley, holding corral and concrete lane shall be treated to prevent slipping.

2. Walls. All walls shall be constructed of a light-colored, impervious material. If necessary, means shall be provided to prevent the entrance of swine, fowl and other prohibited animals. All walls shall be finished smooth on the inside with the top ledge rounded on open walls. If a parlor wall forms a part of the holding corral or an entrance or exit lane, it shall be finished smooth on the outside. If a concrete block or masonry construction is used, all voids below the floor line shall be filled with concrete. In elevated stall parlors, the wall under the cow standing platform adjacent to the milking area shall be finished smooth and designed to prevent leakage.

3. Stalls. A tandem stall and a herringbone stall shall have a smooth, flat, non-absorbent splash panel behind each cow.

4. Light. Natural and/or artificial light shall be at least 30 foot-candles at the floor level and located to minimize shadows in the milking area.

5. Gutters.

a. All parlors shall have gutters to catch the defecation of cows while in the stall and for any water used for rinsing.

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

6. Curbs.

a. In elevated stall parlors, the cow standing platform shall be curbed on the side next to the milking alley and the curb shall be at least six inches in height with the top rounded to retain the elevated stall floor washings. This curb may be lowered to not less than two inches at the area where the milking machines are applied. Metal curbs shall be free of voids and sealed to stall and floor or wall.

b. Floor level parlors shall contain a curb under the stanchion line at least six inches wide, 12 inches high from the stall floor, except if metal mangers are used the top of this curb shall be rounded.

7. Stanchions.

a. The stanchion shall be metal or other impervious, easily cleanable material.

b. Mangers and feed boxes in all types of parlors shall be constructed of impervious materials, finished smooth, and provided with drainage outlets at low points.

8. Ventilation. Adequate ventilation shall be provided in the parlor, holding corral, and wash area, if roofed.

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

H. If animals are fed in the parlor, feed storage facilities shall be provided. Feed storage rooms, when installed, shall be partitioned from the parlor and shall be fly and rodent proof. The feed discharge area of the bulk feed storage shall be concrete or other impervious material that is curbed and drained. Bulk feed may discharge directly into the parlor. A bulk feed tank located opposite the passageway shall be at least six feet from the milk room. Overhead feed storage is permissible if it is fly, rodent, and dust tight. Feed shall be conveyed to the manger or feed box in a tightly closed dust-free system. Overhead metal feed tanks may be used.

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

Historical Note

Former Regulations 1 - 11. Section R3-2-806 renumbered from R3-5-06 (Supp. 91-4). Section amended effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 22 A.A.R. 2169, effective October 2, 2016 (Supp. 16-3).

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

1. The plant area shall be clean, orderly and free from refuse, rubbish, smoke, dust, air pollution and strong or foul odors originating on the premises. A drainage system shall be provided for the rapid drainage of water away from the building. If unsatisfactory conditions occur in the plant area, with respect to smoke, dust, air pollution, or odors, provision shall be made to protect the frozen desserts and ingredients from contamination.

2. Sewage and industrial waste shall be disposed in accordance with the provisions of the state or county environmental laws. Refuse, unless in appropriate containers, shall not accumulate on the premises.

3. Roads, driveways, yards, and parking areas adjacent to the plant shall be paved or treated to prevent dust and shall be smooth and well drained to prevent accumulation of stagnant liquid.

4. Buildings.

a. The building exterior and interior shall be kept clean and in good repair.

b. In processing and packaging areas, outside doors, windows, skylights, transoms, or other openings shall be protected and operated to preclude the entrance of dust, insects, vermin, rodents, and other animals. Outside doors shall be self-closing wherever practical. Window sills on new construction shall slope inward at least 45-degrees. Outside conveyor openings and other outside openings shall be protected by doors, screens, flaps, fans, or tunnels. Pipes shall be sealed where they extend through exterior walls. Outside pipe openings shall be covered when not in use.

c. Rooms. All rooms, compartments, coolers, freezers, and dry storage space in which any raw material, packaging or ingredient supplies, or finished products are handled, processed, manufactured, packaged, or stored shall be constructed to ensure clean and orderly operations.

i. Boiler and tool rooms shall be separate from rooms where milk products are received, where

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

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- variances to the requirements in this Section, if protection from contamination is provided for all products handled.
5. Water and steam.
 - a. Potable hot and cold water shall be available in sufficient quantity for all plant operations and facilities. Non-potable water may be used for boiler feed and condenser water, if the water lines are separated from the water lines carrying the potable water supply and the equipment is constructed to preclude contamination of any product or product contact surface. If water for washing frozen desserts equipment and utensils and for use in rehydration or as an ingredient in any frozen desserts is obtained from other than a regulated municipal supply, a bacteriological examination shall be made of the water supply at least once every six months by a laboratory acceptable to the Dairy regulatory program to determine potability. If the examination indicates contamination of the water supply, a device shall be installed to eliminate the contamination.
 - b. If steam is used, it shall be provided in sufficient volume and pressure for the operation of equipment or for sterilization, or both. Steam that comes in contact with frozen desserts, ingredients, or with the product contact surface, shall be steam of culinary quality as prescribed in Appendix H, Part III, Culinary Steam – Milk and Milk Products, of the PMO.
 6. Equipment and utensils.
 - a. New equipment shall meet applicable 3-A Sanitary Standards. All equipment, including connections, coming in contact with frozen desserts or ingredients during processing, manufacturing, handling, or packaging, shall be made of stainless steel. No equipment shall be permitted that is rusted, corroded, or in any other condition that may result in contamination of the frozen desserts. Non-metallic parts with product contact surfaces shall consist of material that meets 3-A Sanitary Standards for Plastic or Rubber and Rubber-like Materials or shall be of plastic approved by the United States Food and Drug Administration. Equipment, apparatus, and piping shall be easily accessible for cleaning and shall be kept in good repair and free from cracks and corroded surfaces. Stationary equipment, including welded sanitary lines and apparatus that permit in-place-cleaning, may be used if prior approval from the Dairy Supervisor has been obtained. C-I-P piping and welded sanitary pipeline systems shall be permitted if engineered and installed according to 3-A Accepted Practices for Permanently Installed Sanitary Product and Solution Pipelines and Cleaning Systems. If rigid pipelines are not practical, plastic pipelines listed in the 3-A Accepted Practices may be used. Product pumps shall be sanitary and easily dismantled for cleaning or shall be constructed to allow C-I-P procedures. All parts of interior surfaces of equipment, pipes (except C-I-P piping), or fittings, including valves and connections shall be accessible for inspection. The Dairy Supervisor may require other equipment, apparatus or piping if stationary equipment, apparatus or piping cannot or is not being effectively cleaned-in-place.
 - b. Equipment for storage and distribution of liquid sweetening agents shall be constructed of metals, alloys, or other material that will withstand corrosive action by the ingredient. The equipment and the ingredients shall be protected from contamination.
 - c. Pasteurizing equipment shall meet the standards prescribed in the PMO and 3-A Accepted Practices for Sanitary Construction, Installation, Testing and Operation of High-Temperature-Short-Time Pasteurizers and 3-A Sanitary Standards for Non-Coiled Type Batch Pasteurizers. Batch-type pasteurizers shall be provided with close-coupled outlet valves protected against leakage and shall be equipped with thermometers that record the information of each day's operation on separate charts. Air space thermometers and indicating thermometers shall be provided to check the recording thermometers. The recording thermometer chart shall contain the date, the identity of the pasteurizing number, the batch and product name, and the signature of the employee responsible for this information. The record shall be kept on file at the plant for at least six months. The accuracy of the recording thermometer shall be checked daily using the indicating thermometer and the time and temperature shall be documented on the recording chart. Chart recorders and thermometers for batch pasteurizers shall be tested and sealed by the Dairy Supervisor or the Supervisor's designee after testing and seals shall not be removed without immediately notifying the Dairy Supervisor or the Supervisor's designee.
 - d. Every plant shall contain hardening rooms, refrigerating rooms, or refrigerated cabinets with space for storage of frozen desserts and perishable ingredients.
 - e. All utensils used in the receiving, storing, processing, manufacturing, packaging, and handling of frozen desserts or any ingredients shall be of smooth, stainless steel, or plastic listed in the 3-A Accepted Practices and shall have flush seams. Utensils that are badly worn, rusted, or corroded or that cannot be rendered clean and sanitary by washing shall not be used. Lead solder shall not come in contact with milk or milk products or frozen desserts.
 7. Cleaning and sanitizing.
 - a. Cleaning and sanitizing. Equipment, sanitary piping and utensils used in receiving, storing, processing, manufacturing, packaging, and handling frozen desserts and ingredients, and all product contact surfaces of homogenizers, high pressure pumps, packing glands on agitators, pumps and vats, and lines shall be kept clean. Before use, all equipment coming in contact with milk products or frozen desserts shall have a bactericidal or sanitizing treatment. Equipment not designed for C-I-P cleaning shall be disassembled, thoroughly cleaned and sanitized. Biodegradable dairy cleaners, wetting agents, detergents, sanitizing agents, or other similar material that does not adversely affect or contaminate the frozen desserts or ingredients may be used. Steel wool or metal sponges shall not be used to clean any equipment or utensils with product contact surfaces. C-I-P cleaning shall be used only on equipment and pipeline systems designed, engineered, and installed

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- for that type of cleaning. Other equipment and areas in the plant shall be thoroughly cleaned with appropriate methods that prevent potential contamination of ingredients, packaging and frozen desserts. Exhaust stacks, elevators and elevator pits, conveyors and similar facilities shall be inspected and cleaned regularly.
- b. Equipment shall be sanitized by using one of the following methods:
- Using 180° F water for at least two minutes.
 - Using steam under pressure for at least two minutes or until all parts of the equipment being sanitized have reached 180° F, or the condensate off the equipment remains at 180° F for at least two minutes.
 - Using chlorine with a residual of at least 50 ppm after one minute contact with equipment, or if sprayed, with a residual of at least 100 ppm after five minutes.
 - Using any other sanitizing substance prescribed in Appendix F of the PMO.
8. Pasteurization and cooling.
- All frozen desserts mix, except for flavoring agents used in frozen desserts, shall be pasteurized.
 - Frozen desserts mix shall be pasteurized by heating every particle as described in Table 1.
 - Continuous flow pasteurizers, high-temperature-short-time and higher-heat-shorter-time, shall have all public health controls sealed against access and alteration. The seals shall be applied by the Dairy Supervisor or the Supervisor's designee after testing and shall not be removed without immediately notifying the Dairy Supervisor or the Supervisor's designee. The system shall be designed to meet the requirements of the PMO.
 - After pasteurization all mix shall be cooled immediately to 45° F or less and shall be maintained at that temperature until frozen. Milk, cream, and other fluid milk products other than sterilized, evaporated or sweetened condensed milk in hermetically sealed containers shall be stored at 45° F or less.
 - Refrigerated vehicles or approved insulated containers shall be used when transporting frozen desserts mix from the manufacturing or other plant to a retail manufacturer, and
 - Mix shall be moved from coolers or refrigeration units in a manufacturing plant to freezers by using pipes, tubing, or other means listed in the Permanently Installed Product and Solution Pipelines and Cleaning Systems Used in Milk and Milk Product Processing Plants section of the 3-A Accepted Practices.
9. Storage.
- Utensils and equipment. Utensils and portable equipment used in processing, handling, or packaging of frozen desserts shall be stored above the floor in clean, dry locations and in a self-draining position on racks constructed of impervious, corrosion-resistant material.
 - Supplies and containers. Whenever possible, supplies shall be kept in a room separate from the processing, handling, and packaging of frozen desserts and under conditions that result in keeping the materials clean and free from dust, moisture, insects, rodents, or other possible contamination. Supplies shall be arranged to permit cleaning of the area and easy inspection and access. Insecticides and rodenticides shall be plainly labeled, segregated, and stored in a separate room or cabinet away from the edible material or packaging supplies. Caps, parchment papers, wrappers, liners, gaskets, and single-service sticks, spoons, covers, and containers for frozen desserts or ingredients shall be stored only in sanitary tubes, wrappings, or cartons and kept in a clean, dry place until used and shall be handled in a sanitary manner.
- Raw milk products. Raw products for use in frozen desserts that are conducive to bacterial growth shall be handled and stored to minimize bacterial growth. When stored, raw products shall be maintained at 45° F or lower until processing commences.
 - Non-refrigerated products. Products such as non-fat dry milk and other frozen desserts ingredients that do not require refrigeration for proper storing shall be placed in dry storage to be easily accessible for inspection and removal, and for adequate cleaning of the room. Dunnage, pallets or other similar method of elevation shall be used. Frozen desserts or ingredients shall not be stored with any product that would damage them or impair their quality. Opened containers of ingredients shall be protected from contamination.
 - Refrigerated products. All products that require refrigeration shall, except as otherwise specified, be stored under conditions of temperature and humidity that best maintain quality and condition. Products shall not be stored directly on wet floors or be exposed to foreign odors or conditions such as dripping or condensation that may cause package or product damage.
10. Notification of change in products to be manufactured. Any person manufacturing only frozen desserts with butterfat, or only frozen desserts with fats other than butterfat, and uses the other type of fat shall first notify the Dairy Supervisor.
11. Clearing lines and equipment. If the same equipment is used for processing, pasteurizing, and packaging frozen desserts made with dairy products and frozen desserts made with vegetable fats, oils, or proteins, any remaining product shall be completely removed from the lines and equipment and sanitized before introducing another product into the lines and equipment. All equipment and lines shall be sanitized either at the end or beginning of each day's operations.
12. Packaging and containers.
- Frozen desserts shall be packaged in commercial containers using packaging material that protects the product from contamination. The packaging, cutting, molding, dispensing, and other handling or preparation of frozen desserts and their ingredients shall be in a sanitary manner. Frozen dessert containers shall be filled at the place of pasteurization using approved mechanical equipment. Existing manual processes may be permitted if done in a manner that prevents all contact surface contamination and is approved by the Dairy Supervisor.

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- b. Multi-use containers for frozen desserts shall be kept clean and dry. If used for transporting frozen desserts, the containers shall be:
- Rinsed immediately after emptying,
 - Cleaned upon return to the plant, and
 - Protected from contamination during storage.
- c. Metal cans and containers shall be free from rust and corrosion.
- d. Paper and plastic containers, liners, covers, or other materials coming in contact with frozen desserts shall be free from contamination.
- e. Single-service containers shall not be reused.
- B. Personnel.**
- Plant employees shall wash their hands before beginning work and upon returning to work after using toilet facilities, eating, smoking, or otherwise soiling their hands. Employees shall keep their hands clean and follow good hygienic practices while on duty. Expectorating or using tobacco in rooms or compartments where frozen desserts or ingredients are exposed is prohibited. Clean, white, or light-colored, washable outer garments shall be worn by all employees engaged in handling dairy products, mix or frozen desserts. Hair coverings for head and facial hair shall be worn by all employees engaged in the processing, pasteurizing, packaging, handling, and storage of frozen desserts, product containers, and utensils.
 - Frozen desserts shall be handled so that there is no direct contact between an employee's hands and the product.
 - A person who has a discharging or infected wound, sore or lesion on hands, arms or other exposed portions of the body shall not work in any plant processing or packaging room or in any capacity resulting in contact with milk products or frozen desserts or equipment used in the processing or handling of milk products or frozen desserts. An employee returning to work following illness from a communicable disease shall provide a certificate from a physician attesting to the employee's complete recovery before processing or handling milk products or frozen desserts.
- C. Quality standards.**
- Milk products used in the manufacture of frozen desserts shall meet the following standards:

| Product | Standard Plate Count Not to Exceed |
|-------------------|------------------------------------|
| Raw Milk | 500,000 per ml. |
| Pasteurized Milk | 50,000 per ml. |
| Raw Cream | 500,000 per ml. |
| Pasteurized Cream | 100,000 per ml. |
 - Butter, 80% cream, plastic cream, mixtures of butterfat, sugar or sweetening agent, moisture and flavoring, condensed milk, mixes and all other similar products shall meet the following standards:

| Bacterial Standards | Not to Exceed |
|----------------------|-----------------|
| Standard Plate Count | 50,000 per gram |
| Coliform Count | 20 per gram |
| Yeast Count | 50 per gram |
| Mold Count | 50 per gram |
 - Powdered non-fat dry milk, dry whey, and dry buttermilk shall meet the PMO standards.
 - Fats and oils other than from milk shall meet the standards of the United States Food, Drug and Cosmetic Act as amended, or those of any applicable state regulation for fats and oils of food grade standards.
- Frozen desserts in broken or opened containers or in containers from which the product has been partially used may be returned to the plant for examination but shall not be used or sold for making frozen desserts.
 - All reconstituted frozen desserts shall be pasteurized before packaging.
- D. Labeling.**
- All packages of frozen desserts, including cans or other containers of frozen desserts mix but not including frozen desserts packaged in accordance with a customer's request and in the presence of the customer, shall be labeled as prescribed in the federal Food, Drug and Cosmetic Act, as amended.
 - Each frozen dessert package shall contain:
 - The code number assigned by the Dairy Supervisor, identifying the specific manufacturing plant; or
 - The name and address of the frozen dessert manufacturer.
- E. License suspension.** The Dairy Supervisor may suspend the license of a frozen dessert plant whenever the bacteria count, coliform determination, yeast or mold count exceeds the quality standards for frozen desserts in three out of the last five samples taken on separate days. In addition, the Dairy Supervisor may suspend the permit of a frozen dessert plant for failure to comply with any of the provisions of this Section.

Historical Note

Adopted effective December 7, 1976 (Supp. 76-5).
 Amended effective December 5, 1977 (Supp. 77-6). Section R3-2-807 renumbered from R3-5-07 (Supp. 91-4).
 Amended effective December 2, 1998 (Supp. 98-4).
 Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

Table 1. Pasteurization

| Batch (Vat) Pasteurization | |
|---------------------------------------|--------------|
| Temperature | Time |
| 69°C (155°F) | 30 minutes |
| Continuous Flow (HTST) Pasteurization | |
| Temperature | Time |
| 80°C (175°F) | 25 seconds |
| 83°C (180°F) | 15 seconds |
| Continuous Flow (HHST) Pasteurization | |
| 89°C (191°F) | 1.0 seconds |
| 90°C (194°F) | 0.5 seconds |
| 94°C (201°F) | 0.10 seconds |
| 96°C (204°F) | 0.05 seconds |
| 100°C (212°F) | 0.01 seconds |

Historical Note

Table 1 made by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2). Table 1 heading added for clarity (Supp. 21-3).

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

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

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

Historical Note

Adopted effective May 11, 1977 (Supp. 77-3). Section R3-2-808 renumbered from R3-5-08 (Supp. 91-4). Section R3-2-808 renumbered to Section R3-2-809; new Section R3-2-808 adopted effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

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

- A.** All dairies shall comply with the following procedures to exclude medicinal, chemical, and radioactive residues from milk intended for human consumption:
1. Identify all cows that have been treated with or have consumed medicinal, chemical, and radioactive agents capable of being secreted in milk;
 2. Maintain a written record of the date of treatment, type, and quantity of the medicine or chemical administered to each cow;
 3. Milk all treated cows last, or with separate equipment to prevent contamination of the wholesome milk supply;
 4. Clean and sanitize all equipment, utensils, and containers used in the handling of milk from the treated cows before the equipment is used in the handling of any milk intended for human consumption; and
 5. Discard all milk from the treated cows for the period of time recommended by the attending veterinarian or as indicated on the package or label of the medicine used in the treatment of the cow.
- B.** Enforcement.
1. When the residue of a chemical, medicinal, or radioactive agent is found in the milk of a dairy and the Dairy Supervisor determines that the residue may be deleterious to human health, the Director shall immediately suspend the dairy from further selling, offering for sale, or distributing milk for human consumption until:
 - a. The Dairy Supervisor determines that the practice causing the contamination of the milk has been corrected and the dairy is in compliance with the procedures established in subsection (A);
 - b. Any milk that has not been excluded from human consumption as required by subsection (A) is appropriately discarded; and
 - c. The first milk shipment following suspension indicates negative test results for medicinal, chemical, or radioactive residues.
 2. If the Dairy Supervisor determines that a dairy is not in compliance with the procedures established in subsection (A), the Dairy Supervisor may suspend the dairy until the prescribed procedures are observed.

Historical Note

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

R3-2-810. License Fees

During fiscal year 2024, an applicant shall pay the following fee to obtain or renew a dairy license:

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

Historical Note

New Section made by exempt rulemaking at 16 A.A.R. 1331, effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1756, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3). Amended by exempt rulemaking at 19 A.A.R. 3127, effective September 14, 2013 (Supp. 13-3). Amended by exempt rulemaking at 20 A.A.R. 2449, effective July 24, 2014 (Supp. 14-3). Amended by exempt rulemaking pursuant to Laws 2015, Ch. 10, § 14, at 21 A.A.R. 2404, effective July 3, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 1937, effective August 9, 2017 (Supp. 17-2). Amended by final exempt rulemaking at 24 A.A.R. 2219, effective August 3, 2018 (Supp. 18-3). Amended by final exempt rulemaking at 25 A.A.R. 2081, effective August 27, 2019 (Supp. 19-3). Amended by final exempt rulemaking at 26 A.A.R. 1471, effective August 25, 2020 (Supp. 20-3). Amended by final exempt rulemaking at 27 A.A.R. 1264, effective September 29, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 28 A.A.R. 2017 (August 12, 2022), effective September 24, 2022 (Supp. 22-3). Amended by exempt rulemaking at 29 A.A.R. 3483 (November 3, 2023), effective October 30, 2023 (Supp. 23-4).

R3-2-811. Dairy Farm Permit

- A.** A dairy farm, as defined in the PMO, may apply for a PMO milk producer permit by submitting the following information about the dairy farm on a form provided by the Department:
1. Legal name,
 2. Physical and mailing address,
 3. Telephone number,
 4. Owner's name,
 5. Herd size,
 6. Daily milk production,
 7. Water source,
 8. Waste water disposal system,
 9. Number of bulk storage tanks, and

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10. Certification that the dairy farm facilities comply with Grade A requirements.
- B. An applicant for a dairy farm permit shall demonstrate compliance with the minimum standards set out in the PMO by a Department inspection.
- C. A permittee shall maintain compliance with the minimum standards set out in the PMO and shall be subject to inspection by the Department in accordance with the PMO.
- D. The Department may suspend a permit for a permittee's failure to comply with the minimum standards and may revoke a permit if the permittee fails to correct deficiencies within a reasonable time.
- E. Dairy farm permits are not transferable.

Historical Note

New Section made by emergency rulemaking at 20 A.A.R. 1134, effective May 2, 2014, for 180 days (Supp. 14-2). Emergency expired; new Section made by exempt rulemaking at 21 A.A.R. 2407, effective September 22, 2015 (Supp. 15-3).

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

- A. In addition to the definitions provided in A.R.S. §§ 3-701, 3-703 and 3-704, the following shall apply to this Article:
 1. "Business owner or operator" means any person who owns ten percent or more of a business, or a person who controls the operations of a business.
 2. "Check" means an individual egg that has a broken shell or crack in the shell but with its shell membranes intact and its contents do not leak. A "check" is considered to be lower in quality than a "dirty."
 3. "Dirty" means a shell that is unbroken and that has dirt or foreign material adhering to its surface, which has prominent stains, or moderate stains covering more than 1/32 of the shell surface if localized, or 1/16 of the shell surface if scattered.
 4. "Egg-laying hen" means any hen that produces eggs for human consumption.
 5. "Egg products":
 - a. Means eggs, in raw or pasteurized form, that are removed from the shell in a liquid, frozen, dried, or freeze-dried state, but are not fully cooked.
 - b. May consist of whole eggs, yolks, whites, or any blend of yolk and white, with or without additives, if eggs are the main ingredient.
 6. "Housed in a cage-free manner" means confined in a housing system that provides egg-laying hens with all of the following:
 - a. The amount of usable floor space per egg-laying hen equal to or greater than that required by the 2017 edition of the United Egg Producers' Animal Husbandry Guidelines for U.S. Egg-Laying Flocks: Guidelines for Cage-Free Housing.
 - b. An indoor or outdoor controlled environment, which can consist of multi-tiered aviaries, partially-slatted systems, single-level all litter floor systems, or other systems, and which allows egg-laying hens to have:
 - i. Unrestricted freedom to roam;
 - ii. An environment that allows them to exhibit natural behaviors, including, at a minimum, scratch areas, perches, nest boxes, and dust bathing areas; and
 - iii. An environment in which farm employees can provide care while standing within the hens' usable floor space.
 7. "Leaker" means an individual egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exuding or free to exude through the shell.
 8. "Lot" means any quantity of two or more eggs.
 9. "Lot Consolidation" means the removal of damaged eggs from cartons labeled by a producer or producer dealer and replacement of the damaged eggs with eggs of the same grade, size, brand, expiration date and source.
 10. "Multi-tiered aviaries" means cage-free housing systems in which egg-laying hens have unfettered access to multiple elevated flat platforms that provide the egg-laying hens with usable floor space both on top of and underneath the platforms.
 11. "Partially-slatted systems" means cage-free housing systems in which egg-laying hens have unfettered access to elevated flat platforms under which manure drops through the flooring to a pit or litter removal belt below.
 12. "Pasteurized in-shell eggs" means eggs that have been pasteurized with the shell intact by any method approved by the Federal Food and Drug Administration or the department.
 13. "Repacking" means changing the identity of a lot of eggs by removing them from the original container labeled by a packer and placing them into another container not labeled by the packer at the point of origin with the same grade, size, lot number, source and/or brand.
 14. "Single-level all-litter floor systems" means cage-free housing systems bedded with litter, in which egg-laying hens have limited or no access to elevated flat platforms.
 15. "Spot-check" sample means any sample less than a representative sample described in the chart in R3-2-903(B).
 16. "Ultimate consumer" means a person consuming eggs or egg products and a restaurant using eggs in the preparation of a meal.
 17. "Usable floor space" means the total square footage of floor space provided to each egg-laying hen, as calculated by dividing the total square footage of floor space provided to the egg-laying hens in an enclosure by the number of egg-laying hens in that enclosure. "Usable floor space" shall include both ground space and elevated level flat platforms upon which hens can roost, but shall not include perches or ramps.
 18. "UEP" means United Egg Producers.
 19. "United Egg Producers Animal Husbandry Guidelines" means the United Egg Producers Animal Husbandry Guidelines for U.S. Egg Laying Flocks, 2017 Edition. This material is incorporated by reference, does not include any later amendments or editions, and is available for inspection at the Department of Agriculture, 1688 W. Adams St., Phoenix, AZ 85007, or the United Egg Producers at 1720 Windward Concourse, Ste. 230, Alpharetta, GA 30005.
 20. "United Egg Producers Certified" means a company that has achieved United Egg Producers Certified status pursuant to the requirements prescribed by the United Egg Producers Animal Husbandry Guidelines.
 21. "United Egg Producers Certified logo" means the official symbol and accompanying language used to identify eggs produced by United Egg Producers Certified companies.

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22. "United Egg Producers Cage Free Certified logo" means the official symbol and accompanying language used to identify cage-free eggs produced by United Egg Producers Certified companies.
- B. Wherever appropriate, and if not expressly indicated, words in the singular form shall be construed to include the plural and vice versa. Nouns and pronouns in masculine, feminine and neuter genders shall be construed to include any other gender.
- C. Examples shall not be construed to limit, expressly or by implication, the matter they illustrate.
- D. The word "includes" and its derivatives means "includes, but is not limited to" and corresponding derivative expressions.

Historical Note

Former Rule 1; Amended as an emergency effective November 18, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R3-6-01 amended as an emergency now adopted and amended as a permanent rule effective February 19, 1982. Section renumbered as R3-2-901 (Supp. 82-1). Section R3-6-101 renumbered to R3-2-901 (Supp. 91-4). Section repealed, new Section adopted effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2). Amended by final rulemaking at 28 A.A.R. 802 (April 22, 2022), effective October 1, 2022 (Supp. 22-2).

R3-2-902. Standards, Grades, and Weight Classes for Eggs; Pasteurized In-Shell Eggs

- A. Standards for Eggs. All standards, grades, and weight classes of quality for chicken eggs in the shell shall meet the grades for eggs as prescribed in AMS 56, United States Standards, Grades, and Weight Classes for Shell Eggs, revised as of July 20, 2000. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007 and the United States Department of Agriculture, Agricultural Marketing Service, Poultry Programs, STOP 0259, Room 3944-South, 1400 Independence Ave., S.W., Washington, DC 20250-0259, or online at www.ams.usda.gov/grades-standards/eggs. "AMS" means Agricultural Marketing Service, United States Department of Agriculture.
- B. Standards for Pasteurized In-Shell Eggs. It is unlawful for a producer, producer dealer, dealer, or retailer to sell, offer for sale, or expose for sale pasteurized in-shell eggs that are packed for human consumption unless both of the following conditions are met:
1. Quality and weight classes:
 - a. The eggs used to produce pasteurized in-shell eggs shall meet Consumer Grades A or AA and Weight Classes for Eggs of subsection (A).
 - b. At destination:
 - i. Pasteurized in-shell eggs shall contain no more than 7 percent (9 percent for Jumbo size) Checks and not more than 1 percent Leakers, Dirties, or Loss (due to meat or blood spots) in any combination, except that such Loss may not exceed 0.30 percent. Other types of Loss are not permitted.
 - ii. In lots of two or more cases, no individual case may exceed 10 percent Checks.
 - c. Pasteurized in-shell eggs shall meet the weight classes as indicated in Table I. Weight Classes for Pasteurized In-Shell Eggs.
2. Labeling requirements. Except as provided in subsection (B)(2)(j), it is unlawful for an egg producer, producer dealer, dealer or retailer to sell, offer for sale, or expose for sale pasteurized in-shell eggs that are packed for human consumption unless each container intended for sale to the ultimate consumer is labeled on one outside top, side, or end with all of the following:
- a. The consumer container is conspicuously labeled "KEEP REFRIGERATED" or with words of similar meaning as approved by the Department. Consumer container labeling that complies with the safe handling instructions required by Section 101.17 of Title 21 of the Code of Federal Regulations shall be deemed to comply with this subsection.
 - b. The consumer container is conspicuously labeled "produced from" in conjunction with the appropriate consumer grade in letters no smaller than 1/2 size of the labeled consumer grade. The use of the consumer grade without the qualifier "produced from" is not permitted.
 - c. The words "Best By", or "Use by" immediately followed by the month and day in bold type. Months shall be abbreviated Jan, Feb, Mar, Apr, May, Jun, Jul, Aug, Sep, Oct, Nov or Dec. The "Use by," or "Best before" date shall not exceed 75 days from the date on which the pasteurized in-shell eggs were pasteurized, excluding the date of pasteurization. Processors of in-shell eggs that subject the eggs to the pasteurization process shall establish a sell-by date by completion of an appropriate shelf stability study that includes public health and safety criteria. The processor shall retain the study on file at the processing plant and make it available to the Department upon request.
 - d. If the pasteurized in-shell eggs are repacked, the original "Best By" or "Use by" date shall apply.
 - e. A Julian pack date which is the consecutive day of the year on which the pasteurized in-shell eggs were pasteurized.
 - f. The identification number of the plant of origin.
 - g. A conspicuous identification of the eggs as "pasteurized."
 - h. All state and federal labeling requirements.
 - i. This Section does not apply to pasteurized in-shell eggs that are packaged for export.
 - j. Subsection (B) does not apply to pasteurized in-shell eggs that are packaged for interstate commerce or pasteurized in-shell eggs that are packaged for military sales if exported to a state or federal agency that requires a different format for the sell-by or best-if-used-by date on pasteurized in-shell eggs, and the processor is utilizing that format.

Historical Note

Former Rule 2; Amended as an emergency effective November 18, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R3-6-02 amended as an emergency now adopted and amended as a permanent rule effective February 19, 1982. Section renumbered as R3-2-902 (Supp. 82-1). Section R3-6-102 renumbered to R3-2-902 (Supp. 91-4). Section repealed, new Section adopted effective July 13, 1995 (Supp. 95-

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3). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 14 A.A.R. 892, effective May 3, 2008

(Supp. 08-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

Table I. Weight Classes for Pasteurized In-Shell Eggs

| Weight Classes for Pasteurized In-Shell Eggs | | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|------------------------------------------|-------------------------------------------------------------------|
| Size or weight class | Minimum net weight per dozen (ounces) | Minimum net weight 30 per dozen (pounds) | Minimum net weight for individual eggs at rate per dozen (ounces) |
| Jumbo | 30 | 56 | 29 |
| Extra large | 27 | 50 1/2 | 26 |
| Large | 24 | 45 | 23 |
| Medium | 21 | 39 1/2 | 20 |
| *A lot average tolerance of 3.3 percent for individual eggs in the next lower weight class is permitted as long as no individual case within the lot exceeds 5 percent. | | | |

Historical Note

Table I. Weight Classes for Pasteurized In-Shell Eggs made by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

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

- A.** An inspector may conduct random spot-check sampling of a lot of eggs to determine whether the lot meets minimum quality and weight standards and is in compliance with R3-2-907.
- B.** Representative egg sampling, under A.R.S. § 3-710(G), shall be based on Table II. A lot that does not meet minimum quality or weight standards or is not in compliance with R3-2-907 shall receive a warning notice hold tag.
1. An inspector may draw additional samples to determine whether the lot meets the minimum requirements.
 2. When loose eggs are out of the case, the sample shall be based on a carton.
 3. Eggs shall be sampled on a 30-dozen-case basis. When eggs are packed in other lot quantities, an inspector shall convert the quantity of eggs to the equivalent 30-dozen-case basis to establish the official sample size.

Historical Note

Former Rule 3; Amended effective March 17, 1976 (Supp. 76-2). Amended as an emergency effective November 18, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R3-6-03 amended as an emergency now adopted and amended as a permanent rule effective February 19, 1982. Section renumbered as R3-2-903 (Supp. 82-1). Section R3-6-103 renumbered to R3-2-903 (Supp. 91-4). Section repealed, new Section R3-2-903 renumbered from R3-2-906 and amended effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2). Amended by final rulemaking at 28 A.A.R. 802 (April 22, 2022), effective October 1, 2022 (Supp. 22-2).

Table II. Minimum Number of Cases and Cartons Comprising a Representative Sample

| Lot size of cartons | Minimum eggs for inspection | Lot size of 30 doz. per case | Minimum cases for inspection ¹ |
|-----------------------------|-----------------------------|---------------------------------------------------------------------------|-------------------------------------------|
| 1 - 4 cartons | All | 1 case | 1 case |
| 5 - 30 cartons inclusive | 50 | 2 - 10 cases inclusive | 2 cases |
| 31 - 120 cartons inclusive | 100 | 11 - 25 cases inclusive | 3 cases |
| 120 - 210 cartons inclusive | 200 | 26 - 50 cases inclusive | 4 cases |
| 211 - 315 cartons inclusive | 300 | 51 - 100 cases inclusive | 5 cases |
| | | 101 - 200 cases inclusive | 8 cases |
| | | 201 - 300 cases inclusive | 11 cases |
| | | 301 - 400 cases inclusive | 13 cases |
| | | 401 - 500 cases inclusive | 14 cases |
| | | 501 - 600 cases inclusive | 16 cases |
| | | For each additional 50 cases or fraction of a case in excess of 600 cases | 1 case |

¹An inspector shall take 100 eggs from each case for inspection.

Historical Note

Table II was made under new Section R3-2-903 renumbered from R3-2-906 and amended effective July 13, 1995 (Supp. 95-3); it was last amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). The table and historical notes were moved out of R3-2-903 to maintain the numbering codification scheme of tables made at 26 A.A.R. 781 (Supp. 20-2).

R3-2-904. Quarterly Report Periods

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

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

Historical Note

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

R3-2-905. Inspection Fee Rate

- A. All dealers, producer-dealers, manufacturers, and producers shall pay an inspection fee at the rate of 3.0 mills (.00300) per dozen on all shell eggs sold as prescribed in A.R.S. § 3-716(A).
- B. All dealers, producer-dealers, manufacturers, and producers shall pay an inspection fee at the rate of 3.0 mills (.00300) per pound on all egg products sold as prescribed in A.R.S. § 3-716(A).
- C. For scheduled continuous grading, certification, and inspection services. The following rates apply to continuous grading service on a resident basis and continuous grading service on a nonresident basis per grader:
 1. Regular rate: \$38.00/hour;
 2. Overtime rate: \$57.00/hour;
 3. Holiday rate: \$58.00/hour.
- D. For plant survey, unscheduled temporary, certification, auditing and appeal grading services. The following rates apply to temporary and auditing service per grader:
 1. Regular rate: \$57.00/hour;
 2. Overtime rate: \$85.00/hour;
 3. Holiday rate: \$87.00/hour.

Historical Note

Former Rule 5; Former Section R3-6-05 renumbered as Section R3-2-905 (Supp. 82-1). Section R3-6-105 renumbered to R3-2-905 (Supp. 91-4). Section repealed, new Section R3-2-905 renumbered from R3-2-908 and amended effective July 13, 1995 (Supp. 95-3). Amended by emergency rulemaking at 12 A.A.R. 4063, effective October 1, 2006 for 180 days (Supp. 06-4). Emergency renewed at 13 A.A.R. 1509, effective April 9, 2007 for 180 days (Supp. 07-2). Amended by final rulemaking at 13 A.A.R. 1639, effective June 30, 2007 (Supp. 07-2). Amended by final rulemaking at 28 A.A.R. 802 (April 22, 2022), effective October 1, 2022 (Supp. 22-2).

R3-2-906. Violations and Penalties

- A. A dealer, producer-dealer, manufacturer, producer, or retailer, at each individual location, is subject to the penalties in subsection (B) for any of the following violations:
 1. Category A:
 - a. Making a false or misleading statement relating to advertising or selling eggs and egg products;
 - b. Acting as a dealer, producer-dealer, producer, or manufacturer without a valid license;
 - c. Selling shell eggs with an incorrect or incomplete expiration date, or without an expiration date;

- d. Selling grade AA or grade A eggs after the expiration date on the carton, case, or container. Selling pasteurized in-shell eggs without or past the "Best By" or "Use by" date;
 - e. Failing to maintain records and reports required by this Article;
 - f. Failing to label a carton, case, or container with one size, one grade, one brand name, or, as required under R3-2-907;
 - g. Moving eggs or an egg case, carton, or container with a warning tag or notice, or removing a warning tag or notice without permission from the Director;
 - h. Refusing to submit egg or egg product, an egg case, carton, container, subcontainer, lot, load, or display of eggs to inspection; or
 - i. Refusing to stop, at the request of an authorized representative of the Department, any vehicle transporting eggs or egg products;
 - j. Selling eggs that have not been produced in accordance with the standards prescribed under R3-2-907;
 - k. Failing to raise egg-laying hens in this state in accordance with the standards prescribed under R3-2-907.
2. Category B:
 - a. Extending the expiration date of shell eggs as defined in A.R.S. § 3-701(13); or
 - b. Advertising, representing, or selling out-of-state eggs as local eggs.
 3. Category C:
 - a. Failing to ensure that shell eggs for human consumption are kept refrigerated at an ambient temperature not higher than 45° F;
 - b. Failing to ensure that frozen egg products for human consumption, labeled for storage at 0° F or below, are kept under refrigeration at a temperature of 0° F or lower;
 - c. Failing to ensure that liquid egg products for human consumption are kept refrigerated at a temperature not higher than 40° F; or
 - d. Failing to meet the sanitary standards egg processing of R3-2-908.
- B. Any violation of this Article or of A.R.S. Title 3, Chapter 5, Article 1 not listed in subsection (A) is subject to a Category A civil penalty.
 - C. Under A.R.S. § 3-739, the civil penalty for a violation of subsection (A) is in Table III.

Historical Note

Former Rule 6; Amended effective February 19, 1982. Former Section R3-6-06 renumbered as Section R3-2-906 (Supp. 82-1). Section R3-6-106 renumbered to R3-2-906 (Supp. 91-4). Former Section R3-2-906 renumbered to R3-2-903, new Section adopted effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 4058, effective October 7, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2). Amended by made by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2). Amended by final rulemaking at 28 A.A.R. 802 (April 22, 2022), effective October 1, 2022 (Supp. 22-2).

Table III. Violations and Penalties

| Number of Violations | Category A | Category B | Category C |
|----------------------|------------|------------|------------|
|----------------------|------------|------------|------------|

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| | | | |
|---|---------|---------|---------|
| 1 | Warning | Warning | Warning |
| 2 | \$50 | \$50 | \$100 |
| 3 | \$100 | \$100 | \$200 |
| 4 | | \$150 | \$400 |
| 5 | | \$200 | \$500 |
| 6 | | \$250 | |
| 7 | | \$300 | |

Historical Note

Table III made by made by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2). Heading added for clarity (Supp. 21-3).

R3-2-907. Poultry Husbandry; Standards for Production of Eggs and Biosecurity Requirements

- A. Until September 30, 2022, all egg-laying hens in this state shall be raised according to UEP Animal Husbandry Guidelines.
- B. Until September 30, 2022, all eggs sold in this state produced by hens shall be from hens raised according to the UEP Animal Husbandry Guidelines. All eggs shall display the UEP Certified logo on their cases, cartons, and containers, or the egg dealer shall annually provide the Department with a copy of a current independent third-party audit that demonstrates that the eggs were produced by hens raised according to UEP Animal Husbandry Guidelines.
- C. Beginning October 1, 2022, all egg-laying hens in this state shall be housed in accordance with the UEP Animal Husbandry Guidelines and shall be provided with no less than one square foot of usable floor space per egg-laying hen.
- D. Beginning October 1, 2022, all eggs and egg products sold in this state shall be from hens that are housed in accordance with the UEP Animal Husbandry Guidelines and provided with no less than one square foot of usable floor space per egg-laying hen.
- E. Beginning no later than January 1, 2025, all egg-laying hens in this state shall be housed in a cage-free manner.
- F. Beginning no later than January 1, 2025, all eggs and egg products sold in this state shall be from hens housed in a cage-free manner.
- G. Subsections (A) through (F) do not apply to egg producers or business owners or operators operating or controlling the operation of one or more egg ranches each having fewer than 20,000 egg-laying hens producing eggs. Subsections (A) through (E) also do not apply to any hens that are raised cage-free or any eggs produced by hens that are raised cage-free.
- H. Beginning no later than October 1, 2022, in order to sell eggs or egg products within the state, a business owner or operator must have a certificate from the Supervisor certifying that the eggs or egg products are produced in compliance with subsections (C) through (F), or are exempt under subsection (G). The Supervisor will certify that eggs and egg products are produced in compliance with subsections (C) through (G) if the eggs or egg products are accompanied by documentation from a government or private third-party inspection and continuous process verification service that the Supervisor deems acceptable establishing that the eggs or egg products were produced in compliance with this Section. The immediate container of eggs and egg products shall be plainly and conspicuously marked with the words "ARS 710J" in bold-faced type not less than one-eighth inch in height; or in another manner pre-approved by the Department.

- I. It shall be a defense to any action to enforce this Rule that a business owner or operator relied in good faith upon a written certification by the supplier that the eggs or egg products at issue were derived from an egg-laying hen which was housed in compliance with this Section.
- J. All producers and producer dealers with operations within the state shall have a written biosecurity plan in place. At a minimum each producer and producer dealer shall:
 1. Restrict access to all areas where poultry are housed or kept.
 2. Take steps to ensure that contaminated material is not transported into any poultry barns.
 3. Cover and secure feed in a manner that prevents wild bird, rodents or other animals from accessing the feed.
 4. Cover and properly contain poultry carcasses, used litter, or other disease-containing organic materials that prevents wild birds, rodents or other animals from accessing the material and movement of the materials by the wind.
 5. Keep houses in good repair and all areas to which the birds have access should be kept free of materials hazardous to the birds.
- K. The biosecurity plan shall contain the following:
 1. Methods for the disposal and handling of poultry manure.
 2. Procedures for prevention, control and eradication of vectors for poultry diseases.
 3. Procedures for the detection, control and treatment of poultry diseases.
 4. Methods for the disposal and handling of culled birds and entire flocks under normal cyclic operations and following emergency depletion as a result of disease.
 5. A facility poultry disease control and prevention plan which includes standard operating procedures with respect to specific measures to control and prevent disease including but not limited to structural and operational disease control and prevention provisions.
 6. Procedures to prevent cross contamination between nest run and in line eggs.
 7. Procedures to prevent the introduction and transmittal of diseases by vehicles and any other forms of transportation.
 8. Signed agreements with all employees containing biosecurity procedures regarding contact with outside poultry and wild birds.
- L. A producer and producer dealer shall allow the Department to enter the premises during normal working hours to inspect the biosecurity plan documents and the biosecurity that is implemented.

Historical Note

Former Rule 7; Former Section R3-6-07 renumbered as Section R3-2-907 (Supp. 82-1). Section R3-6-107 renumbered to R3-2-907 (Supp. 91-4). Section R3-2-907 renumbered to R3-2-904 effective July 13, 1995 (Supp. 95-3). New Section made by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2). Amended by made by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2). Amended by final rulemaking at 28 A.A.R. 802 (April 22, 2022), effective October 1, 2022 (Supp. 22-2).

R3-2-908. Sanitary Standards; Egg Processing

- A. All egg producers and retail locations where lot consolidation is conducted in this state shall meet the facility and sanitary operation requirements prescribed by the Regulations Governing the Voluntary Grading of Shell Eggs, 7 CFR 56, effective

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March 30, 2008. This material is incorporated by reference, does not include any later editions, and is available for inspection at the Department of Agriculture, 1688 W. Adams St., Phoenix, AZ 85007.

- B.** No person other than a producer or producer dealer shall repack eggs. All eggs sold to the ultimate consumer must be pre-packaged with all required labeling requirements of this Article and A.R.S. Title 3 Chapter 5. A producer, producer dealer shall not pack or repack eggs that have been in retail distribution channels.
- C.** A retailer may lot consolidate eggs labeled for the ultimate consumer by a packer. A daily log with lot information is required and shall include volume consolidated, grade, size, brand, lot and source.

Historical Note

Former Rule 8; Amended effective October 1, 1979 (Supp. 79-5). Former Section R3-6-08 renumbered as Section R3-2-908 (Supp. 82-1). Amended effective January 1, 1985 (Supp. 84-6). Amended effective December 30, 1987 (Supp. 87-4). Amended effective March 23, 1990 (Supp. 90-1). Section R3-6-108 renumbered to R3-2-908 (Supp. 91-4). Section R3-2-908 renumbered to R3-2-905 effective July 13, 1995 (Supp. 95-3). New Section made by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2). Amended by made by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

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

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

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

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

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

Historical Note

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

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

- A.** License fees are established as follows:
1. Aquaculture facility: \$100 annually.
 2. Fee fishing facility: \$100 annually.
 3. Aquaculture processor: \$100 annually.
 4. Aquaculture transporter: \$100 annually.
 5. Special licenses: \$10 annually.
- B.** An expired license may be renewed within 90 days after expiration by payment of a \$50 late fee.
- C.** Upon request of the licensee, the Department shall assess the licensed facility and, if applicable, certify the facility is free from infectious diseases and causative agents listed in R3-2-

1009 before issuing a Certificate of Aquatic Health. All expenses properly incurred in the certification procedure of the inspection, including time, travel, and laboratory expenses, shall be paid to the Department by the licensee requesting certification.

Historical Note

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

R3-2-1003. General Licensing Provisions

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

Historical Note

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

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by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

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

- A.** In addition to the application requirements in R3-2-1003, an applicant for a license to operate an aquaculture facility, a fee fishing facility, or a special license facility under A.R.S. § 3-2908(A) shall provide the following information on a form provided by the Department:
1. Water sources, transmission, and conveyances;
 2. Method used to dispose of tailing waters and solid wastes;
 3. Number and size of ponds, raceways, and tanks, if applicable;
 4. Whether hatchery facilities are included;
 5. A list of all animals and plants to be authorized under the license by genus, species, and common name.
- B.** An application to culture or possess an aquatic animal or plant that has not previously occurred in the drainage where the facility is located shall be accompanied by a written proposal. The applicant's proposal shall include:
1. Anticipated benefits from introducing the species;
 2. Anticipated adverse effects from introducing the species, as it may affect indigenous or game fish, including hybridization;
 3. Anticipated diseases inherent to introducing the species;
 4. Suggestions for post-introduction evaluation of status and impacts of the introduced species; and
 5. Structural and operational methods implemented to prevent escape of the species, if applicable.
- C.** Each body of water serving a facility shall be contained within the boundaries of the land owned or leased by the licensee.
- D.** A facility using public waters having natural or artificial inlets, rivers, creeks, washes, or canals shall provide mechanical screening approved by the Department to prevent live aquatic animals and plants, including eggs and fry, from escaping beyond the aquaculture facility boundaries or into public bodies of water.
- E.** An applicant for a special license under A.R.S. § 3-2908(A) shall also provide the following information to the Department at the time of application:
1. A written narrative describing the project in detail, the project purpose, the hypothesis, and the project duration; and
 2. The proposed disposition of the aquatic animals or plants upon completion of the project.
- F.** The Department shall consider the recommendations of the Arizona Game and Fish Department, under A.R.S. § 3-2903, when determining whether to issue a license or an import permit under R3-2-1010. The Department may issue a license excluding some of the aquatic animal or plant species listed in the application.

Historical Note

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

R3-2-1005. Fee Fishing Facility

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

1. The aquatic animal is dead, and
2. The licensee provides the person removing the aquatic animal with written proof of sale identifying the:

- a. Facility, by name, address, and Department establishment number issued under R3-2-1003(B);
- b. Date of harvest; and
- c. Number and species of aquatic animals transported from the facility.

Historical Note

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

R3-2-1006. Processor License

- A.** In addition to complying with the application requirements of R3-2-1003, applicants for a license to operate as an aquaculture processor as defined in A.R.S. § 3-2901(12) shall provide the following information on a form furnished by the Department:
1. Water sources, transmission, conveyances, and annual consumption in gallons or acre feet;
 2. Method used to dispose of tailing waters and solid wastes;
- B.** A processing facility shall operate in a clean and sanitary condition during all periods of operation. The following are the minimum requirements for such establishments.
1. Each establishment shall have sanitary floors and walls impervious to water.
 2. All outside windows and doors shall be screened.
 3. There shall be a supply of potable water.
 4. There shall be a sewage disposal system of such a type as not to be a breeding place for insects and not to constitute a hazard or to endanger public health.

Historical Note

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

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

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

Historical Note

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

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2004 (Supp. 04-1).

R3-2-1008. Repealed**Historical Note**

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

R3-2-1009. Disease Certification

- A. A licensee requesting and receiving a Certificate of Aquatic Health shall have their facility inspected and all live aquatic animals, fertilized eggs and milt shall be found free of, but not limited to, the following diseases and causative agents:
1. Causative agent: Egtved Virus. Disease: VHS, Viral Hemorrhagic Septicemia of Salmonids.
 2. Causative agent: Infectious Hematopoietic Necrosis Virus. Disease: IHN, Infectious Hematopoietic Necrosis of Salmonids.
 3. Causative agent: Infectious Pancreatic Necrosis Virus. Disease: IPN, Infectious Pancreatic Necrosis of Salmonids.
 4. Causative agent: *Ceratomyxa shasta*. Disease: Ceratomyxosis of Salmonids.
 5. Causative agent: *Rhabdovirus carpio*. Disease: Spring Viremia of carp. Certification is required in this case only when the original origin of the shipment is from outside the United States.
 6. Causative agent: *Renibacterium salmoninarum*. Disease: BKD, Bacterial Kidney Disease of Salmonids.
 7. Causative agent: *Aeromonas salmonicida*. Disease: Furunculosis.
 8. Causative agent: *Myxobolus cerebralis*. Disease: Whirling Disease of Salmonids.
- B. The Department may require inspection for any disease or causative agent not listed in subsection (A) when there is evidence that the disease or causative agent may constitute a threat to aquatic animals or plants, aquatic wildlife or the aquaculture industry. The Department shall send written notice to all licensees pursuant to this Chapter when implementing this subsection, naming the disease or causative agent of concern. Action to quarantine or seize aquatic animals or plants pursuant to this subsection shall not be subject to delay pending such written notice.

Historical Note

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

R3-2-1010. Importation of Aquatic Animals

- A. The owner, or owner's agent, importing live aquatic animals into the state shall ensure the animals are accompanied by the following:
1. A Certificate of Aquatic Health as defined in R3-2-1001, based upon an inspection of the originating facility within the 12 months preceding the shipment;
 2. A transporter license issued under R3-2-1007; and
 3. An import permit number issued by the Department under this Section, legibly written or typed on the certificate of aquatic health.
- B. The owner, or owner's agent, of live aquatic animals, except those imported by a retail outlet as prescribed in A.R.S. § 3-2907(J), shall ensure that the animals are consigned to or in the care of:
1. An Arizona resident;
 2. An aquaculture facility, fee fishing facility, or special license holder licensed by the Department;

3. A holder of an aquatic wildlife stocking permit issued by the Arizona Game and Fish Department; or
 4. A holder of any aquatic animal license issued by the Arizona Game and Fish Department.
- C. The owner, or owner's agent, may obtain an import permit number from the Department, Office of the State Veterinarian, by providing the following information:
1. Consignor's name, address, and telephone number;
 2. Consignee's name, address, and telephone number;
 3. Consignee's Department establishment number issued by the Department or a copy of an aquatic wildlife stocking permit or the license issued by the Arizona Game and Fish Department;
 4. Origin of the shipment;
 5. Genus, species, and common name of aquatic animals to be imported; and
 6. Quantity and size classification of aquatic animals to be imported.
- D. An import permit number remains valid for 15 calendar days from the date of issuance by the Department.
- E. The Department shall refuse entry to any shipment that does not comply with this rule.
- F. The Department shall quarantine and require destruction of any shipment, after its arrival, that it determines is infected with or was previously exposed to any causative agent or disease listed in R3-2-1009.

Historical Note

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

ARTICLE 11. VOLUNTARY EGG GRADING PROGRAM**R3-2-1101. Definitions**

For the purpose of this Article, unless the context otherwise requires, the terms in this Section shall have the following meaning:

"Acceptable" means suitable for the purpose intended.

"Administrator" means the supervisor as defined in A.R.S. § 3-701.

"Ambient temperature" means the air temperature maintained in an egg storage facility or transport vehicle.

"AMS" means Agricultural Marketing Service, United States Department of Agriculture.

"Applicant" means any person or entity who requests any grading service.

"Appeal grading" means a re-grading requested by a recipient who is dissatisfied with an initial grading decision.

"Associate Director" means the associate director of the animal service division.

"Auditing services" means the act of providing independent verification of written quality assurance and value added standards for production, processing and distribution of eggs. Auditing services are performed by graders authorized by the Administrator to perform such audits and the service provided will be in accordance with the provisions of this Article for grading services, as appropriate.

"Cage mark" means any stain-type mark caused by an egg coming in contact with a material that imparts a rusty or blackish appearance to the shell.

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“Case” means, when referring to containers, an egg case, as used in commercial practice in the United States, holding 30 dozens of eggs.

“Class” means any subdivision of a product based on essential physical characteristics that differentiate between major groups of the same size, kind, species, or method of processing.

“Chick papers” means the papers in which chicks are delivered.

“Condition” means any condition (including, but not being limited to, the state of preservation, cleanliness, soundness, wholesomeness, or fitness for human food) of any product which affects its merchantability.

“Consumer grades” means U.S. Grade AA, A, and B.

“Controlling person” means a person at least 21 years of age legally accountable for operations and management of the egg production plant.

“Department” or “AZDA” means the Arizona Department of Agriculture.

“Director” means the Director of the Arizona Department of Agriculture.

“Egg grading service” means the personnel who are actively engaged in the administration, application, and direction of egg grading programs and services pursuant to this Article.

“Eggs” means eggs of domesticated chickens.

“Eggs of current production” means eggs that are no more than 21 days old.

“Grademark” means the official identification symbol used to identify eggs officially graded by AZDA in accordance with this Article.

“Grader” means any employee assigned by AZDA to investigate and certify in accordance with this Article, the class, quality, quantity, or condition of products.

“Grading or grading service” means the determination by a grader that a product meets the standards of this Article regarding the class, quality, quantity, or condition of the product for the purpose of issuing a grade or grading certificate. Such determination may be performed by examining all product units or representative samples drawn by the grader; may be performed as a temporary, resident or non-resident grading service; and includes regrading performed in response to an appeal of a previous grading decision.

“Grading certificate” means a statement, either written or printed, issued by a grader pursuant to this Article, relative to the class, quantity, quality, or condition of products.

“Holiday or legal holiday” means the legal public holidays specified by State of Arizona Accounting Manual (SAAM).

“Identify” means to apply a grademark to products or the containers thereof.

“Interested party” means any person financially interested in a transaction involving any grading, appeal grading, or regrading of any product.

“Office of grading” means the office of any resident grader at the plant.

“Official AZDA certificate” means any form of certification, either written or printed, used under this Article to certify with respect to the sampling, class, grade, quality, size, quantity, or condition of products (including the compliance of products with applicable specifications).

“Official AZDA memorandum” means any initial record of findings made by an authorized person in the process of grading or sampling pursuant to this Article, any processing or plant-operation report made by an authorized person in connection with grading or sampling under this Article, and any report made by an authorized person of services performed pursuant to this Article.

“Official AZDA mark” means the grademark and any other mark, or any variations in such marks approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product, stating that the product was graded, or indicating the appropriate U.S. grade or condition of the product, or for the purpose of maintaining the identity of products graded under this Article, including but not limited to, those set forth in R3-2-1111.

“Official identification” means any AZDA standard designation of class, grade, quality, size, quantity, or condition specified in this Article or any symbol, stamp, label, logo, or seal indicating that the product has been officially AZDA graded and/or indicating the class, grade, quality, size, quantity, or condition of the product approved by the Supervisor and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

“Official plant” means the facilities used for a shell egg operation that has been approved by AZDA for grading purposes.

“Origin grading” means a grading made on a lot of eggs at a plant where the eggs are graded and packed.

“Packaging” means the primary or immediate container in which eggs are packaged and which serves to protect, preserve, and maintain the condition of the eggs.

“Packing” means the secondary container in which the primary or immediate container is placed to protect, preserve, and maintain the condition of the eggs during transit or storage.

“Person” means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

“Plant” means the facilities used for a shell egg operation.

“Potable water” means water that has been approved by the State health authority or agency or laboratory acceptable to the Administrator as safe for drinking and suitable for food processing.

“Product or products” means eggs of the domesticated chicken.

“Quality” means the inherent properties of any product which determine its relative degree of excellence.

“Quality assurance inspector” means any designated company employee other than the plant owner, manager, foreman, or supervisor, authorized by the State supervisor to examine product and to supervise the labeling, dating, and lotting of officially graded eggs and to assure that such product is packaged under sanitary conditions, graded by authorized personnel, and maintained under proper inventory control until released by an employee of the Department.

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“Recipient” means the individual or entity whose application for grading services has been approved by the Department.

“Resident grading service” means continuous supervision, in an official plant, of the handling or packaging of any product.

“Sampling” means the act of taking samples of any product for grading or certification.

“SE” means *Salmonella* Enteritidis.

“Shell protected” means eggs which have had a protective covering such as oil applied to the shell surface. The product used shall be acceptable to the Food and Drug Administration.

“Shipped for retail sale” means eggs that are forwarded from the processing facility for distribution to the ultimate consumer.

“State supervisor” means the immediate supervisor of a Grader.

“Washed ungraded eggs” means eggs which have been washed and that are either sized or unsized, but not segregated for quality.

Historical Note

Section R3-2-1101 recodified from R3-2-101 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). New Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1102. General Provisions

- A. Administration. The Administrator shall perform such duties as the Associate Director may require in the enforcement or administration of the provisions of this Article. The Administrator is authorized to waive for limited periods any particular provisions of this Article to permit experimentation so that new procedures, equipment, and processing techniques may be tested to facilitate definite improvements and at the same time to determine full compliance with the spirit and intent of this Article. The AZDA and its officers and employees shall not be liable in damages through acts of commission or omission in the administration of this Article.
- B. Basis of grading service.
 1. Grading service with respect to the determination of the quality of products shall be on the basis of the United States Standards, Grades, and Weight Classes for shell eggs. However, grading service may be rendered with respect to products which are bought and sold on the basis of institutional contract specifications or specifications of the recipient; and such service, when approved by the Administrator, shall be rendered on the basis of such specifications. The supervision of packaging shall be in accordance with such instructions as may be approved or issued by the Administrator.
 2. Whenever grading service is performed on a representative sample basis, such sample shall be drawn and consist of not less than the minimum number of cases as indicated in:
 - a. R3-2-903 for stationary lots; or
 - b. QAD 700 Shell Egg Graders Handbook Section 8 on-line sampling of Shell Eggs (8-30-2016).
 3. Accessibility of product. Each product for which grading service is requested shall be so conditioned and placed as to permit a proper determination of the class, quality, quantity, or condition of such product.

- C. Prerequisites to grading. Grading of products shall be rendered pursuant to this Article and under such conditions and in accordance with such methods as may be prescribed or approved by the Administrator.
- D. Supervision. All plant grading service shall be subject to supervision at all times by an AZDA grader. Such service shall be rendered in accordance with instructions issued by the Administrator where the facilities and conditions are satisfactory for the conduct of the service and the requisite graders are available.
- E. Other applicable regulations. Compliance with this Article shall not excuse failure to comply with any other applicable Federal, State, or local laws or regulations.

Historical Note

Section R3-2-1102 recodified from R3-2-102 (Supp. 97-1). Amended effective October 8, 1998 (Supp. 98-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1103. Equipment and Facilities for Graders

Equipment and facilities to be furnished by the recipient for use of graders in performing service on a resident basis shall include, but not be limited to, the following:

- A. An accurate metal stem thermometer.
- B. An accurate means to determine pH level of wash water.
- C. Test kits for checking the concentration level of the solution used for sanitizing eggs and monitoring the concentration level of potable water treatment compounds in plants having chlorinators. The kit must be designed for testing the compound being used.
- D. Protective equipment including, general purpose gloves and safety glasses to all egg graders who are monitoring the strength of potable water treatment compounds and egg sanitizing solutions, unless plant employees are trained to perform the testing under the direct supervision of the grader.
- E. Electronic digital-display scales graduated in increments of 1/10-ounce or less for weighing individual eggs and test weights for calibrating such scales. Plants packing product based on metric weight must provide scales graduated in increments of one gram or less.
- F. Electronic digital-display scales graduated in increments of 1/4-ounce or less for weighing the lightest and heaviest consumer packages packed in the plant and test weights for calibrating such scales.
- G. Scales graduated in increments of 1/4-pound or less for weighing shipping containers and test weights for calibrating such scales.
- H. Test weights sufficient in size to verify the accuracy of the lightest and heaviest unit of measurement weighed on any given scale located in the plant.
- I. Two candling lights that provide a sufficient combined illumination through both the aperture and downward through the bottom to facilitate accurate interior and exterior quality determinations.
- J. A candling booth adequately darkened and located in close proximity to the work area that is reasonably free of excessive noise. The booth must be sufficient in size to accommodate two graders, two candling lights, and other necessary grading equipment.
- K. If deemed necessary by the supervisor, a cart or method of conveyance for the transportation of samples to and from the candling booth.

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- L. Furnished office space, suitable wireless internet connection, a desk and file or storage cabinets (equipped with a satisfactory locking device), suitable for the security and storage of official supplies, and other facilities and equipment as may otherwise be required. Such space and equipment must meet the approval of the Administrator.

Historical Note

Section R3-2-1103 recodified from R3-2-103 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1104. Schedule of Operation of Official Plants

Grading operating schedules for services performed pursuant to this Article shall be requested in writing and be approved by the Administrator. Normal operating schedules for a full week consist of a continuous eight-hour period per day (excluding not to exceed one hour for lunch), five consecutive days per week, within the administrative workweek, Saturday through Friday, for each shift required. Less than eight-hour schedules may be requested and will be approved if a grader is available. Clock hours of daily operations need not be specified in the request, although as a condition of continued approval, the hours of operation shall be reasonably uniform from day to day. Graders are to be notified by management one day in advance of any change in the hours grading service is requested.

Historical Note

Section R3-2-1104 recodified from R3-2-104 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1105. Application for Grading Service

- A. An application for AZDA grading service may be made by egg producer or a producer dealer with operations located in Arizona.
- B. Form of application. Each application for grading or sampling a specified lot of any product shall include such information as may be required by the Administrator in regard to the product and the premises where such product is to be graded or sampled. The applicant shall designate the employees of the applicant who will be authorized to provide information to the AZDA grader or graders as may be necessary for the performance of the grading service.
- C. Application for grading service in official plants; approval. Any person desiring to process and pack products in a plant under grading service must receive approval of such plant and facilities as an official plant prior to the rendition of such service. When a signed application for service has been received, the State supervisor or the supervisor's assistant shall complete a plant survey pursuant to this Article. An application for grading service shall be approved when the application has been filed for grading service; a successful plant survey is completed; and all required facility or equipment modifications are completed.
- D. Denial of service. An application for grading service may be denied by the Administrator when:
1. The applicant fails to meet the requirements of this Article prescribing the conditions under which the service is made available.

2. The product is owned by or located on the premises of a person currently denied the benefits of this Article.
 3. Any individual holding office or a responsible position with or having a substantial financial interest or share in the applicant is currently denied the benefits of the Act or was responsible in whole or in part for the current denial of the benefits of this Article to any person or entity.
 4. The Administrator determines that the application is an attempt on the part of a person currently denied the benefits of this Article to obtain grading services.
 5. The applicant, after an initial survey has been made in accordance with this Article, fails to bring the grading facilities and equipment into compliance with this Article within a reasonable period of time.
 6. Notwithstanding any prior approval whenever, before initiation of service, the applicant fails to fulfill commitments concerning the initiation of the service.
 7. It appears that performing the services specified in this Article would not be in the best interests of the public welfare or of the Government.
 8. It appears to the Administrator, in his sole discretion, that prior commitments of the Department or lack of resources necessitate denial of service.
- E. Debarment. An applicant may be permanently debarred for the following reasons:
1. The giving or offering, directly or indirectly, of a bribe, or any money, loan, gift, or anything of value to an employee of the Department to obtain any benefit or special treatment;
 2. Taking any action that falsely brings the Department in disrepute or that creates the appearance of impropriety;
 3. Knowingly making a false or misleading statement of a material fact to the Department;
 4. Using any official identification, grademark, stamp, symbol, label, seal, or identification without authority from the Department;
 5. Forging, counterfeiting, or falsely simulating any grading certificate, symbol, stamp, label, seal, or identification authorized pursuant to this Article;
 6. Use of an official grademark, certificate, symbol, stamp, label, seal, or identification without authority;
 7. Failure to make an official plant or product accessible for grading service;
 8. Interference with the performance of duty of an AZDA grader, licensee, contractor, or employee.
 9. Failure to pay a Department invoice within 30 days after issuance of the invoice; or
 10. Any other violation of any provision of the statutes, rules and regulations of the Department that threatens the health, safety, or welfare of the public.
- F. Notification. An applicant shall be promptly notified of the reasons for a denial of service. A written petition for reconsideration of such denial may be filed by the applicant with the Administrator if postmarked or delivered within 10 days after the receipt of notice of the denial. Such petition shall state specifically the errors alleged to have been made by the Administrator in denying the application. Within 20 days following the receipt of such a petition for reconsideration, the Administrator shall approve the application or notify the applicant of the reasons for the denial thereof. Service of notice may be accomplished by regular mail and/or email.
- G. Withdrawal of application. An application for grading service may be withdrawn by the applicant at any time before the service is performed, provided that the applicant pays all

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expenses incurred by the AZDA in connection with such application.

Historical Note

Section R3-2-1105 recodified from R3-2-105 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1106. Authority of Applicant

- A. Proof that an authorized controlling person is applying for any grading service may be required at the discretion of the Administrator. Such proof may include, but is not limited to:
1. Documentation, as specified under A.R.S. § 41-1080(A), of the applicant's lawful presence in the U.S.
 2. Proof of business entity structure of the plant.
 3. Proof of ownership interest or position held in the plant.
 4. Documentation of designated authority from the business entity under which the plant operates.
- B. The approved recipient of grading services must notify the Department of a change of control or ownership of the official plant within 15 days after such change is effective.

Historical Note

Section R3-2-1106 recodified from R3-2-106 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1107. Order of Service

AZDA grading service shall be performed, insofar as practicable and subject to the availability of qualified graders, on a first-come, first-served basis, except that precedence may be given to an application for an appeal grading.

Historical Note

Section R3-2-1107 recodified from R3-2-107 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1108. Types of Grading Service

- A. Scheduled continuous grading service on a resident basis and continuous grading service on a nonresident basis. Service on a resident basis has a scheduled tour of duty, while service on a nonresident basis has a nonscheduled tour of duty, but is of a reoccurring nature. Both of these services are performed when an applicant requests that an AZDA/inspector grader be stationed in the applicant's processing plant and grade eggs in accordance with U.S. Standards. The applicant agrees to comply with the facility, operating, and sanitary requirements of resident service. The charges for resident grading services are based on the hours of the regular tour of duty. Eggs graded under AZDA resident grading service are only eligible to be identified with the official grademarks shown in R3-2-1111 when processed and graded under the supervision of a grader/inspector, or quality assurance inspector as provided in R3-2-1114.
- B. Unscheduled temporary grading service. Temporary grading service is performed when an applicant requests resident grading on a fee basis. The applicant must meet all of the facility,

operating, and sanitary requirements of resident service. Charges or fees are based on the time and expenses needed to perform the work. Eggs graded under temporary grading service are only eligible to be identified with the official AZDA grademarks when they are processed and graded under the supervision of a grader or quality assurance inspector as provided in R3-2-1114.

- C. Auditing service. Auditing service is performed when an applicant requests independent verification of written quality assurance and value added standards for production, processing, and distribution of eggs. Charges or fees are based on time, travel, and expenses needed to perform the work.
- D. The Department shall determine the number of graders needed to perform grading services. Recipients shall not ask AZDA graders to assume plant managerial responsibilities.

Historical Note

Section R3-2-1108 recodified from R3-2-108 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1109. Suspension of Grading Service or Plant Approval for Correctable Cause

- A. Provision of grading services is a privilege and not a right. Any plant approval of grading services given pursuant to this Article may be suspended by the Administrator for:
1. Failure to maintain grading facilities and equipment in a satisfactory state of repair, sanitation, or cleanliness.
 2. The use of operating procedures which are not in accordance with this Article;
 3. Alterations of grading facilities or equipment which have not been approved in accordance with this Article; or
 4. Any reasons listed under R3-2-1105(D) "Denial of Service," or required by any other need to protect public health, safety, or welfare.
- B. Suspension may occur prior to the right to have a hearing in cases in which immediate suspension is required to protect public health, safety, or welfare. Whenever it is feasible to do so, written notice in advance of such suspension of plant approval shall be given to the person concerned and shall specify a reasonable period of time in which corrective action must be taken. If advance written notice is not given, the action shall be promptly confirmed in writing after the suspension and the reasons therefor shall be stated, except in instances where the person has already corrected the deficiency. During such period of suspension, grading service shall not be rendered. After appropriate corrective action is taken, grading service will be restored immediately, or as soon thereafter as a grader can be made available.
- C. If the grading facilities or methods of operation are not brought into compliance within a reasonable period of time as specified by the Administrator, the Administrator shall send formal notice of the suspension pursuant to A.R.S. Title 41, Chapter 6, Article 10. Any suspension shall continue in effect pending the outcome of a hearing unless otherwise ordered by the Administrator.
- D. Upon suspension of grading service, all grademarks (labels, seals, tags, or packaging material bearing other official identification), shall, under the supervision of a person designated by the AZDA, be destroyed, obliterated, or sequestered in a manner acceptable to the AZDA.

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- E. In any case where grading service is suspended under this Section, the person concerned may thereafter apply for grading service once the conditions giving rise to the suspension or withdrawal have been remediated.

Historical Note

Section R3-2-1109 recodified from R3-2-109 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1110. Authority to Use Official Insignia

- A. Authority to use official AZDA grademarks. Authority to use an AZDA grademark on products is granted only to recipients who utilize the services of a grader or quality assurance inspector in accordance with this Article. Packaging materials bearing official identification marks shall be approved pursuant to R3-2-1110 to R3-2-1111, inclusive, and shall be used only for the purpose for which approved and prescribed by the Administrator. Any unauthorized use or disposition of approved labels or packaging materials which bear any official AZDA identification may result in cancellation of grading service, denial of the permission to use of labels or packaging materials bearing official identification, or denial of other benefits of the Act pursuant to the provisions of R3-2-1105 D.
- B. Approval of official identification. No label, container, or packaging material which bears official identification may contain any statement that is false or misleading. No label, container, or packaging material bearing official identification may be printed or prepared for use until the printers' or other final proof has been approved by the Administrator in accordance with this Article. It is the recipient's responsibility to ensure label compliance with the Federal Food, Drug, and Cosmetic Act, the Fair Packaging and Labeling Act, and the regulations promulgated under this Article. The use of finished labels must be approved as prescribed by the Administrator. A grader may apply official identification stamps to shipping containers if they do not bear any statement that is false or misleading. If the label is printed or otherwise applied directly to the container, the principal display panels of such container shall for this purpose be considered as the label. The label shall contain the name, address, and ZIP Code of the packer or distributor of the product, the name of the product, a statement of the net contents of the container, and the AZDA grademark.
- C. Nutritional labeling. Nutrition information must be included on the labeling of each unit container of consumer packaged eggs in accordance with the General Regulations for the Enforcement of the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act, located at 21 CFR §§ 101.1 to 101.108. The nutrition information included on labels is subject to review by the Food and Drug Administration prior to approval by the Department.
- D. Refrigeration labeling. All containers bearing official AZDA "Grade AA" or "Grade A" identification shall be labeled to indicate that refrigeration is required, for example, "Keep refrigerated," or words of similar meaning.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1111. Form of AZDA Grademark and Information Required

- A. Form of official identification symbol and grademark. The logo set forth in Illustration 1 shall be the official identification symbol for purposes of this Article and when used, imitated, or simulated in any manner in connection with eggs, shall be *prima facie* evidence that the product has been officially graded in compliance with this Article.
- B. Eggs with consumer grades. Except as otherwise authorized, the AZDA grademark used to officially identify AZDA consumer-graded eggs shall be of the form and design indicated in Illustrations 2 through 4. The logo shall be of sufficient size so that the printing and other information contained therein is legible and in approximately the same proportion as shown in these figures. No variation may be used for the color scheme of Illustration 4.
- C. The "Produced From" AZDA grademark. The Illustration 5 grademark may be used to identify products for which there are no official U.S. grade standards (for example, pasteurized shell eggs, and/or hard boiled eggs), provided that these products are approved by the Department and are prepared from AZDA compliant Consumer Grade AA or A eggs. The Illustration 5 grademark may utilize any one of the designs shown in Illustrations 2 through 4. The "Produced From" text outside the symbol shall be conspicuous, legible, and in approximately the same proportion and close proximity to the symbol as shown in Illustration 5.
- D. Information required on AZDA grademark. Except as otherwise authorized by the Administrator, each AZDA grademark shall include the letters "AZDA" and the U.S. grade of the product it identifies, such as "Grade AA," as shown in Illustration 2. Such information shall be printed with the symbol and the wording within the symbol in contrasting colors in a manner such that the design is legible and conspicuous on the material upon which it is printed.
- E. Product class. The size or weight class of the product, such as "Large," may appear within the grademark as shown in Illustration 3. If the size or weight class is omitted from the grademark, it must appear prominently on the main panel of the carton.
- F. Plant number. The plant number of the official plant preceded by the letter "P" must be shown on each carton or packaging material.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

Illustration 1. AZDA**Historical Note**

Illustration 1 made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9,

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2020 (Supp. 20-2).

Illustration 2. AZDA Grade AA



Historical Note

Illustration 2 made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

Illustration 3. AZDA Grade AA Large



Historical Note

Illustration 3 made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

Illustration 4. AZDA AA Grade



Historical Note

Illustration 4 made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9,

2020 (Supp. 20-2).

Illustration 5. AZDA Grade AA Produced From Shell Eggs



Historical Note

Illustration 5 made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-4-1112. Lot Marking of Officially Identified Eggs

Each carton identified with the AZDA grademarks shown in R3-2-1111 shall be legibly lot-numbered on the consumer package and the carton, and may also be shown on the individual egg. The lot number shall be the consecutive day of the year (Julian date) on which the eggs were packed (for example, 132), except other lot-numbering systems may be used when submitted in writing and approved by the Administrator.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1113. Retention Directives

A grader may use retention tags or other devices and methods as approved by the Administrator for the identification and control of eggs which are not in compliance with this Article or are held for further examination, and for any equipment, utensils, rooms or compartments which are found unclean or otherwise in violation of this Article. Any such item shall not be released until in compliance with this Article and retention identification shall not be removed by anyone other than a grader.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1114. Prerequisites to Packaging Eggs Identified with Grademarks

Quality assurance inspector required. The official grademark identification of any product as provided in this Article shall be done only under the supervision of a grader or quality assurance inspector. The grader or quality assurance inspector shall have supervision over the use and handling of all material bearing any official grademark identification.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020

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(Supp. 20-2).

R3-2-1115. Grading Requirements of Eggs Identified with AZDA Grademarks

- A. Eggs to be identified with the AZDA grademarks illustrated in R3-2-1111 must be individually graded by a grader.
- B. In order to be officially identified with an AZDA consumer grademark, eggs shall:
 - 1. Be of current production;
 - 2. Be produced and processed within the borders of Arizona;
 - 3. Not possess any undesirable odors or flavors;
 - 4. Not have previously been shipped for retail sale;
 - 5. Meet consumer Grade A or Grade AA, as prescribed in AMS 56, United States Standards, Grades, and Weight Classes for Shell Eggs, revised as of July 20, 2000, which is incorporated by reference, does not include any later amendments or editions of the incorporated matter, is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007, and can be found online at https://www.ams.usda.gov/sites/default/files/media/Shell_Egg_Standard%5B1%5D.pdf;
 - 6. Be produced and packaged in a facility in accordance with the Food and Drug Administration, Department of Health and Human Services' requirements for the Production, Storage, and transportation of Shell Eggs as specified in 21 CFR §§ 118.1 to 118.12, revised as of April 1, 2011, which is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007;
 - 7. Be produced and packaged in a facility that meets the Regulations Governing the Inspection of Eggs under the Egg Products Inspection Act (EPIA), as specified in 7 CFR §§ 57.1 to 57.970, revised as of April 12, 2006, which is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007;
 - 8. Be produced in a facility that has implemented a SE environmental monitoring program which includes testing for SE in chick papers and in the house environment when the pullets are 14-16 weeks of age, 40-45 weeks of age, four to six weeks post-molt, and pre-depopulation.
 - 9. Be produced in a facility that has implemented and maintained a vaccination program to protect against SE infection, which includes a minimum of two attenuated live vaccinations and one killed or inactivated vaccination, or an alternative vaccination program that has been approved by the Department after having been demonstrated in the Department's estimation to be equally effective.
- C. Management at an official plant is responsible for notifying the AZDA grader whenever contaminated or adulterated eggs are present in the official plant. Any eggs identified as contaminated or adulterated must be properly labeled and controlled by plant management. This includes eggs originating from a layer house with an SE-positive environment or eggs testing positive for the presence of SE. Failure to control, detain and/or notify the grader of the presence of contaminated or adulterated eggs in the official plant will constitute a violation of this Article. Department employees are authorized to inspect lay houses and review plant documents to determine compliance with this Article.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1116. Payment of Fees and Charges

- A. Fees and charges for any grading service shall be paid by the recipient by check, draft, or money order payable to the "Arizona Department of Agriculture Egg Program." AZDA may require that fees and charges shall be paid in advance, and shall include travel, per diem, or other expenses incurred by the Department in connection with providing grading services.
- B. The cost of an appeal grading or review of a grader's decision shall be borne by the appellant on a unscheduled temporary basis at rates set forth in R3-2-1117, plus travel, per diem, or other expenses. If the appeal grading or review of a grader's decision discloses that a material error was made in the original determination, no fee or expenses will be charged for the regrading.
- C. Invoices for services previously rendered will be issued no later than the 10th day following the end of the period in which the service was rendered and are payable in full upon receipt.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1117. Charges for Grading Service

- A. Scheduled continuous grading service. The following rates apply to continuous grading service on a resident basis and continuous grading service on a nonresident basis per grader:
 - 1. Regular rate: \$38.00/hour
 - 2. Overtime rate: \$57.00/hour
 - 3. Holiday rate: \$58.00/hour
- B. Plant survey, unscheduled temporary, auditing and appeal grading services. The following rates apply to temporary and auditing service per grader:
 - 1. Regular rate: \$57.00/hour
 - 2. Overtime rate: \$85.00/hour
 - 3. Holiday rate: \$87.00/hour
- C. Reapplication after termination of service by recipient. If a recipient causes termination under R3-2-1105(D), and re-applies within 12 months from the date of termination, there will be an additional re-application fee of \$300 in addition to the above fees.
- D. Extra charges. The following extra charges shall be assessed:
 - 1. All hours worked by an assigned grader or another grader in excess of the approved tour of duty, worked on a non-scheduled workday, or worked on a State holiday outside of the approved tour of duty, will be considered as overtime, at the rate of time and one-half.
 - 2. For all hours of work performed in a plant without an approved tour of duty, the charge will be the temporary grading service.
- E. No charges. No charges will be assessed:
 - 1. Solely because of a change in name or ownership of the official plant, unless the recipient of services fails to notify the Department within the time limit specified in R3-2-1105, in which case the above charges will apply.
 - 2. When the assigned grader is temporarily reassigned by AZDA to perform grading service for another service recipient.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R.

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916, with an immediate effective date of April 9, 2020
(Supp. 20-2).

R3-2-1118. Termination by Recipient

Grading services under this Article shall be unilaterally terminated by the recipient of such service when:

- A. Service is not installed within six months from the date the application is filed due to inaction by the applicant or recipient on Department requirements.
- B. Service remains inactive for a period of more than six months due to a recipient's request for removal of a grader and the recipient does not accept reassignment of another grader by the Department.
- C. The recipient is terminated for cause based on violations listed in R3-2-1105(D).

Historical Note

Section made by final exempt rulemaking at 26 A.A.R.
916, with an immediate effective date of April 9, 2020
(Supp. 20-2).

R3-2-1119. Mutual Termination

- A. The Department and the recipient of service may mutually agree to termination of the service, under the following terms:
- B. Previously paid fees will not be returned to the service recipient.
- C. Pending charges will be paid in full for completed work of the Department.
- D. A pending application will be considered terminated, but a new application may be filed at any time, without penalty.
- E. Termination shall not take effect until the end of a 30-days' notice period, unless the parties agree otherwise.
- F. The mutual decision to terminate and any related agreements are documented in writing.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R.
916, with an immediate effective date of April 9, 2020
(Supp. 20-2).

R3-2-1120. Appeals

- A. Appeal grading. An appeal grading may be requested by any recipient or authorized designee or other interested party ("appellant") who is dissatisfied with the determination by a grader of the class, quality, quantity, or condition of any product as evidenced by the AZDA grademark and accompanying label, or as stated on a grading certificate.
 1. The appeal shall be filed with the original grader's immediate supervisor.
 2. Initial review of the appeal shall be made by the original grader's immediate supervisor, or by one or more licensed graders assigned by the immediate supervisor to review the appeal.
 2. An appeal may be made orally or in writing. If made orally, written confirmation is required. The appellant shall clearly state the reasons for requesting the appeal grading and a description of the product, or the decision which is questioned. If such appeal request is based on the results stated on an official certificate, the original and all available copies of the certificate shall be provided to the grader assigned to perform the appeal grading.
 3. The appellant's request for the appeal grading may be refused when it appears to the reviewer that the reasons given in the request are frivolous or not substantial, the quality or condition of the product has undergone a material change since the original grading, the original lot has changed in some manner, or the appellant has not materi-

ally complied with the requirements of this Article. In such case, the appellant shall be promptly notified of the reason or reasons for such refusal.

4. If an appeal grading is granted, it shall be performed by a grader other than the original grader. Whenever practical, an appeal grading shall be conducted jointly by two independent graders.
5. The following procedures shall be used for appeal grading:
 - a. The appeal sample shall consist of product taken from the original sample container plus an equal number of samples selected at random.
 - b. When the original samples are not available or have been altered, such as the removal of undergrades, the appeal sample size for the lot shall consist of double the samples required in R3-2-1102.
 - c. Eggs shall not have been moved from the original place of grading and must have been maintained under adequate refrigeration.
6. Immediately after an appeal grading is completed, an appeal certificate shall be issued to show that the original grading was upheld, modified, or rejected. Such certificate shall supersede any previously issued certificate for the product involved and shall clearly identify the number and date of the superseded certificate. The issuance of the appeal certificate may be withheld until any previously issued certificate and all copies have been returned when such action is deemed necessary to protect the interest of the Department. When the appeal grader assigns a different grade to the lot, the existing AZDA grademark shall be changed or obliterated as necessary. When the appeal grader assigns a different class or quantity designation to the lot, the labeling shall be corrected.
- B. Appeal for suspension, termination or denial of service or debarment. Any person whose grading service is suspended, terminated, denied service, or debarred, may request a hearing before an administrative law judge pursuant to A.R.S. Title 41, Chapter 6, Article 10. The decision of the administrative law judge is subject to review by the Director as provided by A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R.
916, with an immediate effective date of April 9, 2020
(Supp. 20-2).

R3-2-1121. AZDA Grading Certificates

- A. Forms. AZDA grading certificates and sampling report forms (including appeal grading certificates and regrading certificates) shall be issued on forms approved by the Administrator.
- B. Issuance.
 1. Resident grading basis. Certificates will be issued only upon request therefor by the applicant or AZDA. When requested, a grader shall issue a certificate covering product graded by such grader. In addition, a grader may issue a grading certificate covering product graded in whole or in part by another grader when the grader has knowledge that the product is eligible for certification based on personal examination of the product or official grading records.
 2. Other than resident grading. Each grader shall, in person or by the grader's authorized agent, issue a grading certificate covering each product graded by such grader. A grader's name may be signed on a grading certificate by a person other than the grader, if such person has been des-

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igned as the authorized agent of such grader by the Administrator, provided that:

- a. The certificate is prepared from an official memorandum of grading signed by the grader; and
- b. A notarized power of attorney authorizing such signature has been issued to such person by the grader and is on file in the office of grading. In such case, the authorized agent shall sign both the agent's name and the grader's name, for example, "John Doe by Mary Roe."

- C. Disposition. The original and required or requested copies of the grading certificate, immediately upon issuance, shall be delivered, mailed, or electronically submitted to the recipient or the recipient's designee. One copy is required to be sent and the recipient may request additional copies. Other copies shall be filed and retained in accordance with the disposition schedule for grading program records.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1122. Minimum Facility and Operating Requirements for Egg Grading and Packing Plants

- A. For grading services that are provided on a resident or temporary basis, QAD 700 Shell Egg Graders Handbook Section 02 through Section 08, revised as of August 30, 2016. This material is incorporated by reference, does not include any later amendments or editions of the incorporate matter, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007; and the following minimum facility and operating conditions will be required:
- B. Applicants must comply with all applicable Federal, State and local government occupational safety and health regulations.
- C. Processing facilities are required to have a documented and implemented Quality Management System that meets Title 21, Part 117 of the U.S. Code of Federal Regulations "Current Good Manufacturing Practice, Hazard Analysis, and Risk-based Preventive Controls for Human Foods," revised as of April 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporate matter, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007.
- D. General requirements for premises, buildings and plant facilities.
 1. The outside premises shall be free from refuse, rubbish, waste, unused equipment, and other materials and conditions which constitute a source of odors or a harbor for insects, rodents, and other vermin.
 2. The outside premises adjacent to grading, packing, cooler, and storage rooms must be constructed to provide proper drainage to prevent conditions that may constitute a source of odors or propagate insects or rodents.
 3. Buildings shall be of sound construction so as to prevent, insofar as practicable, the entrance or harboring of vermin.
 4. Grading and packing rooms shall be of sufficient size to permit installation of necessary equipment and conduct grading and packing in a sanitary manner. These rooms shall be kept reasonably clean during grading and packing operations and shall be thoroughly cleaned at the end of each operating day.
 5. The floors, walls, ceilings, partitions, and other parts of the grading and packing rooms including benches and

platforms shall be constructed of materials that are readily cleanable, maintained in a sanitary condition, and impervious to moisture in areas exposed to cleaning solutions or moist conditions. The floors shall be constructed as to provide proper drainage.

6. Adequate toilet accommodations that are conveniently located and separated from the grading and packing rooms are to be provided. Handwashing facilities shall be provided with hot and cold running water, an acceptable handwashing detergent, and a sanitary method for drying hands. Toilet rooms shall be ventilated to the outside of the building and be maintained in a clean and sanitary condition. Signs shall be posted in the toilet rooms instructing employees to wash their hands before returning to work. In new or remodeled construction, toilet rooms shall be located in areas that do not open directly into processing rooms.
7. A separate refuse room or a designated area for the accumulation of trash must be provided in plants which do not have a system for the daily removal or destruction of such trash.
8. Adequate packing and packaging storage areas are to be provided that protect packaging materials and are dry and maintained in a clean and sanitary condition.
- E. Grading and packing room requirements.
 1. The egg grading or candling area shall be capable of adequate darkening to make possible the accurate quality determination of the candled appearance of eggs. There shall be no light source or reflection of light that interferes with, or prohibits the accurate quality determination of eggs in the grading or candling areas.
 2. The grading and candling equipment shall provide adequate light to facilitate quality determinations. When needed, other light sources and equipment or facilities shall be provided to permit the detection and removal of stained and dirty eggs or other undergrade eggs.
 3. The grading and candling equipment must be sanitarily designed and constructed to facilitate cleaning. Such equipment shall be kept reasonably clean during grading and packing operations and be thoroughly cleaned at the end of each operating day.
 4. Egg weighing equipment shall be constructed of materials to permit cleaning; operated in a clean, sanitary manner; and shall be capable of ready adjustment.
 5. Adequate ventilation, heating, and cooling shall be provided where needed.
- F. Cooler room requirements.
 1. Cooler rooms holding eggs that are identified with a consumer grade shall be refrigerated and capable of maintaining an ambient temperature no greater than 45 °F (7.2 °C).
 2. Accurate thermometers shall be provided for monitoring cooler room temperatures.
 3. Cooler rooms shall be free from objectionable odors and from mold, and shall be maintained in a sanitary condition.
- G. Egg protecting operations.
 1. Egg protecting (oil application) operations shall be conducted in a manner to avoid contamination of the product and maximize conservation of its quality.
 2. Component equipment within the egg protecting system, including holding tanks and containers, must be sanitarily designed and maintained in a clean and sanitary manner, and the application equipment must provide an adequate

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amount of oil for shell coverage of the volume of eggs processed.

3. Eggs with excess moisture on the shell shall not be shell protected.
 4. Oil having any off odor, or that is obviously contaminated, shall not be used in egg protection operations. Oil is to be filtered prior to application.
 5. The component equipment of the application system shall be washed, rinsed, and treated with a bactericidal agent each time the oil is removed.
 6. Adequate coverage and protection against dust and dirt shall be provided when the equipment is not in use.
- H. Egg cleaning operations.**
1. Egg washing equipment must be sanitarily designed, maintained in a clean and sanitary manner, and thoroughly cleaned at the end of each operating day.
 2. Egg drying equipment must be sanitarily designed and maintained in a clean and sanitary manner. Air used for drying purposes must be filtered. These filters shall be cleaned or replaced as needed to maintain a sanitary process.
 3. The temperature of the wash water shall be maintained at 90 °F (32.2 °C) or higher, and shall be at least 20 °F (6.7 °C) warmer than the internal temperature of the eggs to be washed. These temperatures shall be maintained throughout the cleaning cycle. Accurate thermometers shall be provided for monitoring wash water temperatures.
 4. Approved cleaning compounds shall be used in the wash water.
 5. Wash water shall be maintained at a measurable pH level of 11 or higher. Accurate testing equipment shall be provided and accessible to the grader. If continuous monitoring of pH is not possible, the applicant should devise a monitoring system for documenting pH with a frequency that has been validated.
 6. Wash water shall be changed approximately every four hours or more often if needed to maintain sanitary conditions, and at the end of each shift. Remedial measures shall be taken to prevent excess foaming during the egg washing operation.
 7. Replacement water shall be added continuously to the wash water of washers. Chlorine or quaternary sanitizing rinse water may be used as part of the replacement water, provided, they are compatible with the washing compound. Iodine sanitizing rinse water may not be used as part of the replacement water.
 8. Only potable water may be used to wash eggs. Each official plant shall submit certification to the office of grading stating that their water supply is potable. An analysis of the iron content of the water supply, stated in parts per million, is also required. When the iron content exceeds two parts per million, equipment shall be provided to reduce the iron content below the maximum allowed level. Frequency of testing for potability and iron content shall be determined by the Administrator. When the water source is changed, new tests are required.
 9. Waste water from the egg washing operation shall be piped directly to drains.
 10. The washing, rinsing, and drying operations shall be continuous and shall be completed as rapidly as possible to maximize conservation of the egg's quality and to prevent sweating of eggs. Eggs shall not be allowed to stand or soak in water. Immersion-type washers shall not be used.
 11. Prewetting eggs prior to washing may be accomplished by spraying a continuous flow of water over the eggs in a manner which permits the water to drain away or other methods which may be approved by the Administrator. The temperature of the water shall be the same as prescribed in this Section.
 12. Washed eggs shall be spray-rinsed with water having a temperature equal to, or warmer than, the temperature of the wash water. The spray-rinse water shall contain a sanitizer that has been determined acceptable for the intended use by the supervisor and of not less than 100 PPM nor more than 200 PPM of available chlorine or its equivalent. Alternate procedures, in lieu of a sanitizer rinse, may be approved by the Administrator.
 13. Test kits shall be provided and used to determine the strength of the sanitizing solution.
 14. During non-processing periods, eggs shall be removed from the washing and rinsing area of the egg washer and from the scanning area whenever there is a buildup of heat that may diminish the quality of the egg.
 15. Washed eggs shall be reasonably dry before packaging and packing.
 16. Steam, vapors, or odors originating from the washing and rinsing operation shall be continuously and directly exhausted to the outside of the building.
- I. Requirements for eggs officially identified with a grademark.**
1. Eggs that are officially identified with an AZDA grade-mark shall be placed under refrigeration at an ambient temperature no greater than 45 °F (7.2 °C) promptly after packaging.
 2. Eggs that are to be officially identified with the AZDA grademark shall be packed only in new packaging materials that are clean, free of mold, mustiness and off odors, or clean and sanitized packaging material designed to be reused, and must be of sufficient strength and durability to adequately protect the eggs during normal distribution. When packed in other than fiber packing material, the containers must be of sound construction and maintained in a reasonably clean manner.
- J. Use of approved chemicals and compounds.**
1. All egg washing and equipment cleaning compounds, defoamers, destainers, sanitizers, inks, oils, lubricants, or any other compound that comes into contact with the eggs shall be approved by the national supervisor for their specified use and handled in accordance with the manufacturer's instructions.
 2. All pesticides, insecticides, and rodenticides shall be approved for their specified use and handled in accordance with the manufacturer's instructions.
- K. Marking individual eggs. The marking of individual eggs may be requested by processors as part of a specification requirement or for other marketing purposes.**
1. Stamping eggs. Recognizing the difficulty in clearly stamping the rounded surface of an egg, a lot average tolerance of 10-percent for individual eggs with partial, illegible, or no marks in any combination is permitted with no individual case exceeding 20-percent. These tolerances may be applied as a moving average when performing online sampling or as a lot average while performing stationary lot gradings. If more than 50% of the image or letter or letters is missing, the symbol is illegible. Stamped eggs are not classified as stains or dirty. They are to be graded without regard to marking. An official grade cannot be assigned to a mixed lot of

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eggs that contains individually marked and unmarked eggs. If requested, the lot may be graded for all factors except ink stains. Lot averages may be shown on the certificate. The section "Official Grade and Size" shall state "No AZDA Grade." The following statement shall also be placed in the "Remarks" section: "Lot contains marked and unmarked eggs. Eggs graded for all factors except ink stains." Individual eggs with ink blotches or smears from dating devices are to be classified as stains or dirty, depending on the intensity and/or area of the stain [guidance not clear]. Inks used in marking individual eggs which will be officially graded are to be approved by the Administrator prior to their use. The request for approval should be accompanied with a copy of the ink formula, the name of the product, and the name and address of the manufacturer.

2. Laser etching (marking eggs). The use of a laser etching system to mark information is subject to joint review by the Food and Drug Administration (food safety impact evaluation) and AZDA (quality impact evaluation). Only approved laser etching systems may be used to identify eggs to be officially graded and identified with an AZDA grademark. The amount of the shell surface available for laser etching and the information etched on the shell is subject to review by the resident grader and the supervisor. The information etched on the shell must not interfere with the graders ability to evaluate the quality attributes of the egg.
3. When an individual egg is marked, whether an applied ink or laser etched, the information must be consistent with the information on the label, for example, any marketing claims, production code, or packer identity. If this information is not consistent throughout the lot, the eggs are not eligible to be identified with an AZDA grademark.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1123. Health and Hygiene of Personnel

- A. No person known to be affected by a communicable or infectious disease shall be permitted to come in contact with the product.
- B. Plant personnel coming into contact with the product shall wear clean clothing.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1124. Use of the "Produced From" Labeling

- A. Use of the wording "Produced From" in conjunction with the AZDA grademark, is limited to products derived from AZDA Grade AA or Grade A eggs for which there are no U.S. grade standards (for example, pasteurized eggs or hard-cooked eggs). The following guidelines are to be used when monitoring the official grade identification of these types of products.
 1. Approval. Applicants interested in utilizing the "Produced From" labeling must submit a written proposal to the Administrator. The proposal is to include the type or types of product to be labeled and the applicant's plan for controlling the use and labeling of officially identified product. After review by the supervisor, the supervisor is

to forward the request to the Administrator for final review and approval. Upon approval, the supervisor is to reconfirm all of the requirements with the applicant prior to any actual grade identification.

2. Verification visits. To assure that only officially graded eggs are being used, the processing, packing, and packaging must be closely monitored. Each verification visit shall include a review of records, product inventory, processing procedures, packing, packaging, storage, and shipping practices to confirm that the applicant is following the protocol outlined in their approved plan. In plants with resident service, the supervisor or Administrator is to be present during the initial production period to monitor the process and verify compliance. The grader will conduct all subsequent monitoring and verification activities with oversight from the supervisor. In temporary or fee locations, plant management must notify the supervisor each time the "produced from" labeling will be used or, alternatively, provide the supervisor with a projected production schedule. At these locations, compliance will be based on the applicant's established history of compliance as outlined in the following schedule:

- a. Level 1 - The supervisor or administrator is to monitor and verify the process on the initial day of production. The supervisor or a grader will conduct subsequent visits. At least one additional verification visit is to be conducted during the next 10 production days. If no discrepancies are noted, one visit is to be conducted for each 30 days of production until three consecutive satisfactory visits have been completed. Once this verification period has ended without any noted program non-conformance, monitoring may proceed to Level 2.
- b. Level 2 - Supervisor or a grader is to conduct quarterly verification visits provided the applicant continues to meet all program requirements. If any nonconformance is noted during these visits, monitoring reverts back to Level 1. Misuse of the labeling will result in cancellation of the approval.

- B. Recordkeeping. Recipients shall maintain, and make available for review, all invoices or applicable Grading Certificates covering product received, produced, and shipped. At a minimum, these records must include the name and address of original packer, amount received, quantity produced, brand names, lot numbers, quantity shipped and name and address of receivers. Records must be maintained for two years.
- C. Cost. There will be no additional charge to resident plants when graders monitor product labeling during their normal grading activities. When graded product is shipped from official plants to other processing locations for re-packaging that are not under continuous AZDA supervision, time and expenses associated in conducting the verification visits will be charged to the recipient at the current Temporary grading and auditing service rate.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1125. Specification Grading

- A. Applicants may request for additional specifications to be certified that exceed the standards of this Chapter. The requested specifications must be submitted in writing to the administrator for approval. The approving official will review the infor-

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mation for approval or advise the applicant of the reason or reasons for disapproval. If the specification is approved, a letter enclosing a copy of the approved application and specification will be returned to the applicant with a request to provide copies of the specification to each supplier and applicable AZDA grader. Each page of the approved specification will have an approval stamp bearing the date of approval and the signature of the approving official. Additionally, each page will be sequentially numbered such as page 1 of 5, page 2 of 5, etc.

- B.** Plant management is responsible for advising graders when they are preparing to pack eggs in accordance with an approved specification. However, each grader must be familiar with the approved specification list and, to the extent practically possible, be aware when products with approved specifications are being packed at the duty location. When a plant packs product requiring compliance with an approved specification, the grader shall obtain a copy of the specification from plant management and assure that all provisions of the specification are met. As applicable, product that meets specification requirements will be identified in accordance with procedures outlined in the approved specification. When the specification requires the issuance of a grading certificate, the following statement is to be placed in the remarks section of the certificate: "Product covered by this certificate meets specification requirements for _____."

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

ARTICLE 12. ACQUISITION AND USE OF SODIUM PENTOBARBITAL AND DERIVATIVES BY UNLICENSED INDIVIDUALS IN ANIMAL SHELTERS

R3-2-1201. Definitions

1. "Agreement" shall refer to a contract signed by the responsible person and the State Veterinarian whereby the responsible person has met all requirements set forth in Section R3-2-1202. The agreement remains in effect until the expiration of the DEA registration or a change in employment status of the responsible person with the animal shelter.
2. "Approved curriculum" means any euthanasia-training curriculum approved by the AVMA or the State Veterinarian of Arizona.
3. "Authorized employee" means an unlicensed individual who is authorized to euthanize animals, takes direction from a responsible person or a licensed person, and has obtained State-Veterinarian-approved training in the use and handling of controlled substances as set forth in this Article.
4. "AVMA" means the American Veterinary Medical Association.
5. "AVMA Guidelines for the Euthanasia of Animals: 2020 Edition" means that specific edition of guidelines and does not include any later amendments or editions of the incorporated material, and is on file with the Department.
6. "Controlled Substances Act" refers to 21 U.S.C.A. § 801, et seq.
7. "Controlling person" means the natural person who exercises legal ownership, control, or designated leadership of a shelter.
8. "DEA" refers to the federal Drug Enforcement Agency.

9. "Licensed person" means a veterinarian licensed by the Arizona Veterinary Medical Examining Board, who is exempt from the euthanasia training requirements.
10. "Responsible person" means an unlicensed individual who meets the requirements of R3-2-1202, who is employed by the shelter, and who in the absence of a licensed person, has agreed to supervise the acquisition, storage, administration, and record-keeping of the controlled substances in accordance with the Controlled Substances Act and this Article.
11. "Shelter" means an animal care and control shelter operated by any town, city, county or the state, including privately operated animal shelters that are utilized by a town, city, county or the state.
12. "State Veterinarian" means the person appointed as the State Veterinarian under A.R.S. § 3-1211.

Historical Note

New Section made by final rulemaking at 29 A.A.R. 1327 (June 9, 2023), effective July 8, 2023 (Supp. 23-2).

R3-2-1202. General Provisions

- A.** Euthanasia of animals shall be done in compliance with the provisions of this Article and in accordance with procedures established under A.R.S. § 11-1021 by the local governing body.
- B.** Any shelter that does not employ a licensed supervisory veterinarian may apply for a DEA controlled-substances registration for each physical location in order to administer euthanasia. DEA will only grant the registration if the shelter is approved by, and meets the standards of, the State Veterinarian, as follows:
1. The responsible person is formally designated by the controlling person of the shelter as the individual responsible to obtain and manage controlled substances on behalf of the shelter;
 2. The responsible person must successfully complete an approved euthanasia training course;
 3. The responsible person and the State Veterinarian must execute an agreement obligating the responsible person to comply with this Article;
 4. The responsible person is 21 years of age or older; and
 5. The responsible person shall provide three professional references to the State Veterinarian to demonstrate professionalism and good moral character.
- C.** Duties and responsibilities of the responsible person are to:
1. Abide by all local, state, and federal laws and regulations pertaining to the operation of a shelter, including those laws and regulations governing possession and use of controlled substances.
 2. Ensure that any authorized employee who administers euthanasia complies with the American Veterinary Medical Association (AVMA) Guidelines for the Euthanasia of Animals: 2020 Edition.
 3. Ensure that any authorized employee who administers euthanasia has successfully completed a curriculum of euthanasia training approved by the State Veterinarian.
- D.** Prior to the expiration of the current DEA registration, the responsible person shall submit an application to the State Veterinarian at least 45 days prior to that expiration, requesting re-approval of the shelter according to the requirements of this Article. The State Veterinarian approval shall run concurrently with the DEA registration, except as indicated in subsection (E).

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE - ANIMAL SERVICES DIVISION

- E. The shelter shall inform the State Veterinarian within 14 days of a change in:
1. Ownership or controlling person;
 2. Location;
 3. Responsible person; or
 4. Expiration or termination of an agreement or contract between a town, city, county or state utilizing the services of a privately operated shelter or shelters.
- F. Upon a change listed in subsection (E), the controlling person shall file an application with the State Veterinarian, requesting re-approval of the shelter according to the requirements of this Article. The existing agreement terminates upon the date of the change, and the shelter shall not administer any controlled substances until the State Veterinarian approves the new application and a new DEA registration is obtained.
3. Controlled substance handling and mechanism of action;
 4. Humane methods of handling and euthanasia of domestic animals;
 5. Methods to ensure barriers between animals during euthanasia;
 6. Concepts particular to euthanasia of wild or feral animals;
 7. Administering pre-euthanasia sedatives;
 8. Verification of death; and
 9. Acceptable methods of disposal of animal remains and euthanasia supplies.
- B. The responsible person shall keep records of all euthanasia-related activities including, but not limited to:
1. Identification of animals euthanized;
 2. Reason for euthanasia;
 3. Method of euthanasia;
 4. Adverse events; and
 5. All recordkeeping required by the Controlled Substances Act.
- C. A shelter is subject to periodic random inspection by the Office of the State Veterinarian. Upon request by the Office of the State Veterinarian, the responsible person or controlling person shall immediately produce records.
- D. Following an audit or inspection, if evidence exists of non-compliance with the standards in this Section, the State Veterinarian reserves the right to modify the agreement. The State Veterinarian may also terminate the agreement, and notify the DEA that the shelter has lost approval by the State Veterinarian to administer euthanasia by unlicensed individuals.

Historical Note

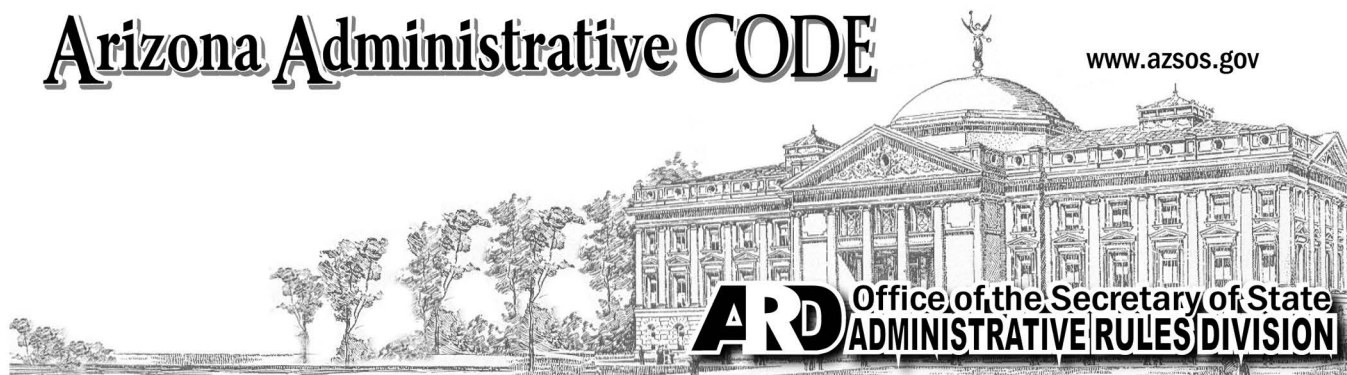
New Section made by final rulemaking at 29 A.A.R. 1327 (June 9, 2023), effective July 8, 2023 (Supp. 23-2).

R3-2-1203. Requirements of Euthanasia Approved Curriculum; Recordkeeping; Inspection

- A. The following organizations offer approved euthanasia courses: The American Humane Association; The National Animal Care and Control Association; Companion Animal Euthanasia Training Academy. The State Veterinarian reserves the right to approve or withdraw the approval of curricula at any time. Approved curriculum training shall include an instructional section and a practical exam showing skill competency; and shall include, but not be limited to, the following topics:
1. Anatomy;
 2. Personnel safety, controlled substance diversion, and compassion fatigue;

Historical Note

New Section made by final rulemaking at 29 A.A.R. 1327 (June 9, 2023), effective July 8, 2023 (Supp. 23-2).



3 A.A.C. 3

Supp. 24-1

TITLE 3. AGRICULTURE

CHAPTER 3. DEPARTMENT OF AGRICULTURE - ENVIRONMENTAL SERVICES DIVISION

The table of contents on page one contains links to the referenced page numbers in this Chapter.
Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
January 1, 2024 through March 31, 2024

Refer to the Table of Contents and Historical Notes to review the Sections updated in Supp. 24-1.

Questions about these rules? Contact:

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Fax: (602) 542-1004
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Website: <https://agriculture.az.gov/>

The release of this Chapter in Supp. 24-1 replaces Supp. 19-3, 1-51 pages.

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

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

PERSONAL USE/COMMERCIAL USE

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division

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TITLE 3. AGRICULTURE

CHAPTER 3. DEPARTMENT OF AGRICULTURE - ENVIRONMENTAL SERVICES DIVISION

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

Supp. 24-1

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

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

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

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(Authority: A.R.S. § 3-3101 et seq.)

*Title 3, Chapter 8, Article 2, Sections R3-8-201 through R3-8-208 renumbered to Title 3, Chapter 3, Article 10, Sections R3-3-1001 through R3-3-1008 (Supp. 91-4).**New Article 7 adopted effective July 13, 1989. (Supp. 89-3).**Article 2, consisting of Sections R3-2-201 through R3-8-208, transferred from the Industrial Commission, Title 4, Chapter 13, Article 7, Sections R4-13-701 through R4-13-708, pursuant to Laws 1990, Ch. 374, § 445 (Supp. 91-3).**Laws 1981, Ch. 149, effective January 1, 1982, provided for the transfer of the Office of Fire Marshal from the Industrial Commission to the Department of Emergency and Military Affairs, Division of Emergency Services (Supp. 82-2).*

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CHAPTER 3. DEPARTMENT OF AGRICULTURE - ENVIRONMENTAL SERVICES DIVISION

ARTICLE 1. GENERAL PROVISIONS

R3-3-101. Definitions

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

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

“ADEQ” means the Arizona Department of Environmental Quality.

“Adulterate” means to change a pesticide so that:

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

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

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

“Agricultural aircraft pilot” or “AAP” means any individual who pilots an agricultural aircraft to apply a pesticide.

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

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

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

“Agricultural use pesticide” means a pesticide product bearing a label requiring compliance with the Worker Protection Standard, and as prescribed by the agricultural use requirements on the label.

“Aircraft” means any mechanism used in flight.

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

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

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

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

“Associate Director” means the Associate Director of the Environmental Services Division.

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

a responsible administrative official of the school or child care facility.

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

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

“Certification plan” means an EPA authorized plan under 40 CFR § 171.303 (82 FR 1042, January 4, 2017, <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-171/subpart-D/section-171.303>) for the certification of pesticide applicators to comply with the provisions of FIFRA. This material is incorporated by reference, on file with the Department, and does not include any later amendments or editions.

“Certified applicator” means any individual who is certified by the Department to use or supervise the use of any restricted use pesticide as a private, golf or commercial applicator.

“CEU” means continuing education unit.

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

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

The applicator;

The applicator’s employer; or

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

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

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

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

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

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

“Device” means any instrument or contrivance that is intended to be used for trapping, destroying, repelling, or mitigating any

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pest or any other form of plant or animal life, other than a human being and a bacterium, virus, or other microorganism on or in a living human being or other living animal. Device does not include firearms, mechanical traps, or equipment used for the application of pesticides if the application equipment is sold separately.

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

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

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

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

“Drone” means a remote-controlled pilotless aircraft or small flying device used to apply pesticides.

“Drone Pilot License” or “DPL” means any individual who pilots a drone to apply a pesticide.

“EPA” means the United States Environmental Protection Agency.

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

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

“FAA” means the Federal Aviation Administration.

“FIFRA” means the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136 et seq. (as amended P.L. 117-328, December 29, 2022, <https://www.govinfo.gov/content/pkg/COMPS-10326/uslm/COMPS-10326.xml>). This material is incorporated by reference throughout the Chapter, is on file with the Department and includes no later amendments or editions.

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

“Golf applicator” or “PUG” means an applicator who uses or supervises the use of a restricted use pesticide for the maintenance of the ornamental and turf areas of the golf course that is owned or controlled by the applicator or the applicator’s employer.

“Handler” means any person, including a self-employed person:

Who is employed for any type of compensation by an agricultural establishment or commercial pesticide handling establishment to which this Article applies and who is:

Mixing, loading, transferring, or applying pesticides.

Disposing of pesticides or pesticide containers.

Handling opened containers of pesticides.

Acting as a flagger.

Cleaning, adjusting, handling, or repairing the parts of mixing, loading, or application equipment that may contain pesticide residues.

Assisting with the application of pesticides.

Entering a greenhouse or other enclosed area after the application and before the inhalation exposure level listed in the labeling has been reached or one of the ventilation criteria established under 40 CFR § 170.110(c)(3) of the Worker Protection Standard (August 21, 1992, <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-170/subpart-B/section-170.110>) The incorporated reference is on file with the Department and does not include any later amendments or editions, or in the labeling has been met:

To operate ventilation equipment.

To adjust or remove coverings used in fumigation.

To monitor air levels.

Entering a treated area outdoors after application of any soil fumigant to adjust or remove soil coverings such as tarpaulins.

Performing tasks as a crop advisor:

During any pesticide application.

Before the inhalation exposure level listed in the labeling has been reached or one of the ventilation criteria established under 40 CFR § 170.110(c)(3) of the Worker Protection Standard (August 21, 1992, <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-170/subpart-B/section-170.110>), or in the labeling has been met. The incorporated reference is on file with the Department and does not include any later amendments or editions.

During any restricted-entry interval.

The term does not include any person who is only handling pesticide containers that have been emptied or cleaned according to pesticide product labeling instructions or, in the absence of such instructions, have been subjected to triple-rinsing or its equivalent.

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

“Highly toxic pesticide” means a pesticide with an acute oral LD₅₀ of 50 milligrams per kilogram of body weight or less, dermal LD₅₀ of 200 milligrams per kilogram of body weight or less, or inhalation LD₅₀ of 0.2 milligrams per liter of air or less, and the label bears the signal words “danger” and “poison” and shows a skull and crossbones.

“Immediate family” includes only spouse, children, stepchildren, foster children, parents, stepparents, foster parents, brothers, and sisters.

“Individual” means a human being.

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

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

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

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

Upon the pesticide or device or any of its containers or wrappers.

Accompanying the pesticide or device at any time.

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

“LD₅₀” means a statistically derived estimate of a single dose of pesticide that can be expected to cause death in 50 percent of laboratory test animals as determined by an EPA approved procedure. The LD₅₀ value is expressed in terms of weight of test substance per unit weight of the test animal (mg/kg)

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

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

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

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

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

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

“Pest” means:

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

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

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

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

“Pesticide Grower Permit” or “PGP” means a permit issued by the Department that allows a qualifying person to act as a regulated grower.

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

“PMD” means the Pest Management Division of the Arizona Department of Agriculture.

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

The applicator;

The applicator’s employer; or

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

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

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

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

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

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

“Responsible individual” means an individual at a seller’s location who is a certified applicator or is licensed as a PCA in Arizona by the Department, that has demonstrated competency in safe pesticide handling, and is aware they are designated by the seller under R3-3-203.

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

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

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

“Service container” means a container filled with a pesticide by an applicator and is transported to an application site where the pesticide will be applied. A service container is not intended to be used as a container for the sale or distribution of a pesticide, and is not intended for the long-term storage of a pesticide, except for cases of an emergency where the integrity of the original packaging of a pesticide is compromised that would lead to a bulk release of a pesticide.

“Small scale test” means a test using a pesticide on land or water acreage as described at 40 CFR § 172.3(c)(1) or (2) (59 FR 45611, Sept. 1, 1994, as amended at 71 FR 35546, June 21, 2006; 73 FR 75599, Dec. 12, 2008, <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-172/subpart-A/section-172.3>). This material is incorporated by reference, on file with the Department, and does not include any later amendments or editions.

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

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

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

“Unreasonable adverse effect” means any unreasonable risk to a human being or the environment, taking into account the economic, social, and environmental costs and benefits of the

use of any pesticide, or a human dietary risk from residues that result from a use of a pesticide in or on any food as documented by the Department through its investigation.

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

“Worker Protection Standard” or “WPS” means the regulations as prescribed in 40 CFR §§ 170.1 et seq., excluding 40 CFR §§ 170.401(c)(4) and 170.501(c)(4) (as amended October 30, 2020, <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-170>). This material is incorporated by reference, on file with the Department and does not include any later amendments or editions.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-101 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by exempt rulemaking at 19 A.A.R. 3130, effective September 16, 2013 (Supp. 13-3). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-102. Licensing Time-frames

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

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within the additional information period, the Department shall deny the license.

2. The Department shall issue a written notice granting or denying a license within the substantive review time-frame. If the application is denied, the Department shall send the applicant written notice explaining the reason for

the denial with citations to supporting statutes or rules, the applicant's right to seek a fair hearing, and the time period in which the applicant may appeal the denial.

Historical Note

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

Table 1. Time-frames (Calendar Days)

| License | Authority | Administrative Completeness Review | Response to Completion Request | Substantive Completeness Review | Response to Additional Information | Overall Time-frame |
|------------------------------------------------------|--------------------------------------|------------------------------------|--------------------------------|---------------------------------|------------------------------------|--------------------|
| Pesticide Grower Permit (PGP) | A.R.S. § 3-363 A.A.C. R3-3-201 | 14 | 14 | 56 | 14 | 70 |
| Pesticide Seller Permit (PSP) | A.R.S. § 3-363 A.A.C. R3-3-203 | 14 | 14 | 56 | 14 | 70 |
| Agricultural Aircraft Pilot License (AAP) | A.R.S. § 3-363 A.A.C. R3-3-204 | 14 | 14 | 56 | 14 | 70 |
| Drone Pilot License (DPL) | A.R.S. § 3-363 A.A.C. R3-3-204 | 14 | 14 | 56 | 14 | 70 |
| Custom Applicator License (CAL) | A.R.S. § 3-363 A.A.C. R3-3-205 | 14 | 14 | 63 | 14 | 77 |
| Application Equipment Tag | A.R.S. § 3-363 A.A.C. R3-3-206 | 14 | 14 | 56 | 14 | 70 |
| Agricultural Pest Control Advisor (PCA) License | A.R.S. § 3-363 A.A.C. R3-3-207 | 14 | 14 | 63 | 14 | 77 |
| Commercial Applicator Certification (PUC) | A.R.S. § 3-363 A.A.C. R3-3-208 | 14 | 14 | 63 | 14 | 77 |
| Private Applicator Certification (PUP) | A.R.S. § 3-363 A.A.C. R3-3-208 | 14 | 14 | 63 | 14 | 77 |
| Golf Applicator Certification (PUG) | A.R.S. § 3-363 A.A.C. R3-3-208 | 14 | 14 | 63 | 14 | 77 |
| Experimental Use Permit | A.R.S. § 3-350.01 A.A.C. R3-3-212 | 14 | 14 | 28 | 14 | 42 |
| Pesticide Registration | A.R.S. § 3-351 A.A.C. R3-3-702 | 14 | 14 | 91 | 14 | 105 |
| License to Manufacture or Distribute Commercial Feed | A.R.S. § 3-2609 A.A.C. R3-3-902 | 14 | 14 | 42 | 14 | 56 |
| Commercial Fertilizer License | A.R.S. § 3-272 | 14 | 14 | 42 | 14 | 56 |
| Specialty Fertilizer Registration | A.A.C. R3-3-802 | 14 | 14 | 56 | 14 | 70 |
| Agricultural Safety Trainer Certification | A.R.S. § 3-3125 A.A.C. R3-3-1003 | 28 | 14 | 28 | 14 | 56 |
| ARIZONA NATIVE PLANTS | | | | | | |
| Notice of Intent Confirmation Notice of Intent | A.R.S. § 3-904 A.A.C. R3-3-1102 | 14 | 14 | 14 | 14 | 28 |
| • Salvage Assessed Native Plant Permits | A.R.S. § 3-906 A.A.C. R3-3-1104 | 14 | 14 | 14 | 14 | 28 |
| • Salvage Restricted Native Plant Permits | | 14 | 14 | 14 | 14 | 28 |
| • Scientific Permits | | 14 | 14 | 14 | 14 | 28 |
| Non-commercial salvage | A.R.S. § 3-906 | 14 | 14 | 14 | 14 | 28 |
| Annual Permits for Harvest-Restricted Native Plants | A.R.S. § 3-907 A.A.C. R3-3-1104 | 14 | 14 | 14 | 14 | 28 |

Historical Note

Adopted effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 10 A.A.R. 2663, effective June 8, 2004 (Supp. 04-2). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1). Amended by exempt rulemaking at 19 A.A.R. 3130, effective September 16, 2013 (Supp. 13-3). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

ARTICLE 2. PERMITS, LICENSES, AND CERTIFICATION**R3-3-200. General; Applications; Renewals; Fees; Examinations; Exemptions**

- A. An applicant for certification, license or permit shall submit the appropriate completed application to the Department

accompanied by the appropriate fee prescribed in Table 1. Fees, for each year or portion of the year during which the certification, license or permit is valid.

- B. Applicants for a PGP, PSP, AAP, DPL, CAL, PCA or Certified Applicator are not transferable, and expire on December 31.
- C. Certifications, Licenses, or Permits are:

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1. Valid for the year issued for new Certified Applicator or PCA applicants, except for those issued between October 1 and December 31 which are valid until December 31 of the next calendar year;
 2. Valid for one or two years, for all other applicants depending on the renewal period selected by the applicant; and
 3. Renewed for all categories of certification for the same renewal period.
- D. Education and CEU Requirements.**
1. Prior to submitting a new application for a PCA license, applicants shall complete the educational requirements according to R3-3-207.
 2. Prior to submitting a renewal application for a PCA license or certified applicator, applicants shall complete any CEU requirements pertinent to the category or categories in which renewal is being applied for.
 3. It is the applicant's responsibility to take CEUs pertinent to the category or categories for which the applicant is seeking to renew certification.
 4. The Department may screen renewal applications to ensure the CEU courses taken by the applicant are pertinent to the category or categories for which the applicant is seeking to renew licensure.
- E. Examinations.** In addition to the specific requirements found in R3-3-203 through R3-3-208, the following general provisions apply to this Article:
1. The Department shall administer examinations required under this Article by appointment at every Environmental Services office.
 2. An applicant shall demonstrate knowledge and understanding by scoring at least 75 percent on a written examination for each examination taken under this Article.
 3. An individual who fails an examination may retake it no more than two times in a six-month period and shall not retake an examination until at least seven days have elapsed from the date of the last examination.
 4. The Director may deny a certification or license after an opportunity for an administrative hearing is given, for any individual who is found cheating during the examination process and shall be prohibited from re-taking any examination required under this Article for no less than one year.
 5. The Director may revoke a certification or license after an opportunity for an administrative hearing is given, for an individual who is found cheating on an examination and shall be prohibited from re-taking any examination required under this Article for no less than one year.
 6. Cheating includes one or more of the following:
 - a. Computer or mobile device usage to search for answers to exam questions or to copy exam questions;
 - b. Use of copied exam answers in any form; or
 - c. Any other means in which the answers to the exam questions are obtained without using the knowledge of the exam taker.
- F. Renewal; expired license or certification.**
1. An applicant may renew an expired license without retaking the written examinations under R3-3-207 provided the applicant:
 - a. Within the licensing period, complies with the CEU requirements in R3-3-207;
 - b. Submits a completed application within 11 months after the expiration date of the license;
 - c. Does not provide any pest control-related service from the date the license expired until the date the renewal is effective;
 - d. Pays the license fee plus a \$10 late fee for each month the certification has been expired, with the late fee not exceeding \$110 (11 months); and
 - e. Obtains the required CEU's while the license is active.
 2. An applicant may renew an expired certification without retaking the written examinations under R3-3-208 provided the applicant:
 - a. Has satisfied the CEU requirements in R3-3-208(E)(3), within the current certification period;
 - b. Submits a completed renewal application within 11 months after the expiration date;
 - c. Does not provide any pesticide-related service from the date the certification expired until the date the renewal is effective;
 - d. Pays the renewal fee plus a \$10 late fee for each month, with the penalty not to exceed \$110 (11 months); and
 - e. Obtains the required CEU's while the certification is current.
 3. Applicants with expired certifications greater than 11 months shall complete the requirements for initial certification, including retaking and passing the applicable written examinations prescribed in this Section.4. Notwithstanding R3-3-200 (F)(1) or (2), in addition to any penalties or fines imposed for committing a violation according to Section R3-3-502(C)(1) or (G)(4), for operating with an expired license or certification, the applicant shall take any written examinations required to renew a PCA license or Certified Applicator.
- G. License and Fee Exemptions**
1. A person who applies pesticides in buildings or for structural pest control purposes is not required to apply for or possess any license or certification from the Department under this Article.
 2. A person who sells, offers for sale, delivers, or offers for delivery a general use pesticide, to be used for private, noncommercial use in or around the home or a person who sells general use pesticides for swimming pool or spa maintenance is not required to apply for or possess a seller's permit from the Department.
 3. A state, federal, tribal, or other governmental employee, who makes pest control recommendations or applies or supervises the use of restricted use pesticides while engaged in the performance of official duties shall meet the requirements of this Article, but is not required to pay a fee for any agricultural license, certification, or permit under this Article when used solely for work related purposes.
 4. A person who only furnishes information concerning label requirements governing a registered pesticide is not required to apply for or possess a PCA license from the Department.

Historical Note

New Section made by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

Table 1. Fees

| License | Administrative Rule | Fee |
|---------|---------------------|-----|
|---------|---------------------|-----|

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| | | |
|------------------------------------------|-------------|----------------|
| Pesticide Grower Permit (PGP) | R3-3-201 | \$20 per year |
| Pesticide Seller Permit (PSP) | R3-3-203 | \$100 per year |
| Agriculture Aircraft Pilot License (AAP) | R3-3-204 | \$50 per year |
| Drone Pilot License (DPL) | R3-3-204 | \$50 per year |
| Custom Applicator License (CAL) | R3-3-208(E) | \$100 per year |
| Agriculture Pest Control Advisor (PCA) | R3-4-207 | \$50 per year |
| Certified Applicator (PUP, PUC & PUG) | R3-3-208 | \$50 per year |

Historical Note

Table 1 Fees made by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-201. Pesticide Grower Permit (PGP)

- A. In addition to the provisions found under R3-3-200, the following apply to this Section.
- B. A regulated grower shall not order, purchase, take delivery of, use, or recommend the use of any pesticide for an agricultural purpose or golf course without a valid pesticide grower permit (PGP), issued by the Department.
- C. A person applying for a PGP, initial or renewal, shall provide the following information on a form obtained from the Department:
1. Name and signature of the applicant;
 2. Date of the permit application;
 3. Name, address, email address, if applicable, and daytime telephone number of the company or agricultural establishment where the applicant may be reached;
 4. Permit renewal period;
 5. Sections, townships, ranges, and acres of the land where pesticides may be applied;
 6. The names and certification numbers of certified private or golf applicators, or commercial applicators acting as private applicators, who are employed by the PGP; and
 7. For individual applicants, information and documentation concerning lawful presence required under ARS § 41-1080, if not on file.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by exempt rulemaking at 19 A.A.R. 3130, effective September 16, 2013 (Supp. 13-3). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-202. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-201 (Supp. 91-4). Former Section R3-3-202 renumbered to R3-3-203; new R3-3-202 made by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by exempt rulemaking at 19 A.A.R. 3130, effective September 16, 2013 (Supp. 13-3). Repealed by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-203. Pesticide Seller Permit (PSP); Responsible Individual

- A. In addition to the provisions found under R3-3-200, the following apply to this Section.
- B. A person shall not act as a pesticide seller without a valid Pesticide Seller Permit (PSP), issued by the Department.

- C. A seller shall obtain a PSP for each physical location where the seller sells or offers for sale any restricted use pesticide or agricultural use pesticide.
- D. A person applying for a PSP, initial or renewal, shall provide the following information on a form obtained from the Department:
1. Name and signature of the responsible individual, and certification or license number;
 2. Date of the permit application;
 3. Name, physical address, mailing address, email address, if applicable, and daytime telephone number of the location selling a restricted use pesticide or a pesticide for an agricultural purpose;
 4. Permit renewal period;
 5. Name, email address, and daytime telephone number of the Arizona contact for each out-of-state seller, if applicable;
 6. Address where records required to be maintained under R3-3-401 will be kept;
 7. Whether the applicant has had a similar license, permit, or certification revoked, suspended, or denied in this or any other jurisdiction during the three years before the date of application; and
 8. The current seller permit number, if applicable.
- E. The Department shall not renew a seller permit unless the seller is in compliance with the provisions established in subsection (F), if applicable.
- F. A seller shall designate a different responsible individual for each physical location in this state that sells or offers for sale any restricted use pesticide or agricultural use pesticide. If a responsible individual terminates employment at an assigned location, the seller shall designate another responsible individual within 30 calendar days and notify the Department of the replacement.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-203 (Supp. 91-4). Former Section R3-3-203 renumbered to R3-3-204; new R3-3-203 renumbered from R3-3-202 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-204. Agricultural Aircraft Pilot License (AAP); Drone Pilot License (DPL)

- A. In addition to the provisions found under R3-3-200, the following apply to this Section.
- B. An individual shall not act as an agricultural aircraft pilot or drone pilot without:
1. A valid agricultural aircraft pilot license (AAP) for aircraft pilots, or drone pilot license (DPL) for drone, issued under this Section, and

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2. If application work will be done for hire or exchange of services, a valid commercial applicator certification issued under R3-3-208.
- C. The Department shall not issue or renew an AAP or DPL, and an existing AAP or DPL is invalid unless the applicant or license holder:
 1. Has a valid commercial pilot's certificate issued by the FAA as prescribed under 14 CFR §§ 137.1 et seq. (amended March 5, 2018, <https://www.ecfr.gov/current/title-14/chapter-I/subchapter-G/part-137>). This material is incorporated by reference, is on file with the Department and does not include any later amendments or editions; or
 2. Has a valid drone pilot's certificate for a DPL that has been issued by the FAA under 14 CFR §§ 107.1 et seq. (amended January 15, 2021, <https://www.ecfr.gov/current/title-14/chapter-I/subchapter-F/part-107/subpart-A>) This material is incorporated by reference, is on file with the Department and does not include any later amendments or editions.
- D. An individual applying for an AAP or DPL, initial or renewal, shall provide the following information on a form obtained from the Department:
 1. Name and signature of the applicant;
 2. Date of application;
 3. Address, email address, and daytime telephone number of the applicant;
 4. License renewal period;
 5. Name, physical address, mailing address, email address, and daytime telephone number of the applicant's employer, if applicable;
 6. As applicable, a current copy of the applicant's:
 - a. Commercial pilot certificate issued by the FAA for an AAP applicant, if not previously filed with the Department; or
 - b. Drone pilot's certificate issued by the FAA for a DPL applicant, if not previously filed with the Department.
 7. Applicant's commercial applicator certification number;
 8. Whether the applicant has had a similar certification or license revoked, suspended, or denied in this or any other jurisdiction during the three years before the date of application and the nature of the violation; and
 9. Information and documentation indicating that the individual's presence in the United States is authorized under federal law according to A.R.S. § 41-1080, if not on file.
1. Name and signature of the applicant;
2. Date of the license application;
3. Name, physical address, mailing address, email address, if applicable, and daytime telephone number of the business;
4. License renewal period;
5. Whether the application is for ground or air custom application, or both;
6. Names and current certification numbers of the commercial applicators employed by the business;
7. Evidence of insurance coverage, showing the name of the insurance carrier, policy number, policy term, policy limits, and any applicable exclusions;
8. Whether the applicant has had a similar license revoked, suspended, or denied in this or any other jurisdiction during the last three years, and the nature of the violation;
9. The name and contact information for a contact person at the business if different than the applicant; and
10. For individual applicants, information and documentation indicating that the individual's presence in the United States is authorized under federal law according to A.R.S. § 41-1080, if not on file.
- D. The Department shall not issue or renew a CAL and an existing CAL is invalid unless the applicant or license holder:
 1. Is a commercial applicator or employs at least one individual who is certified as a commercial applicator under R3-3-208; and
 2. Maintains or the business that employs the applicator or license holder maintains public liability, drift, and property damage insurance coverage with an aggregate amount of at least \$300,000 during the licensing period. The applicant or license holder shall provide evidence of insurance coverage to the Department upon initial application, for each renewal, or upon request of the Department;
- E. A CAL holder may:
 1. Temporarily relinquish a CAL if the custom applicator:
 - a. Advises the Department of termination of the insurance prescribed in subsection (D)(2), and the effective date of termination; and
 - b. Ceases to act as a custom applicator on the termination date.
 2. Reinstates the CAL within the same licensing time period, without again paying the fee as prescribed in under R3-3-200(A), if the custom applicator:
 - a. Purchases insurance as prescribed in subsection (D)(2), and
 - b. Notifies the Department of the effective date of the insurance.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-204 (Supp. 91-4). Former Section R3-3-204 renumbered to R3-3-205; new R3-3-204 renumbered from R3-3-203 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-205. Custom Applicator License (CAL)

- A. In addition to the provisions found under R3-3-200, the following apply to this Section.
- B. A person shall not act as a custom applicator without a valid CAL issued by the Department.
- C. A person applying for a CAL, initial or renewal, shall provide the following information on a form obtained from the Department:

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-205 (Supp. 91-4). Former Section R3-3-205 renumbered to R3-3-206; new R3-3-205 renumbered from R3-3-204 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-206. Custom Application Equipment Tag; Fee

- A. In addition to the provisions found under R3-3-200, the following apply to this Section.
- B. A custom applicator shall not use custom application equipment unless the equipment has a valid tag. The custom appli-

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cator licensee shall place and maintain a valid tag so that it is prominently displayed on the pesticide application equipment.

C. A person applying for a tag shall provide the following information on a form obtained from the Department:

1. Name and signature of the applicant;
2. Date of the application;
3. Address, email address, if applicable, and daytime telephone number of the applicant;
4. Name, physical address, mailing address, email address, if applicable, and daytime telephone number of the business, if applicable;
5. Manufacturer, make, model and serial number, and if an aircraft or drone, the FAA registration number ("N" number for aircraft, or drone with an operating weight of over 55 lbs. total, including payload; or "FA" number for drone with an operating weight up to 55 lbs. total, including payload) of the application equipment; and
6. The name and contact information for a contact person at the business if different than the applicant.

D. The Department shall not issue or renew a tag and an existing tag is invalid if the custom applicator license is invalid.

E. An applicant shall submit the completed application to the Department, accompanied by a \$25 fee for each piece of equipment, for each year or portion of the year during which the tag is valid.

F. A tag expires on December 31, and is valid for the same time period as the custom applicator license.

G. A custom applicator licensee shall not transfer a tag except as follows:

1. If equipment with a valid tag, is destroyed, rendered unusable, or transferred out of the state, the custom applicator licensee may transfer the tag to another piece of equipment.
2. If equipment with a valid tag, is leased, sold, or traded, the custom applicator licensee shall transfer the tag with the equipment to the lessee or new owner.
3. Before transferring a tag, the custom applicator licensee shall notify the Department that the equipment with the valid tag is being transferred and identify the person to whom the equipment with the valid tag is being transferred or identify the piece of equipment to which the tag is being transferred, or the tag is invalid.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-206 (Supp. 91-4). Former Section R3-3-206 renumbered to R3-3-207; new R3-3-206 renumbered from R3-3-205 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-207. Agricultural Pest Control Advisor (PCA) License; Exemption

A. In addition to the provisions found under R3-3-200, the following apply to this Section.

B. An individual shall not act as a PCA without a valid PCA license issued by the Department. To advise in any of the categories listed in subsection (I), a PCA shall pass the specific examination associated with the category.

C. An individual, without a valid PCA license, applying for a PCA license shall provide the following information on a form obtained from the Department:

1. The applicant's name, address, email address, daytime telephone number, social security number, and signature;
 2. Date of the application;
 3. Name, physical address, mailing address, email address, and daytime telephone number of the applicant's employer, if applicable;
 4. Examinations that the applicant has passed by category;
 5. Whether the applicant has had a similar license revoked, suspended, or denied in this or any other jurisdiction during the last three years, and the nature of the violation resulting in the revocation, suspension, or denial; and
 6. Information and documentation indicating that the individual's presence in the United States is authorized under federal law according to A.R.S. § 41-1080, if not on file.
- D.** An individual applying for a PCA license, except an individual who holds or has held a PCA license in this state within the previous five years shall meet one of the following five sets of qualifications:
1. College degree.
 - a. Possess a bachelor's degree (B.A. or B.S.), master's degree or doctorate degree in any subject; and
 - b. Have completed 42 semester hours (63 quarter units) of college-level curricula as specified in subsection (E).
 2. Master's degree in a biological science.
 - a. Possess a master's degree in a biological science;
 - b. Have 12 months of work experience related to a core area listed in subsection (E); and
 - c. Have a letter from the institution, a faculty member, or a supervisor where the individual obtained the work experience certifying the time spent and describing the type of experience obtained by the individual.
 3. Doctorate degree in a biological science.
 - a. Possess a doctorate degree in a biological science; and either
 - b. Meet the qualifications in subsection (D)(2)(b) and (D)(2)(c); or
 - c. Have a letter of recommendation from the faculty member that supervised the dissertation or the division head of the discipline.
 4. Other education with unlicensed experience.
 - a. Have completed 42 semester hours (63 quarter units) of college-level curricula as specified in subsection (E);
 - b. Have 24 months of work experience related to a core area listed in subsection (E); and
 - c. Have a letter from the institution, a faculty member, or a supervisor where the individual obtained the work experience certifying the time spent and describing the type of experience obtained by the individual.
 5. Other education with licensed experience.
 - a. Be currently licensed as a pest control advisor (PCA) or equivalent in another state; and
 - b. Have completed 42 semester hours (63 quarter units) of college-level curricula as specified in subsection (E), except that each year of verifiable licensed experience under subsection (D)(5)(a) within the previous 5 years qualifies for two semester hours up to 10 hours. The semester hours based on licensed experience do not reduce the minimum hours required from each individual core area.

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- c. The applicant shall provide proof of the equivalency of a license from another state.
- E. The 42 semester hours (63 quarter units) of college-level curricula specified in subsection (D) shall come from the core areas shown in Table 2, with at least the minimum indicated hours (or units) coming from each individual core area. A single course shall not count toward the minimum hours of more than one core area. At least one course from the pest management systems and methods core area shall emphasize integrated pest management principles. Each course completed must be awarded credit with a minimum passing grade of a "C" or a 2.0 GPA, or a passing score if taken on a pass or fail basis.
- F. Alternative curricula credits.
1. A current crop advisor certificate issued by the American Society of Agronomy qualifies for three semester hours in one of the following core areas: physical, biological and earth sciences and mathematics; crop health; or production systems.
 2. Non-traditional courses such as a senior project, an internship, cooperative work experience, independent study, a dissertation or a thesis qualify for three semester hours in one of the core areas of crop health, pest management systems and methods, or production systems, as applicable.
 3. For applicants with a bachelor's, master's, or doctorate degree, at least one year of full-time related work experience qualifies for three semester hours in one of the core areas of pest management systems and methods or production systems, as applicable.
- G. In addition to the information required by subsection (C), an applicant shall submit to the Department:
1. An official transcript verifying the courses completed and the degrees granted to the applicant;
 2. Documentation verifying alternative curricula relied on under subsection (F). Documentation of subsection (F)(2) and (F)(3) shall include a letter certifying completion and describing the activity from the institution, a faculty member or supervisor; and
 3. If applicable, the letter required for licensure under subsection (D).
- H. Renewal.
1. The Department shall not renew a PCA license unless, before the expiration of the current license, the licensee completes 15 CEUs for each year of the renewal period or passes any applicable examination prescribed in subsection (I). The licensee shall complete CEU credit during the calendar years the current license is in effect. CEUs earned that are in excess of the requirements do not carry forward for use with future renewals.
 2. To obtain credit, the applicant shall provide the Department with documentation of completion of the CEU course.
 3. For license renewal, the license may only be renewed if the required CEUs are obtained and the renewal application and fees are received by the Department within the specified time period.
- I. Examinations. In addition to the core examination as prescribed in R3-3-208(E), an applicant shall demonstrate knowledge and understanding of integrated pest management in any of the following categories:
1. Weed control,
 2. Invertebrate control,
 3. Nematode control,
 4. Plant pathogen control,
 5. Vertebrate pest control,
 6. Plant growth regulators, or
 7. Defoliation.
- J. Exemption. An individual operating in an official capacity for a college or university, providing recommendations in a not-for-profit capacity, or merely furnishing information concerning general and labeling usage of a registered pesticide is not considered an authority or general advisor for the purposes of this Chapter.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-207 (Supp. 91-4). Former Section R3-3-207 repealed; new R3-3-207 renumbered from R3-3-206 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 3855, effective January 28, 2014 (Supp. 13-4). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

Table 2. Core Areas

| Core Area | Examples of Subjects | Sem. Hours | Qtr. Units |
|-----------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|------------|
| Physical, biological, and earth sciences, and mathematics | Inorganic chemistry; organic chemistry; biochemistry; plant biology or botany; general ecology; biology; genetics; plant physiology; zoology; post-algebra mathematics | 12 | 18 |
| Crop health | Soils and irrigation; vegetation management or weed science; plant pathology; entomology; plant nutrition or fertility; nematology; vertebrate management | 6 | 9 |
| Pest management systems and methods | Applied courses in entomology, plant pathology, vegetation management or weed science, and other pest management disciplines; pesticides or use of pesticides; pest control equipment systems; alternative cropping systems; sustainable or organic agricultural systems; biological control | 3 | 4.5 |
| Production systems | Horticulture; viticulture; forestry; agronomy; crop, vegetable, fruit or animal sciences; other production systems (e.g., wildlife production, cattle production) | 3 | 4.5 |

Historical Note

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Table 2 Core Areas made by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-208. Applicator Certification (PUP, PUG, PUC); Categories; Competency; Examination; Renewal

- A.** In addition to the provisions found under R3-3-200, the following applies to this Section.
- B.** An individual shall not act as a private (PUP), golf (PUG), or commercial (PUC) applicator unless the individual is 18 years of age and certified by the Department.
- C.** An individual shall take and pass both the core exam and the appropriate category exam, or exams, they are seeking to show competency to become a certified applicator.
- D.** Application. An individual applying for either PUP, PUG, or PUC applicator certification shall pay the applicable fee as prescribed in R3-3-200(A) and submit a completed application to the Department containing the following information on a form obtained from the Department:
 1. The applicant's name, address, email address if applicable, daytime telephone number, Social Security number, date of birth, and signature;
 2. Date of the application;
 3. If applicable, name, physical address, mailing address, email address, and daytime telephone number of the applicant's employer;
 4. Whether the application is for a PUP, PUG, or PUC applicator certification;
 5. Which category or categories the individual seeks certification;
 6. Whether the applicant has had a similar certification revoked, suspended, or denied in this or any other jurisdiction during the last three years, and the nature of the violation; and
 7. Information and documentation indicating that the individual's presence in the United States is authorized under federal law according to A.R.S. § 41-1080, if not on file.
- E.** Examinations and Competency Standards.
 1. The Department shall ensure that the core examination tests the knowledge and understanding of 40 CFR § 171.103 for a PUC or PUG applicator license, or 40 CFR § 171.105 for a PUP applicator license, as amended January 4, 2017, <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-171>. This material is incorporated by reference, on file with the Department, and does not include any later amendments or editions.
 2. Exam Categories and Competency Standards:
 - a. For commercial applicators:
 - i. The exam categories shall be as prescribed in 40 CFR § 171.101(a) through (e), and (i) through (o) (39 FR 36449, October 9, 1974 as amended by 82 FR 1029, January 4, 2017, <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-171>). This material is incorporated by reference, on file with the Department, and does not include any later amendments or editions.
 - ii. Notwithstanding subsection (D)(5)(a)(i), the exam categories as prescribed in 40 CFR § 171.101(a)(2), (k), (l), and (m) shall not be mandatory for certification until January 1, 2026 (39 FR 36449, October 9, 1974 as amended by 82 FR 1029, January 4, 2017, <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-171>). This material is incorporated by reference, on file with the Department, and does not include any later amendments or editions.
 - b. For private applicators:
 - i. The categories shall be as prescribed in 40 CFR § 171.105(a)(11) and (b) through (e), (39 FR 36449, October 9, 1974 as amended by 82 FR 1029, January 4, 2017, <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-171>) This material is incorporated by reference, on file with the Department, and does not include any later amendments or editions.
 - ii. Notwithstanding subsection (D)(5)(b)(i), the competency standards prescribed in 40 CFR § 171.105(b) through (d) shall not be mandatory for certification until January 1, 2026, 39 FR 36449, October 9, 1974 as amended by 82 FR 1029, January 4, 2017, <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-171>). This material is incorporated by reference, on file with the Department, and does not include any later amendments or editions.
 - c. For golf applicators:
 - i. The categories shall be as prescribed in 40 CFR § 171.101(c), (e), and (n), (39 FR 36449, October 9, 1974 as amended by 82 FR 1029, January 4, 2017, <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-171>) This material is incorporated by reference, on file with the Department, and does not include any later amendments or editions; and
 - ii. The competency standards shall be prescribed in 40 CFR § 171.103(c) and (d)(3), (5), and (14), (39 FR 36449, October 9, 1974 as amended by 82 FR 1029, January 4, 2017, <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-171>). This material is incorporated by reference, on file with the Department, and does not include any later amendments or editions.
 3. Certifications issued or renewed under this Article prior to February 6, 2023 are not required to comply with the

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examination and competency standards until the individual is renewing a private, golf, or commercial applicator certification. This provision shall expire on December 31, 2026.

F. Renewal; CEU requirements.

1. An applicant for renewal of an applicator certification shall select a one or two-year renewal period.
2. An applicant shall submit the completed application accompanied by the applicable fee for a one-year renewal or double the fee for a two-year renewal.
3. CEU requirements.
 - a. The Department shall not renew a private applicator or golf applicator certification unless, prior to the expiration of the current certification, the applicator completes three CEUs pertinent to the category or categories for which the applicant is seeking to renew licensure for each year of the renewal period.
 - b. The Department shall not renew a commercial applicator certification unless, prior to expiration of the current certification, the applicator completes six CEUs pertinent to the category or categories for which the applicant is seeking to renew for each year of the renewal period.
 - c. All CEU credit requirements shall be completed during the certification period, prior to renewal. CEU credits earned in excess of the requirements do not carry forward for use in subsequent renewals.
 - d. To obtain credit, the Department shall be provided with documentation of completion of the CEU course.

G. Reciprocal Certification

1. The Director may waive the examination requirements in whole or in part for an individual who is certified as an applicator by another State, Federal, or Tribal agency under an approved EPA certification plan.
 - a. A applicant must apply for Arizona reciprocal certification.
 - i. The applicant shall provide the information as prescribed in subsection (D).
 - ii. The applicant shall submit the Department required form to their state, federal, or tribal agency for verification of certification.
 - iii. Upon verification of the competency standards for each category of certification requested, the Department may issue a like category applicator license.
 - iv. The Department shall terminate an applicator's certification upon notification that the applicator's original certification has been terminated in the originating state, for any reason.
 - v. The applicant may request a hearing if the Department denies an application for a reciprocal certification based on the competencies approved by another state, federal, or tribal agency.
2. Anyone certified through reciprocal certification must notify the Department of termination of the originating-state's certification. Failure to notify the Department within three business days after the effective date of termination may result in revocation of the Arizona certification, and the applicant may not reapply for Arizona certification for a twelve-month period.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).

Renumbered from R3-10-208 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 18 A.A.R. 2481, effective November 10, 2012 (Supp. 12-3). Amended by exempt rulemaking at 19 A.A.R. 3130, effective September 16, 2013 (Supp. 13-3). Amended by final rulemaking at 22 A.A.R. 367, effective April 5, 2016 (Supp. 16-1). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-209. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-209 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Section repealed by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

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

- A. The Director may deny, or after an opportunity for an administrative hearing, suspend or revoke a license, permit, or certification of any person who:
 1. Fails to demonstrate sufficient reliability, expertise, integrity, and competence in engaging in pesticide use, which is considered misuse and is a violation of state laws or regulations relevant to the State certification plan;
 2. Submits an inaccurate application for a license, permit, or certification;
 3. Has had a similar license, permit, or certification revoked, suspended, or denied in this or any other jurisdiction during the three years before the date of application;
 4. Fails to pay fines, penalties and fees;
 5. Falsifies records required to be maintained by the certified applicator;
 6. Is convicted of a criminal charge under Section 14(b) of FIFRA;
 7. Is ordered to pay a civil penalty under Section 14(a) of FIFRA; or
 8. Commits a violation of any of the following: A.R.S. §§ Title 3, Chapter 2, Articles 5 and 6 and Chapter 17 or 3 A.A.C. 3, Articles 1 through 5 and 10 which are relevant to the State certification plan.
- B. Upon notice of a denial, the applicant may request, in writing, that the Director provide an administrative hearing under A.R.S. Title 41, Chapter 6, Article 10 to appeal the denial of the license, permit, or certification.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-210 (Supp. 91-4). Former Section R3-3-210 repealed; new R3-3-210 renumbered from R3-3-211 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

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

- A. CEU course approval.
 1. A person who wishes to have the Department determine whether a course qualifies for CEU credit shall submit the following information to the Department:

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- a. Name, address, email address, if applicable, and telephone number of the course's sponsor;
 - b. Signature of the sponsor or the sponsor's representative;
 - c. Course outline, listing the subjects and indicating the amount of time allocated for each subject;
 - d. Brief description of the information covered within each subject;
 - e. Brief biography of the presenter, demonstrating the presenter's qualifications;
 - f. Fees charged for attending the course;
 - g. Date and location of each session; and
 - h. Whether the course is open to the public.
2. A person who requires prior notification of the number of CEUs that can be earned by completing an approved course before it is held shall submit the information required in subsection (A)(1) to the Department at least 14 business days before the course is held.
 3. The Department may modify the number of CEUs earned for a CEU course if the CEU course varies significantly in content or length from the approved curriculum. If the Department modifies the number of CEUs earned, the Department shall send a letter of modification to the course organizer, who shall be requested to inform all individuals who attended the course.
- B. Subject approval.** The Department shall provide enough information so that the applicator can determine if the CEUs are pertinent to the categories in which they are seeking renewal. The Department shall grant one hour of CEU credit for every 50 minutes of actual instruction in an approved program relating to agricultural pest control or any of the following subjects:
1. Those listed in R3-4-208(E);
 2. IPM; or
 3. Any other pesticide or pesticide use subject approved by the Associate Director.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-211 (Supp. 91-4). Former Section R3-3-211 renumbered to R3-3-210; new R3-3-211 renumbered from R3-3-212 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-212. Experimental Use Permit**A. Definitions**

1. "For the purpose of experimentation" means for research or testing purposes, including research or testing performed in order to accumulate information necessary to register under Section 3 of FIFRA and the regulations thereunder a pesticide not currently registered or a registered pesticide for a use not previously approved in the registration of the pesticide.
2. "Research agency" means any organization engaged in research pertaining to the use of pesticides, including for the purpose of experimentation.
3. "Structural pest management application" means a pesticide application covered by A.R.S. §§ 3-3601 et seq.

- B.** A research agency or educational institution may use a pesticide that is not federally registered or use a federally registered pesticide for a use not previously approved in the registration of the pesticide for the purpose of experimentation:

1. Under a valid experimental use permit issued by the Department, or
 2. If the testing will only occur on the grounds of a college or university agricultural center or campus or a research agency owned research facility, then a permit is not required.
- C.** An applicant for an experimental use permit shall provide the following information to the Department:
1. A copy of the EPA-approved experimental use permit issued according to Section 5 of FIFRA or, for applicants exempt from the requirement of a federal experimental use permit under 40 CFR § 172.3 (59 FR 45611, Sept. 1, 1994, as amended at 71 FR 35546, June 21, 2006; 73 FR 75599, Dec. 12, 2008, <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-172/subpart-A/section-172.3>). This material is incorporated by reference, on file with the Department, and does not include any later amendments or editions;
 2. A statement of which federal exemption applies and an affidavit certifying that the experimental use will be in compliance with the applicable exemption;
 3. A statement of the purpose for which the experimental use permit will be used;
 4. Name, address, email address, and daytime telephone number of the person supervising the experimental use application;
 5. Name, address, email address, and daytime telephone number of the PGP and PCA, or the qualifying party if it is a structural pest management application, that are involved in the application of the experimental use pesticide;
 6. County, section, township, range, and field description, if needed, of the intended application site, or the street address if it is a structural pest management application;
 7. The crop and acreage to be treated, the amount (quantity, weight, volume or other appropriate unit of measure) of the agricultural commodity to be treated, or the number of structures if it is a structural pest management application;
 8. Total amount of active ingredient to be applied in this state;
 9. Application rate of formulation per acre or other appropriate measure for a structural pest management application;
 10. Method of application;
 11. Name, address, email address, and telephone number of the applicator applying the pesticide;
 12. Time period during which the application will be made; and
 13. Any special experimental use permit conditions imposed by the EPA, if applicable.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-212 (Supp. 91-4). Former Section R3-3-212 renumbered to R3-3-211; new R3-3-212 made by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

Appendix A. Repealed**Historical Note**

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

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subsection (B) CFR citation corrected from 40 CFR.4 to 40 CFR 171.4 at the request of the Department, Office File No. M09-448, filed December 8, 2009 (Supp. 09-4). Repealed by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

ARTICLE 3. PESTICIDE USE, SALES, AND EQUIPMENT**R3-3-301. General**

- A.** A person shall not use, apply, or instruct another to apply a pesticide in a manner or for a use inconsistent with the pesticide labeling except that:
1. A pesticide may be applied at a dosage, concentration, or frequency less than that specified on the pesticide labeling unless the labeling specifically prohibits deviation from the specified dosage, concentration, or frequency.
 2. A pesticide may be applied against any target pest not specified on the labeling if the application is to an application site specified on the pesticide labeling, unless the labeling specifically prohibits use against the pest.
 3. A pesticide may be applied by any method of application not prohibited by the pesticide labeling unless the labeling specifically states that the pesticide may be applied only by the methods specified on the labeling.
 4. A pesticide may be mixed with a fertilizer if the labeling does not prohibit the mixture.
 5. A pesticide may be used in any manner that is consistent with Sections 5, 18, or 24 of FIFRA.
- B.** A person shall not use, apply, or store or instruct another to use, apply, or store a pesticide unless the pesticide is:
1. Registered with the Department and the EPA,
 2. Previously registered with the Department and the EPA and cancelled or suspended by the EPA with a current end-use provision in effect, or
 3. Registered with the Department for FIFRA 25(b) products.
- C.** Subsection (B) does not apply to a:
1. Pesticide registrant that temporarily stores pesticides produced for shipment out of the state;
 2. Person who uses a pesticide in Arizona under an Arizona issued experimental use permit; or
 3. Person who is using a pesticide for experimental purposes on the grounds of a college or university agricultural center or campus, or a company-owned research facility.
- D.** A person shall not sell, offer for sale, barter or otherwise supply any pesticide:
1. That has been altered, diluted, or mixed;
 2. That has been repackaged at an establishment not registered with the EPA; or
 3. Is not registered with the Department according to Article 7 of this Chapter.
- E.** A person shall not allow drift that causes any unreasonable adverse effect.
- F.** A person shall not cause the direct release of a pesticide and an individual shall not instruct an applicator in a manner to cause the direct release of a pesticide causing any unreasonable adverse effect.
- G.** Regulated grower responsibility.
1. After a pesticide is applied to an application site on an agricultural establishment, the regulated grower shall not harvest a crop from the application site, or permit livestock to graze the application site in violation of any provision of the pesticide labeling.
 2. Before a pesticide application, a regulated grower shall ensure that all individuals and livestock subject to the

regulated grower's control are outside the application site.

- H.** Emergency pest control measures. A person acting under a government-sponsored emergency program, shall not apply, cause, or authorize another to apply or cause a pesticide to come into contact with an individual, animal, or property outside the boundaries of the application site.
- I.** If possible when applying pesticides by aircraft or drone, a pilot shall fly crosswind, unless an obstacle does not permit it, and shall begin the application at the downwind side of the application site so that the pesticide is dispersed on the return swathe.
- J.** A person shall not apply a highly toxic pesticide, other than a pesticide registered by the EPA for ultra-low volume application, in a volume that is less than one gallon per acre in the final spray form. The content of that gallon shall be at least 50 percent water.
- K.** A buffer zone may receive direct application or drift of pesticides as permitted by law.
- L.** Requirements for Direct Supervision of Noncertified Applicators by Certified Applicators. Supervision of noncertified applicators shall be as prescribed in 40 CFR § 171.201(39 FR 36449, Oct. 9, 1974, as amended by FR 1040, January 4, 2018, <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-171/subpart-C/section-171.201>). This material is incorporated by reference, on file with the Department, and does not include any later amendments or editions.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-301 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

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

- A.** Effective January 1, 2026 all Form 1080s must be on a form approved by the Department, made available by the Department, or electronically submitted through the Department's Form 1080 internet portal. A PCA or regulated grower shall provide the following information in sequential order as indicated in subsections (A)(1) through (25):
1. Name and permit number of the seller;
 2. Date the recommendation is written;
 3. Name and permit number of the PGP upon whose application site the pesticide will be applied;
 4. County where the application site is located;
 5. Pest conditions present;
 6. Whether the application site is within a pesticide management area under R3-3-304;
 7. Anticipated date of harvest;
 8. Restricted entry interval;
 9. Label days to harvest;
 10. Date recommended for the pesticide application;
 11. Specific application site being treated;
 12. Township, range, and section of the application site;
 13. Number of acres or application sites in each section being treated;
 14. Additional field description, if any;
 15. Brand name and EPA registration number of the pesticide to be applied or number of the pesticide regulated under Section 18 of FIFRA to be applied;

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16. Rate and unit of measure per acre or dilution per 100 gallons;
 17. Total quantity of pesticide concentrate to be applied;
 18. Total acres to be treated and total volume per acre or total number of application sites to be treated;
 19. Whether the application includes an active ingredient that appears on the ADEQ groundwater protection list and is soil-applied as defined in A.A.C. R18-6-301;
 20. Whether a supplemental label is required;
 21. Method of pesticide application;
 22. Label restrictions or special instructions, if any;
 23. Name of the custom applicator making the application;
 24. Anticipated pesticide delivery location; and
 25. Signature of the regulated grower or PCA and credential number of the PGP or PCA making the recommendation.
- B.** A custom applicator shall not apply a pesticide unless the custom applicator has received a signed copy of the recommendation from the PCA or the regulated grower on the Form 1080 before the application. The custom applicator shall apply the pesticide according to the recommendation on the Form 1080 unless the recommendation conflicts with the pesticide label or labeling, in which case the custom applicator shall note these deviations on the Form 1080 and apply the pesticide according to the pesticide label or labeling, or as provided in R3-3-301(A).
- C.** Before the application of a pesticide recommended by a PCA, the PCA shall notify the regulated grower, or the regulated grower's representative, of the scheduled application date. If the application date or time changes from that scheduled with the regulated grower, the custom applicator shall notify the regulated grower of the revised date and time of the application.
- D.** After completing the application, the custom applicator shall sign the pesticide application report portion of Form 1080 to verify that the pesticide was applied according to the recommendation and provide the following information in writing on the form:
1. Date and start and end time of each application;
 2. Date and time of the first and last spot application and a general description of the location, if applicable;
 3. Wind direction and velocity;
 4. Tag number, if applicable;
 5. Name and credential number of the grower or custom applicator business;
 6. Signature and credential number of the applicator; or name of the application equipment operator, and if a restricted use pesticide is applied, the signature and credential number of the certified applicator; and
 7. Any deviation from the recommendation.
- E.** Reporting shall be as prescribed in R3-3-404.
- F.** Non-certified applicator records. When supervising a non-certified private, golf, or commercial applicator of a restricted use pesticide, records shall be kept as required in 40 CFR § 171.201(e) (39 FR 36449, Oct. 9, 1974 as amended by 82 FR 1040, January 4, 2018, <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-171/subpart-C/section-171.201>). This material is incorporated by reference, on file with the Department, and does not include any later amendments or editions.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).
 Renumbered from R3-10-302 (Supp. 91-4). Section repealed; new Section made by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-303. Experimental Use

- A.** At least 24 hours before the application, the person supervising the application shall provide the Department with the following information:
1. Exact date, time and location of the intended application by calling and leaving a message on the pesticide hotline answering machine, 1-800-423-8876; and
 2. Any changes to the experimental permit information that was provided according to R3-3-212.
- B.** An applicator shall not apply an experimental use pesticide in a manner other than that specified by the experimental use permit or other Department-approved labeling that is provided to the applicator. The applicator shall ensure that the labeling is at the application site when the application occurs.
- C.** An applicator involved in an experimental use pesticide application shall comply with R3-3-302 as applicable.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).
 Renumbered from R3-10-303 (Supp. 91-4). Section repealed; new Section renumbered from R3-3-306 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

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

- A.** The Associate Director shall annually publish a list of all locations within the state that are designated as pesticide management areas under A.R.S. § 3-366. The list is available at every Environmental Services Division office.
- B.** The Director shall designate a location as a pesticide management area if all of the following evaluation criteria are met:
1. The distance between the application site and the property boundary of any residence, school, child care facility, or health care institution is less than 1/4 mile;
 2. A pesticide is applied by aircraft;
 3. A pesticide complained about under subsection (B)(4) is highly toxic or odoriferous; and
 4. The Department receives complaints alleging pesticide misuse within a 12-month period from at least five or five percent, whichever is greater, of the residences located less than 1/4 mile from the application site or a complaint from any school, child care facility, or health care institution located less than 1/4 mile from the application site.
- C.** If, upon a written request from a person, or upon the Department's initiative, the Director determines that a pesticide management area no longer meets all of the criteria listed in subsection (B), the Director may remove the pesticide management area from the Department's annual list.
- D.** A person may petition the Department at any time to add or delete an area to or from the list of pesticide management areas. The petitioner shall address all of the criteria listed in subsection (B). The Director shall make a decision on each petition no later than 90 days from the date the petition was submitted.

Historical Note

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

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March 6, 2004 (Supp. 04-1).

R3-3-305. Pesticide Sales

- A.** A seller shall only sell, offer for sale, deliver, or offer for delivery any restricted use pesticide to a person who:
1. Has a valid private, golf or commercial applicator certification issued by the Department for the use of a restricted use pesticide in the appropriate category;
 2. Works under the direct supervision of a person who has a valid private, golf or commercial applicator certification issued by the Department for the use of a restricted use pesticide in the appropriate category; or
 3. Has a valid certification from California, Nevada, Utah, Colorado, New Mexico or from an Arizona Indian tribe that allows the person to use a restricted use pesticide.
- B.** If a pesticide is sold for an agricultural purpose, in Arizona, the seller shall only sell, offer for sale, deliver, or offer for delivery any pesticide for an agricultural purpose after determining that the pesticide will be used by a person who has a PGP issued by the Department.
- C.** If a pesticide is sold for an agricultural purpose, the seller shall write the permit numbers of the seller and PGP on each sale and delivery ticket or invoice, and on each pesticide container or carton. If a pallet is delivered to an individual purchaser, the seller may write the seller and PGP numbers on the outside of the shrink-wrapped pallet.
- D.** A seller shall register with the Department the name and address of each salesperson and PCA employed for the purpose of selling pesticides in this state.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).
 Renumbered from R3-10-305 (Supp. 91-4). Section repealed; new Section renumbered from R3-3-309 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by exempt rulemaking at 19 A.A.R. 3130, effective September 16, 2013 (Supp. 13-3). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

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

- A.** A person shall not sell, offer for sale, deliver, or offer for delivery a restricted use pesticide to another person other than a certified applicator without having first obtained written documentation from a certified applicator or a noncertified recipient that the material is to be applied by or under the supervision of a certified applicator.
- B.** The seller shall obtain one of the following types of written documentation to satisfy the requirement in subsection (A):
1. A photocopy or fax of the certificate issued to the certified applicator who will be applying or supervising application of the restricted use pesticide and:
 - a. A statement signed by the certified applicator, authorizing and identifying the noncertified individual to purchase or receive the restricted use pesticide for the certified applicator; or
 - b. A copy of a signed contract or agreement, authorizing and identifying the noncertified person to receive the restricted use pesticide for the certified applicator; or
 2. A form on file with the seller that contains the following information:
 - a. Name of any individual authorized to receive the restricted use pesticides for the certified applicator;

- b. Relationship of an authorized individual to the certified applicator (partner, employee, co-worker, or immediate family);
- c. List of the restricted use pesticides an authorized individual is allowed to receive, specifying the trade name and:
 - i. EPA registration number;
 - ii. State special local need registration number issued by the Department; or
 - iii. Emergency exemption number, issued by the EPA under Section 18 of FIFRA, if applicable.
- d. Signature of the authorized individual and the date signed; and
- e. Certified applicator's full name, signature, work address, work phone number, certification number, and certification categories.

- C.** A seller shall request proof of identification from any noncertified individual accepting restricted use pesticides on behalf of a certified applicator if the individual is unknown to the seller.
- D.** A noncertified individual who receives a restricted use pesticide on behalf of a certified applicator shall sign all sale documents for restricted use pesticides.
- E.** If, at the time of the sale of the restricted use pesticide, the noncertified individual receiving the pesticide satisfies the requirements of subsection (B) by presenting a signed statement, contract, or agreement, the seller shall maintain on file a copy of the signed statement, contract, or agreement.
- F.** The seller shall retain records of all sales or deliveries made and maintain the documents required by this Section for at least two years from the date of sale.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).
 Renumbered from R3-10-306 (Supp. 91-4). Former Section R3-3-306 renumbered to R3-3-303; new R3-3-306 renumbered from R3-3-310 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-307. Aircraft and Drones; Agricultural Aircraft and Drone Pilots

- A.** A person shall not operate an aircraft to apply pesticides in this state unless the aircraft has a valid tag issued under R3-3-206 and a valid Federal Aviation Administration airworthiness certificate issued according to 14 CFR §§ 21.171 et seq. (29 FR 14569, October 24, 1964, as amended by 74 FR 53384, Oct. 16, 2009, <https://www.ecfr.gov/current/title-14/chapter-I/subchapter-C/part-21/subpart-H>. This material is incorporated by reference, on file with the Department, and does not include any later amendments or editions.).
- B.** A person shall not operate a drone to apply a pesticide in this state unless the drone has a valid tag issued under R3-3-206 and a valid registration issued according to 14 CFR § 48.1 (80 FR 78645, Dec. 16, 2015, as amended by Doc. No. FAA-2018-1084, 84 FR 3673, Feb. 13, 2019, <https://www.ecfr.gov/current/title-14/chapter-I/subchapter-C/part-48>. This material is incorporated by reference, on file with the Department, and does not include any later amendments or editions.)
- C.** A custom applicator shall not permit an individual who does not hold a valid agricultural aircraft pilot license and a valid commercial applicator certification to apply pesticides by aircraft.

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

Historical Note

Adopted effective January 17, 1989 (Supp. 89-1). Renumbered from R3-10-307 (Supp. 91-4). Former Section R3-3-307 repealed; new R3-3-307 renumbered from R3-3-312 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

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

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

- c. Each container is punctured or crushed after it is triple rinsed to render the container incapable of holding any material; and
2. A pesticide container that is a combustible bag or package is thoroughly emptied and either:
 - a. Folded and tied into bundles or otherwise secured, or
 - b. Enclosed securely in a secondary container that is labeled as containing pesticide residue.

Historical Note

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

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

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

Historical Note

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

R3-3-310. Fumigation Use

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

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label requirements are followed, including requirements relating to the use of personal protective equipment and posting required warning signs.

Historical Note

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

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

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

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

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-312 (Supp. 91-4). Section renumbered to R3-3-308 by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

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

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

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

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

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

- A.** A seller of any restricted use pesticide, or any agricultural use pesticide shall maintain all records showing the receipt, sale, delivery, or other disposition of the pesticide or device sold for at least two years from the date of sale. If a seller intends to change the location of the records, the seller shall file a signed statement with the Department before the move stating the new address.
- B.** When any agricultural use pesticide, or a restricted use pesticide is sold, delivered, or otherwise disposed of, a seller shall maintain the following records and information:
 1. Bill of lading or other similar record of the receipt of the pesticide at the selling establishment;
 2. Seller's dated sales receipt, delivery receipt, or invoice of the transaction, delivery, or other disposition of the pesticide;
 3. Name and address of the purchaser;
 4. PGP number, or the PMD license number of the purchaser, if applicable;
 5. State special local need registration number issued under Section 24 of FIFRA, if applicable;
 6. Emergency exemption permit number granted by the EPA under Section 18 of FIFRA, if applicable;
 7. Experimental use permit number, if applicable;

8. Pesticide brand name and the EPA registration number; and
9. Quantity of the pesticide sold to the purchaser.

- C.** In addition to the information required in subsection (B), when a restricted use pesticide is sold, delivered, or otherwise disposed of for use by a certified applicator, a seller shall maintain records that contain the following information:
 1. Name and address of the residence or principal place of business of each person to whom the restricted use pesticide is sold, delivered, or otherwise disposed of, and any records required under R3-3-306;
 2. Certified applicator's name, address, certification number, and the expiration date of the applicator's certification; and
 3. Categories in which the applicator is certified, if applicable.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-401 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by exempt rulemaking at 19 A.A.R. 3130, effective September 16, 2013 (Supp. 13-3). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

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

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

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).

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Renumbered from R3-10-402 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by exempt rulemaking at 19 A.A.R. 3130, effective September 16, 2013 (Supp. 13-3). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-403. Bulk Release Report

- A.** An applicator shall notify the Department at the Pesticide Hotline, 1-800-423-8876, as soon as practical after a bulk release, but no later than three hours after the bulk release. If the bulk release is on a public highway or railway, or results in the death of an individual, the applicator shall immediately call 911, then report the incident to the ADEQ's Environmental Emergency Response Unit by calling (602) 390-7894, within 24 Hours.
- B.** Within 30 days after a bulk release, the applicator shall provide a written report to the Department listing all details of the release, including:
1. Location and cause of the release;
 2. Disposition of the pesticide released;
 3. Measures taken to contain the bulk release;
 4. Name and EPA registration number of the pesticide released;
 5. Name, email address, if applicable, and telephone number of the applicator's contact person;
 6. Date and time of the release;
 7. Specific environment into which the release occurred;
 8. Known human exposure to the pesticide, if observed; and
 9. Estimated amount of pesticide or pesticide mixture released.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-403 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

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

- A.** A custom applicator shall submit to the Department, by mail or fax, a completed and signed Form 1080, as prescribed in R3-3-302.
- B.** A regulated grower shall submit to the Department, by mail or fax, a completed and signed Form 1080, as prescribed in R3-3-302, for application of a pesticide containing an active ingredient that appears on the ADEQ groundwater protection list, and is soil-applied, as defined in A.A.C. R18-6-301.
- C.** A custom applicator or regulated grower may report continued pesticide applications and spot applications within the same reporting period on a single Form 1080.
- D.** A custom applicator or a regulated grower shall submit the Form 1080 to the Department during the reporting period.
- E.** A PCA or custom applicator shall retain a copy of each Form 1080 for at least two years from the date of the application.

Historical Note

Adopted effective January 17, 1989 (Supp. 89-1). Renumbered from R3-10-404 (Supp. 91-4). Section repealed; new Section made by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

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

An applicator shall maintain the following information for two years:

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

Historical Note

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

ARTICLE 5. NONEXCLUSIVE LISTS OF SERIOUS, NONSERIOUS, AND DE MINIMIS VIOLATIONS**R3-3-501. Serious Violations**

The following is a nonexclusive list of acts that are serious violations if exposure to the pesticide produces a substantial probability that death or serious physical harm could result, unless the violator did not, and could not with the exercise of reasonable diligence, as documented in the investigative record, know of such safety or human health risk, in which case the violation is nonserious:

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

Historical Note

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

R3-3-502. Nonserious Violations

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

1. Improperly store, dump, or leave unattended any pesticide, pesticide container or part of a pesticide container, or service container.
2. Make a false statement or misrepresentation in an application for a permit, license, or certification, or a permit, license, or certification renewal.
3. Falsify any records or reports required to be made under Articles 2 through 4 of this Chapter.
4. Operate an aircraft, drone, or ground equipment in a faulty, careless, or negligent manner during the application of a pesticide.
5. Apply or instruct another to apply a pesticide so that it comes into contact with:
 - a. An individual;
 - b. An animal; or
 - c. Property, other than the application site being treated.

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6. Use, apply, or instruct another to apply a pesticide in a manner or for a use inconsistent with its pesticide label or labeling except as provided by R3-3-301(A).
 7. Unless being used under an approved EUP or being used on research facility, use, sell, apply, store, or instruct another to use, sell, apply, or store a pesticide:
 - a. That is not registered with the Department and the EPA, or
 - b. Outside the EPA authorized end-use provision if previously registered with the Department and the EPA and cancelled or suspended by the EPA.
 8. Fail to provide accurate or approved labeling when registering a pesticide.
 9. Using a restricted use pesticide without proper certification, or under the direct supervision of a properly certified applicator, when allowed.
- B. Seller violations.** A seller shall not:
1. Sell pesticides without a valid seller's permit issued by the Department according to R3-3-203;
 2. Provide a restricted use pesticide to a regulated grower or applicator who does not have a valid applicator certification;
 3. Fail to maintain records required under Articles 2 through 4 of this Chapter;
 4. Fail to maintain complete sales records of restricted use pesticides required under Articles 3 and 4 of this Chapter;
 5. Adulterate a pesticide;
 6. Make false or misleading claims about a pesticide to any person;
 7. Modify a label or labeling without proper authorization;
 8. Provide a pesticide to a person not authorized according to R3-3-306; or
 9. Provide an agricultural use pesticide to a person who does not have a valid PGP.
- C. PCA violations.** A PCA shall not:
1. Act as a PCA without a valid agricultural pest control advisor license issued by the Department according to R3-3-207,
 2. Make a false or fraudulent statement in any written recommendation about the use of a pesticide,
 3. Make a recommendation regarding the use of a pesticide in a specific category in which the individual is not licensed, or
 4. Make a written recommendation for the use of a pesticide in a manner inconsistent with its pesticide label or the exceptions as provided in R3-3-301(A).
- D. Agricultural aircraft pilot and drone pilot violations.** A pilot or drone pilot shall not apply a pesticide by aircraft or drone without a valid agricultural aircraft pilot license or drone pilot license, as applicable, issued by the Department according to A.A.C. R3-3-204.
- E. Custom applicator violations.** A custom applicator shall not:
1. Allow application equipment to be operated in a careless or reckless manner during the application of a pesticide,
 2. Make a custom application without a valid custom applicator's license issued by the Department according to R3-3-205,
 3. Make a custom application of a restricted use pesticide without supervision by a person with a valid commercial applicator certification issued by the Department according to R3-3-208,
 4. Allow an aircraft or drone to be operated during the application of a pesticide by an individual who does not have a valid agricultural aircraft pilot license (APL) or drone pilot license (DPL), as applicable, issued by the Department according to R3-3-204, or
 5. Apply a pesticide without a written Form 1080 as prescribed in R3-3-302(A).
- F. Regulated grower violations.** A regulated grower shall not:
1. Purchase, apply, or use an agricultural use pesticide without a valid Pesticide Grower Permit (PSP) issued by the Department according to R3-3-201;
 2. Purchase, store, or apply a restricted use pesticide without being a certified applicator in the appropriate category;
 3. Purchase, store, or apply any restricted use pesticide on a golf course without being a golf applicator; or
 4. Allow a pesticide application on a golf course without having the proper protective equipment required by the label available to the applicator.
- G. Certified applicator violations.** A certified applicator shall not:
1. Allow the unsupervised application of a restricted use pesticide,
 2. Fail to maintain complete records required under Articles 2 through 4 of this Chapter, or
 3. Use a restricted use pesticide without a valid commercial applicator, private applicator, or golf applicator restricted use pesticide certification issued by the Department according to R3-3-208.
 4. Use a restricted use pesticide without restricted use pesticide certification in the proper category.
- H. Exemptions.** The following incidents are not pesticide use violations under this Section:
1. Exposure of an individual involved in the application who is wearing proper protective clothing and equipment;
 2. Exposure of an unknown trespassing individual, animal, or property that the applicator, working in a prudent manner, could not anticipate being at the application site; or
 3. Exposure of a person, animal, or property if the application is made according to a government-sponsored emergency program.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).
 Renumbered from R3-10-502 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by exempt rulemaking at 19 A.A.R. 3130, effective September 16, 2013 (Supp. 13-3).
 Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-503. De Minimis Violations

- A. Seller violations.** It is a de minimis violation if a seller:
1. Fails to record seller and GGP numbers on containers, cartons, and delivery tickets;
 2. Fails to register the seller's responsible individual; or
 3. Fails to maintain complete records as required under Articles 2 through 4 of this Chapter.
- B. PCA violations.** It is a de minimis violation if a PCA:
1. Fails to put recommendations in writing as prescribed at R3-3-302(A),
 2. Fails to provide complete information required on written recommendations under R3-3-302,
 3. Fails to maintain complete records as required under Articles 2 through 4 of this Chapter, or
 4. Fails to obtain CEU credits pertinent to the categories license renewal is sought.
- C. Custom applicator violations.** It is a de minimis violation if a custom applicator:

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1. Fails to maintain complete records required under Articles 2 through 4 of this Chapter, or
 2. Fails to file reports as required under Articles 3 and 4 of this Chapter.
- D.** Regulated grower violations. It is a de minimis violation if a regulated grower:
1. Fails to maintain complete records as required under Articles 2 through 4 of this Chapter; or
 2. Fails to file reports as required under Article 4 of this Chapter including whether the application includes a pesticide containing an active ingredient that appears on the ADEQ groundwater protection list, and is soil-applied, as defined in A.A.C. R18-6-301.
- E.** Certified applicator violations. A certified applicator shall not:
1. Fail to file reports as required under Articles 3 and 4 of this Chapter; or
 2. Fail to obtain CEU credits pertinent to the categories that certification renewal is sought.
- F.** A third de minimis violation in a three-year period is a nonserious violation.
- G.** Exemptions. The following incidents are not a violation under this Section:
1. Exposure of an individual involved in the application who is wearing proper protective clothing and equipment;
 2. Exposure of an unknown trespassing individual, animal, or property that the applicator, working in a prudent manner, could not anticipate being at the application site; or
 3. Exposure of a person, animal, or property if the application is made according to a government-sponsored emergency program.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).
 Renumbered from R3-10-503 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-504. Mitigation

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

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).
 Renumbered from R3-10-504 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

R3-3-505. Unlisted Violations

- A.** The Department shall classify a violation of Articles 2 through 4 of this Chapter or of A.R.S. Title 3, Chapter 2, Article 6 that

is not listed in R3-3-501, R3-3-502, or R3-3-503 as a serious, nonserious, or de minimis violation depending upon the specific factual circumstances surrounding the violation.

- B.** A third de minimis violation of the same or similar type in a three-year period is a nonserious violation.
- C.** According to A.R.S. § 3-370, in addition to the civil penalties prescribed by the section, a person who knowingly or willfully commits a violation of this Article may be charged as follows:
1. For any nonserious violation of this Article that results in the harm to the environment or economy that results in the loss of \$10,000 or less may be found guilty of a class 1 misdemeanor; or
 2. For any serious violation of this Article that results in the harm to human or animal health, the environment, or the economy of \$10,000 or more may be found guilty of a class 6 felony.
- D.** In addition, the Director may deny, suspend or revoke an applicator certification for one or more of the following violations:
1. Misuse of a pesticide;
 2. Falsifying records as required under Article 4 of this Chapter;
 3. A criminal conviction under section 14(b) of FIFRA;
 4. A final order imposing a civil penalty under section 14(a) of FIFRA; or
 5. A violation of State laws or regulation relevant to the State certification plan.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).
 Renumbered from R3-10-505 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-506. Penalty and Fine Point System

- A.** The ALJ shall assess points, as applicable, against a violator for the violation of each pesticide rule or statute, or the Associate Director shall assess points, as applicable, for the violation of each pesticide rule or statute upon entering into a negotiated settlement as a result of an informal settlement conference under A.R.S. § 41-1092.06, in accordance with the following point system. From each of subsections (A)(1) through (6), one choice shall be selected, unless otherwise appropriate, based upon supporting evidence in the record of the proceeding before the ALJ or Associate Director. Points shall be totaled for the violation of each pesticide rule or statute.
1. Health effects.
 - a. No evidence of human exposure to pesticides and no evidence of the substantial probability of human exposure to pesticides. 0
 - b. Substantial probability of human exposure to pesticides but treatment not required by a physician, nurse, paramedic, or physician's assistant. 5-10
 - c. Evidence of human exposure to pesticides but treatment not required by a physician, nurse, paramedic, or physician's assistant. 11-20
 - d. Human exposure to pesticides that required treatment by a physician, nurse, paramedic, or physician's assistant, but which did not result in pesticide poisoning. 21-30

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- e. Human exposure to pesticides that required either hospitalization for less than 12 hours or treatment as an outpatient for five consecutive days or less by a physician, nurse, paramedic, or physician's assistant for pesticide poisoning. 31-45
- f. Human exposure to pesticides that required either hospitalization for 12 hours or longer, or treatment as an outpatient for more than five consecutive days by a physician, nurse, paramedic, or physician's assistant for pesticide poisoning. 46-100
- g. Human exposure to pesticides resulting in death from pesticide poisoning (serious violation unless otherwise documented in the investigative record). 101-180
2. Environmental consequences and property damage. (Select one or more as evidence indicates.)
- a. No evidence of substantial probability of environmental or property damage. 0
- b. Substantial probability of water contamination. 5-10
- c. Evidence of water source contamination. 11-20
- d. Substantial probability of soil contamination causing economic damage. 5-10
- e. Evidence of soil contamination causing economic damage. 11-20
- f. Substantial probability of nontarget bird kills. 5-10
- g. Evidence of nontarget bird kills. 11-20
- h. Substantial probability of nontarget fish kills. 5-10
- i. Evidence of nontarget fish kills. 11-20
- j. Nontarget kills involving game or furbearing animals as defined by A.R.S. § 17-101(B). 10-20
- k. Any property damage (nonserious violation only under A.R.S. § 3-361(4)). 10-20
- l. Air contamination causing official evacuation by federal, state, or local authorities. 10-20
- m. Killing one or more threatened or endangered species. 15-20
- n. Killing one or more domestic animals. 15-20
3. Culpability
- a. Knowing. Knew or reasonably should have known of the safety, health or property damage risk. 5-10
- b. Willfully. Actual knowledge or belief that the conduct would violate the law but engages in misconduct. 20-50
4. Prior violations or citations. Violations or citations within three years from the date the violation was committed. (Select one or more as evidence indicates.)
- | Prior violation history | Current violation Non-serious | Current violation Serious |
|------------------------------------------------------------------------------------------------------------------------------|-------------------------------|---------------------------|
| None | 0 | 0 |
| One or more De minimis | 5 | 0 |
| One Nonserious | 10 | 5 |
| One Nonserious, same or substantially similar to current violation | 20 | 10 |
| Two Nonserious | 30 | 15 |
| Two Nonserious, same or substantially similar to current violation | 40 | 20 |
| Three Nonserious | 60 | 30 |
| Three Nonserious, same or substantially similar to current violation | 70 | 35 |
| Additional Nonserious: same or substantially similar to current violation, points per each additional violation beyond three | 10 | 5 |
| One Serious | 20 | 10 |
| One Serious, same or substantially similar to current violation | 40 | 20 |
| Two Serious | 60 | 30 |
| Two Serious, same or substantially similar to current violation | 80 | 40 |
| Three Serious | 120 | 60 |
| Three Serious, same or substantially similar to current violation | 140 | 70 |
| Additional Serious: same or substantially similar to current violation, points per violation | 20 | 10 |
5. The length of time a violation has been allowed to continue by the violator after notification by the Department.
- a. Less than one day. 0
- b. One day but less than one week. 1-10
- c. One week but less than one month. 11-20
- d. One month but less than two months. 21-30
- e. Two months or more. 31-40
6. Wrongfulness of conduct
- a. Conduct resulting in a violation that does not cause any immediate damage to public health, safety, or property. 4-5
- b. Conduct resulting in a violation that the evidence establishes may have a substantial probability of an immediate effect upon public health, safety, or property. 6-8

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- c. Conduct resulting in a violation that the evidence establishes had an immediate effect upon public health, safety, or property, but does not fall within subsection (6)(e). 9-10
- d. Conduct causing the substantial probability of serious physical injury, hospitalization, or sustained medical treatment for an individual, or degrading the pre-existing environmental quality of the air, water, or soil so as to cause a substantial probability of a threat to the public health, safety, or property. 20-35
- e. Conduct resulting in serious physical injury, hospitalization, or sustained medical treatment for an individual, or degrading the pre-existing environmental quality of the air, water, or soil so as to cause a substantial probability of a threat to the public health, safety, or property. 36-50

B. The ALJ or Associate Director, after determining points according to subsection (A) shall assess a fine or penalty, or fine and penalty, for each violation in accordance with the following schedules:

1. Nonserious violation as defined under A.R.S. § 3-361.
 - a. 53 points or less. A fine of \$50 to \$150; a penalty of one to three months' probation, with a condition of violating probation being one to three hours of continuing education.
 - b. 54 to 107 points. A fine of \$151 to \$300; a penalty of four to six months' probation with a condition of violating probation being one to 10 days' suspension.
 - c. 108 points or more. A fine of \$301 to \$500; a penalty of seven to 12 months' probation with a condition of violating probation being 15 to 30 days' suspension or revocation for a period of up to one year.
2. Serious violation as defined under A.R.S. § 3-361.
 - a. 46 points or less. A fine of \$1,000 to \$2,000; a penalty of one to three months' probation with a condition of violating probation being five to 10 days' suspension for a nonserious violation or 15 to 30 days' suspension for a serious violation.
 - b. 47 to 93 points. A fine of \$2,001 to \$5,000; a penalty of four to six months' probation with a condition of violating probation being 15 to 30 days' suspension for a nonserious violation and 31 to 90 days' suspension for a serious violation.
 - c. 94 points or more. A fine of \$5,001 to \$10,000; a penalty of probation for seven to 12 months with a condition of violating probation being two to four months' suspension for a nonserious violation and four to 12 months' suspension for a serious violation, or revocation for the remainder of the license year and an additional period of one to three years.
3. The first de minimis violation is not considered a violation of probation.

Historical Note

Adopted effective September 13, 1989 (Supp. 89-3). Renumbered from R3-10-506 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

ARTICLE 6. REPEALED**R3-3-601. Repealed****Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-601 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-602. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-602 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-603. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-603 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-604. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-604 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-605. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-605 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-606. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-606 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-607. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-607 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-608. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-608 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-609. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-609 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-610. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-610 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-611. Repealed

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Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-611 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-612. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-612 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-613. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-613 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-614. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-614 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-615. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-615 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-616. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-616 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-617. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-617 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

ARTICLE 7. PESTICIDE**R3-3-701. Definitions**

In addition to the definitions in A.R.S. § 3-341, the following terms apply to this Article:

“Discontinuation” means when the registrant is no longer distributing a pesticide into Arizona.

“Official sample” means any sample of pesticide taken by the Associate Director, or the Associate Director’s agent, and designated as official.

“Pest” means, in addition to the pests declared in A.R.S. § 3-341(20), all birds, mammals, reptiles, amphibians, fish, slugs, snails, crayfish, roots, and plant parts.

Historical Note

Former rule 1; Former Section R3-3-01 repealed, new Section R3-3-01 adopted effective January 18, 1978 (Supp. 78-1). Amended effective December 29, 1978 (Supp. 78-6). Section R3-3-701 renumbered from R3-3-01 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4,

2024 (Supp. 24-1).

R3-3-702. Pesticide Registration; Fee

- A. Registration. Any person registering a pesticide shall comply with the ADEQ pre-registration requirements according to A.A.C. R18-6-102, prior to submitting a pesticide registration according to this Article, and provide the following documents and information on a form provided by the Department with a nonrefundable \$100 fee for each pesticide, for each year of the registration:
1. The name, address, telephone number, and signature of the applicant;
 2. The name and address of the company appearing on the label;
 3. The tax identification number or Social Security number of an individual applying;
 4. The date of the application;
 5. The brand and name of the pesticide being registered;
 6. The EPA registration number of the pesticide if applicable;
 7. The analytical methods for any analyses of residues for the active ingredients of the pesticide, when requested by the Department;
 8. The toxicological and safety data, when requested by the Department;
 9. The name and telephone number of the person providing the analytical methods, and toxicological and safety data;
 10. One pesticide label for any pesticide not previously registered;
 11. The material safety data sheet for each pesticide; and
 12. The license time-period option.
- B. A pesticide registration is nontransferable, expires on December 31, and shall, at the option of the applicant, be valid for one or two years.
- C. If an applicant elects a two-year pesticide registration, any additional pesticide registered during that two-year registration shall have the same registration end-date as any other pesticide currently registered by that applicant with the Department.

Historical Note

Former rule II; Former Section R3-3-02 renumbered and amended as Section R3-3-01, former Sections R3-3-11 and R3-3-12 renumbered and amended as Section R3-3-02 effective January 18, 1978 (Supp. 78-1). Amended subsection (C) effective January 1, 1979, subsection (D) effective January 1, 1982 (Supp. 78-6). Editorial corrections, subsection (B), paragraphs (6) through (9) (Supp. 79-6). Amended by deleting subsection (D) effective March 5, 1982 (Supp. 82-2). Section R3-3-702 renumbered from R3-3-02 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2). New Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4). Amended by exempt rulemaking at 16 A.A.R. 1334, effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1759, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 20 A.A.R. 2452, effective July 24, 2014 (Supp. 14-3). Amended by final exempt rulemaking at 23 A.A.R. 1940, effective August 9, 2017 (Supp. 17-2). Amended by final exempt rulemaking at 24 A.A.R. 2222, effective August 3, 2018 (Supp. 18-3). Amended by final exempt rulemaking at 25 A.A.R. 2084, effective August 27, 2019 (Supp. 19-3). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024

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(Supp. 24-1).

R3-3-703. General Provisions

- A.** Discontinued pesticides. In addition to the requirements for discontinued pesticides established in A.R.S. § 3-351(K), any person holding a pesticide found in the channels of trade following the two-year discontinuation period shall be responsible to register or dispose of the pesticide.
- B.** Sampling.
1. The Associate Director, or the Associate Director's agent, may sample, inspect, and analyze any pesticide distributed within the state to determine whether the pesticide is in compliance with the provisions of this Article and laws pertaining to this Article, or if a complaint has been filed with the Department.
 2. The analytical results of pesticide formulations as listed on a label shall comply with the allowed deviations listed in R3-3-704(B).
 3. The results of an official analyses of any pesticide not in compliance with the allowed deviations listed in R3-3-704(B) shall be sent to the Associate Director, to the registrant, or other responsible person. Upon request, and within 30 days, the Associate Director shall provide the registrant or other responsible person a portion of the noncompliant pesticide sample.

- C.** Prohibited acts. No person shall purchase a pesticide to repack the pesticide for distribution and sale without relabeling the repackaged container and complying with the provisions of FIFRA and 40 CFR §§ 156.3 et seq. (amended December 12, 2008, <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-156>) and 40 CFR §§ 157.20 et seq. (amended December 12, 2008, <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-157>). This material is incorporated by reference, is on file with the Department and includes no later amendments or additions.

Historical Note

Section R3-3-703 renumbered from R3-3-03 (Supp. 91-4). New Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-704. Labels

- A.** Within two weeks of a pesticide label revision, a registrant shall provide the Department with one pesticide label that has been revised since the pesticide was originally registered.
- B.** The Associate Director may request a copy of a pesticide label if the label on file is older than three years.

C. Table of allowed deviations of analytical results from label claims for active ingredients in pesticide formulas is as follows:

| Claim % | HCV ⁽¹⁾ % | HSD ⁽²⁾ | Allowed Deviations for “uniform” ⁽³⁾ samples | | Allowed Deviations for “non-uniform” ⁽⁴⁾ samples | |
|---------|----------------------|--------------------|---------------------------------------------------------|--------------|-------------------------------------------------------------|--------------|
| | | | Claim - 3HSD | Claim + 6HSD | Claim - 4HSD | Claim + 8HSD |
| 0.001 | 11.31 | 0.00011 | 0.00066 | 0.00168 | 0.00055 | 0.00191 |
| 0.005 | 8.88 | 0.00044 | 0.0037 | 0.0077 | 0.0032 | 0.0086 |
| 0.008 | 8.27 | 0.00066 | 0.0060 | 0.0120 | 0.0054 | 0.0133 |
| 0.01 | 8.00 | 0.00080 | 0.0076 | 0.0148 | 0.0068 | 0.0164 |
| 0.03 | 6.78 | 0.0020 | 0.024 | 0.042 | 0.022 | 0.046 |
| 0.06 | 6.11 | 0.0037 | 0.049 | 0.082 | 0.045 | 0.089 |
| 0.10 | 5.66 | 0.0057 | 0.083 | 0.13 | 0.077 | 0.145 |
| 0.40 | 4.59 | 0.018 | 0.34 | 0.51 | 0.33 | 0.55 |
| 0.80 | 4.14 | 0.033 | 0.70 | 1.00 | 0.67 | 1.06 |
| 1.0 | 4.00 | 0.040 | 0.88 | 1.24 | 0.84 | 1.32 |
| 2.0 | 3.60 | 0.072 | 1.78 | 2.43 | 1.71 | 2.58 |
| 4.0 | 3.25 | 0.13 | 3.61 | 4.78 | 3.48 | 5.04 |
| 6.0 | 3.05 | 0.18 | 5.45 | 7.10 | 5.27 | 7.47 |
| 10.0 | 2.83 | 0.28 | 9.15 | 11.70 | 8.87 | 12.26 |
| 15.0 | 2.66 | 0.40 | 13.80 | 17.39 | 13.40 | 18.19 |
| 20.0 | 2.55 | 0.51 | 18.47 | 23.06 | 17.96 | 24.08 |
| 25.0 | 2.46 | 0.62 | 23.15 | 28.70 | 22.54 | 29.93 |
| 30.0 | 2.40 | 0.72 | 27.84 | 34.32 | 27.12 | 35.75 |
| 35.0 | 2.34 | 0.82 | 32.54 | 39.92 | 31.72 | 41.56 |
| 40.0 | 2.30 | 0.92 | 37.25 | 45.51 | 36.33 | 47.35 |
| 45.0 | 2.26 | 1.01 | 41.96 | 51.09 | 40.94 | 53.12 |
| 50.0 | 2.22 | 1.11 | 46.67 | 56.66 | 45.56 | 58.88 |
| 60.0 | 2.16 | 1.30 | 56.11 | 67.78 | 54.82 | 70.37 |
| 70.0 | 2.11 | 1.48 | 65.57 | 78.86 | 64.09 | 81.82 |
| 80.0 | 2.07 | 1.65 | 75.04 | 89.93 | 73.38 | 93.24 |
| 90.0 | 2.03 | 1.83 | 84.51 | 100.97 | 82.68 | 104.63 |

(1) HCV(%) = Horwitz Coefficients of Variation = $2 (1 - 0.5 \log (\text{claim \%}/100))$

(2) HSD = Horwitz Standard Deviation = $(\text{Claim \%}) \text{ HCV \%}/100$

(3) “Uniform” samples are homogeneous products which can be analyzed by established procedures. In most cases, validated analytical methods are available for these samples.

(4) “Non-uniform” samples are non-homogeneous samples or products which are difficult to sample or subsample. These products may not be uniformly mixed or packaged and include some special formulations like natural products. These types of samples include fertilizer containing pesticides, pesticides in pressurized containers, strips, plastic bands, collars, grain and other carriers. Natural product formulations such as rotenone and pyrethrin are also included in this group. When it is necessary to use methods which are not validated for accuracy, precision, and reproducibility in a specific matrix, the “non-uniform” guidelines may be used for allowed deviations. The Department may use judgment in placing a sample into the “uniform” or “non-uniform” category.

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Historical Note

Former rule IV; Former Section R3-3-04 renumbered and amended as Section R3-3-01 effective January 18, 1978 (Supp. 78-1). Section R3-3-704 renumbered from R3-3-04 (Supp. 91-4). New Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-705. Renumbered**Historical Note**

Former rule V; Repealed effective January 18, 1978 (Supp. 78-1). Section R3-3-705 renumbered from R3-3-05 (Supp. 91-4).

R3-3-706. Renumbered**Historical Note**

Former rule VI; Repealed effective January 18, 1978 (Supp. 78-1). Section R3-3-706 renumbered from R3-3-06 (Supp. 91-4).

R3-3-707. Renumbered**Historical Note**

Section R3-3-707 renumbered from R3-3-07 (Supp. 91-4).

R3-3-708. Renumbered**Historical Note**

Former rule VIII; Repealed effective January 18, 1978 (Supp. 78-1). Section R3-3-708 renumbered from R3-3-08 (Supp. 91-4).

R3-3-709. Renumbered**Historical Note**

Former Administrative rule 1; Repealed effective January 18, 1978 (Supp. 78-1). Section R3-3-709 renumbered from R3-3-09 (Supp. 91-4).

R3-3-710. Renumbered**Historical Note**

Section R3-3-710 renumbered from R3-3-10 (Supp. 91-4).

R3-3-711. Renumbered**Historical Note**

Adopted effective November 30, 1977 (Supp. 77-6). Former Section R3-3-11 renumbered and amended as Section R3-3-02 effective January 18, 1978 (Supp. 78-1). Section R3-3-711 renumbered from R3-3-11 (Supp. 91-4).

R3-3-712. Renumbered**Historical Note**

Adopted effective November 30, 1977 (Supp. 77-6). Former Section R3-3-12 renumbered and amended as Section R3-3-02 effective January 18, 1978 (Supp. 78-1). Section R3-3-712 renumbered from R3-3-12 (Supp. 91-4).

ARTICLE 8. FERTILIZER MATERIALS**R3-3-801. Definitions**

In addition to terms and definitions in the Official Publication, which is incorporated by reference, on file with the Department, and does not include any later amendments or editions, and the definitions in A.R.S. § 3-262, the following term applies to this Article:

“Official Publication” means the “*Official Publication - AAPFCO*” of the Association of American Plant Food Control Officials, No. 76, 2023. A copy is available for inspection at the Department located at 1110 West Washington Street, Suite 450, Phoenix, AZ 85007, or online subscription may be purchased online at aapfco.org/publications.html.

Historical Note

Former rule I; Former Section R3-3-21 repealed, former Section R3-3-24 renumbered and amended as Section R3-3-21 effective January 12, 1978 (Supp. 78-1). Amended effective March 23, 1979 (Supp. 79-2). Section R3-3-801 renumbered from R3-3-21 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-802. Licensure; Specialty Fertilizer Registration; Fees

- A. Commercial fertilizer license. Any person applying for a commercial fertilizer license, under A.R.S. § 3-272, to manufacture or distribute commercial fertilizer, shall provide the following information on the license application provided by the Department with a nonrefundable fee of \$125 for each year of the license:
 1. The name, title, and signature of the applicant;
 2. The date of the application;
 3. The distributor or manufacturer name, mailing address, telephone, and email address;
 4. The tax identification number or Social Security number of an individual applying;
 5. The physical location, telephone, and email address of the distributor or manufacturer, if different than subsection (A)(3);
 6. The name, address, telephone, and email address of the distributor or manufacturer where inspection fees are paid, if different than subsection (A)(3); and
 7. The license time-period option.
- B. A commercial fertilizer license is nontransferable, expires on June 30, and shall, at the option of the applicant, be valid for one or two years.
- C. Specialty fertilizer registration.
 1. Any manufacturer or distributor whose name appears on a specialty fertilizer label shall provide the following information to the Department with a nonrefundable fee of \$50 per brand and grade of specialty fertilizer for each year of the registration:
 - a. The name, address, telephone number, email address and signature of the applicant;
 - b. The name and address of the company on the label;
 - c. The date of the application;
 - d. The grade, brand, and name of the specialty fertilizer;
 - e. The current specialty fertilizer label; and
 - f. The registration time-period option.
 2. A specialty fertilizer registration is nontransferable, expires on June 30, and shall, at the option of the applicant, be valid for one or two years.

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3. If an applicant elects a two-year specialty fertilizer registration, any additional fertilizer registered during that two-year registration shall have the same registration end-date as other fertilizer currently registered by that applicant with the Department.

Historical Note

Former rule II; Former Section R3-3-22 repealed, former Section R3-3-25 renumbered and amended as Section R3-3-22 effective January 12, 1978 (Supp. 78-1). Section R3-3-802 renumbered from R3-3-22 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4). Amended by exempt rulemaking at 16 A.A.R. 2026, effective September 21, 2010 (Supp. 10-3). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-803. Tonnage Reports; Inspection Fee

- A. Quarterly tonnage reports and inspection fee.
 1. The inspection fee for all commercial fertilizers, including specialty fertilizers, sold or distributed in Arizona is 25¢ per ton. The tonnage shall be rounded to the nearest whole ton.
 2. Any applicant applying for and receiving a new license after March 15, June 15, September 15, or December 15 is not required to file a quarterly tonnage report for the quarter in which the license application is issued. Any commercial fertilizer distributed in the final two weeks of the initial application quarter shall be included on the next full quarterly report. Any person who distributed commercial fertilizer without a license as required under A.R.S. § 3-272 shall pay all past due inspection fees and late penalties before a license is issued.
 3. Any licensee not estimating annual tonnage shall file the following information on a quarterly statement provided by the Department no later than the last day of January, April, July, and October of each year for the preceding calendar quarter and pay the inspection fees and any penalties, if applicable:
 - a. If the inspection fee is being passed on to the purchaser:
 - i. The assigned number and name of the currently licensed company;
 - ii. The commercial fertilizer by code or grade;
 - iii. The amount of commercial fertilizer in whole tons;
 - iv. The name, title, telephone number, and signature of the licensee or the licensee's authorized representative; and
 - v. The date of the report.
 - b. If the licensee pays tonnage fees for the distribution of a commercial fertilizer:
 - i. The grade;
 - ii. The amount of commercial fertilizer distribution by county;
 - iii. If the commercial fertilizer is dry, whether it is a bulk agricultural product, a bagged agricultural product, or a non-agricultural product;
 - iv. If the commercial fertilizer is liquid, whether it is an agricultural or non-agricultural product;
 - v. The name, title, telephone number, and signature of the licensee or the licensee's authorized representative; and
 - vi. The date of the report.

- B. Estimated tonnage report. A licensee may estimate the annual fertilizer material tonnage if it is 400 tons or less per year and the licensee does not pass the inspection fee responsibility to the purchaser.

1. The licensee shall submit the estimated annual commercial fertilizer tonnage report to the Department with the annual inspection fee no later than July 31 of each year. The tonnage report shall contain:
 - a. The estimated tonnage of commercial fertilizer to be distributed;
 - b. The grade;
 - c. The amount of distribution by county;
 - d. If the commercial fertilizer is dry, whether it is a bulk agricultural product, a bagged agricultural product, or a non-agricultural product;
 - e. If the commercial fertilizer is liquid, whether it is an agricultural or non-agricultural product;
 - f. The name, title, telephone number, and signature of the licensee or the licensee's authorized representative; and
 - g. The date of the report.
2. The licensee shall submit the inspection fee according to subsection (A)(1), which shall be for the amount declared in subsection (B)(1)(a), but not less than \$8 per year. The fee must be included with the annual tonnage report submitted to the Department no later than July 31 of each year. Adjustments for overestimates or underestimates for a licensee with 400 tons or less of actual tonnage sales shall be made on the next year's estimating form. Adjustments of underestimates of licensees with actual tonnage sales more than 400 tons shall be made no later than July 31 of each year.
3. The licensee shall verify the accuracy of the previous year's tonnage estimates to actual tonnage sales and submit the tonnage verification no later than July 31 of each year.
4. Overestimation of tonnage.
 - a. The Department shall not refund any inspection fee based on an overestimation if the licensee does not re-license in the subsequent year;
 - b. If a licensee applies for a license in the subsequent year, the Department shall apply any overestimation to the subsequent year's tonnage fees.

Historical Note

Former rule III; Former Section R3-3-23 repealed, former Section R3-3-32 renumbered as Section R3-3-23 effective January 12, 1978 (Supp. 78-1). Amended effective March 23, 1979 (Supp. 79-2). Section R3-3-803 renumbered from R3-3-23 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2). New Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4). Amended by exempt rulemaking at 16 A.A.R. 2026, effective September 21, 2010 (Supp. 10-3). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-804. General Provisions

- A. Labeling.
 1. The grade numbers for primary nutrients that accompany the brand name of a commercial fertilizer shall be listed on the label in the following order: total nitrogen, available phosphate, and soluble potash. Other guaranteed nutrient values shall not be included with the grade numbers unless:

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- a. The guaranteed nutrient value follows the grade number;
 - b. The guaranteed nutrient value is immediately preceded with the name of the claimed nutrient to which it refers in the guaranteed analysis; and
 - c. The name printed on the label is as prominent as the numbers.
2. The materials from which claimed nutrients are derived shall be listed on the label.
 3. No grade is required for fertilizer materials that claim no primary plant nutrient (i.e., 0-0-0).
 4. All guaranteed nutrients, except phosphate and potash, shall be stated in terms of elements.
 5. The label shall include the brand name of a fertilizer. Misleading or confusing numerals shall not be used in the brand name on the label.
 6. Fertilizer material not defined in the Official Publication may be used as fertilizer material if a definition or other method of analysis and agronomic data for fertilizer material is approved by the Associate Director.
- B. Claims and misleading statements.**
1. Any nutrient claimed as a fertilizer material shall be accompanied by a minimum guarantee for the nutrient. An ingredient shall not be claimed as a nutrient unless a laboratory method of analysis approved by the Associate Director exists for the nutrient.
 2. Scientific data supporting the claim of improved efficacy or increased productivity shall be made available for inspection to the Associate Director upon request.
 3. If the name of a fertilizer material is used as part of a fertilizer brand name, such as blood, bone or fish, the guaranteed nutrients shall be derived from or supplied entirely by the named fertilizer material.
 4. Fertilizer material subject to this Article and applicable laws shall not bear false or misleading statements.
- C. Deficiencies.**
1. The value of a nutrient deficiency in a fertilizer material shall take into account total value of all nutrients at the guaranteed level and the price of the fertilizer material at the time of sale.
 2. A deficiency in an official sample of mixed fertilizer resulting from non-uniformity is not distinguishable from a deficiency due to actual plant nutrient shortage and is subject to official action.
- D. All investigational allowances shall be conducted as prescribed in the Official Publication.**
- E. Leased fertilizer material storage containers shall be clearly labeled with the following:**
1. Grade numbers;
 2. Brand name, if applicable; and
 3. The statement, "Leased by (Name and address of lessor) to (Name and address of lessee)."

Historical Note

Former rule IV; Former Section R3-3-24 renumbered and amended as Section R3-3-21, new Section R3-3-24 adopted effective January 12, 1978 (Supp. 78-1). Section R3-3-804 renumbered from R3-3-24 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2). New Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-805. Repealed**Historical Note**

Former rule V; Former Section R3-3-25 renumbered and amended as Section R3-3-22, new Section R3-3-25 adopted effective January 12, 1978 (Supp. 78-1). Section R3-3-805 renumbered from R3-3-25 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-806. Repealed**Historical Note**

Former rule VI; Former Section R3-3-26 repealed, new Section R3-3-26 adopted effective January 12, 1978 (Supp. 78-1). Section R3-3-806 renumbered from R3-3-26 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-807. Repealed**Historical Note**

Former rule VII; Former Section R3-3-27 repealed, new Section R3-3-27 adopted effective January 12, 1978 (Supp. 78-1). Section R3-3-807 renumbered from R3-3-27 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-808. Repealed**Historical Note**

Former rule VIII; Former Section R3-3-28 repealed effective January 12, 1978 (Supp. 78-1). New Section R3-3-28 adopted effective March 23, 1979 (Supp. 79-2). Section R3-3-808 renumbered from R3-3-28 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-809. Repealed**Historical Note**

Former rule IX; Former Section R3-3-29 repealed effective January 12, 1978 (Supp. 1). New Section R3-3-29 adopted effective March 23, 1979 (Supp. 79-2). Section R3-3-809 renumbered from R3-3-29 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-810. Repealed**Historical Note**

Former rule X; Former Section R3-3-30 repealed effective January 12, 1978 (Supp. 78-1). New Section R3-3-30 adopted effective March 23, 1979 (Supp. 79-2). Section R3-3-810 renumbered from R3-3-30 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-811. Repealed**Historical Note**

Former Administrative rule 1; Amended effective December 14, 1979 (Supp. 79-6). Section R3-3-811 renumbered from R3-3-31 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-812. Renumbered**Historical Note**

Adopted effective August 31, 1977 (Supp. 77-4). Former Section R3-3-32 renumbered as Section R3-3-23 effective January 12, 1978 (Supp. 78-1). Section R3-3-812

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renumbered from R3-3-32 (Supp. 91-4).

ARTICLE 9. COMMERCIAL FEED**R3-3-901. Definitions**

In addition to the definitions in A.R.S. § 3-2601, the following terms apply to this Article:

“Commercial feed” means all materials, except whole seeds unmixed or physically altered entire unmixed seeds, that are distributed for use as feed or for mixing in feed. Commercial feed includes raw agricultural commodities distributed for use as feed or for mixing in feed when the commodities are adulterated within the meaning of section 3-2611. A.R.S. § 3-2601(3)

“Lot” means any distinct, describable, and measurable quantity that contains no more than 100 tons.

“Official Publication” means the publication “Official Publication” (2023), that contains the latest approved documents of the Association of American Feed Control Officials. This material is incorporated by reference, is on file with the Department and includes no later amendments or additions. A copy is available for inspection at the Department located at 1110 West Washington Street, Suite 450, Phoenix, AZ 85007, or online subscription may be purchased online at <https://www.aafco.org/Publications>.

“Pneumatic probe sampler” means a device for taking samples of grain and other particulate material from the bottom of a bin comprises two concentric tubes spaced sufficiently apart to permit passage of the material when entrained in a stream of air. The outer longer tube has a serrated edge to enable it to penetrate dense sections, while the inner, shorter tube is provided with helical vanes. Air, blown down the outer tube is caused to swirl in a vortex by the helical vanes, thereby entraining material lodged near the bottom of the outer tube. The air, together with entrained material, passes up the inner tube and is conducted to a cyclone separator to recover the sample. (U.S. Patent, US3580084A, May 25, 1971, Expired.)

Historical Note

Former rule I; Former Section R3-3-41 renumbered and amended as Section R3-3-42, new Section R3-3-41 adopted effective January 12, 1978 (Supp. 78-1).

Amended effective April 13, 1978 (Supp. 78-2).

Amended effective February 3, 1981 (Supp. 81-1). Section R3-3-901 renumbered from R3-3-41 (Supp. 91-4).

Amended by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-902. Licensure; Fee; Ammoniation

A. Any person applying for a commercial feed license to manufacture or distribute commercial feed shall provide the following information and a nonrefundable fee of \$10 for each year of the license:

1. A copy of the label of each commercial feed product intended for distribution within the state or not already filed by the applicant with the Department; and
2. The following information on the license application provided by the Department:
 - a. The name, title, and signature of the applicant;
 - b. The distributor or manufacturer name, mailing address, telephone, and email address;

- c. The tax identification number or Social Security number of an individual applying;
- d. The date of the application;
- e. The physical location, telephone, and email address of the distributor or manufacturer, if different than subsection (A)(2)(b);
- f. The name, address, telephone, and email address of the distributor or manufacturer where inspection fees are paid, if different than subsection (A)(2)(b); and
- g. The license time-period option.

- B. A commercial feed license is nontransferable, expires on June 30, and shall, at the option of the applicant, be valid for one or two years.
- C. Ammoniation. Any person who ammoniates feed or feed material for distribution or sale shall obtain a commercial feed license and is responsible for all testing, labeling, or other requirements pertaining to commercial feed, unless the feed is ammoniated on the premises of the person using the ammoniated feed.

Historical Note

Former rule II; Former Section R3-3-42 renumbered and amended as Section R3-3-43, former Section R3-3-41 renumbered and amended as Section R3-3-42 effective January 12, 1978 (Supp. 78-1). Section R3-3-902 renumbered from R3-3-42 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-903. Tonnage Reports; Inspection Fee

- A. Quarterly tonnage report and inspection fee.
 1. The inspection fee for all commercial feed sold or distributed in Arizona is 20¢ per ton. The tonnage shall be rounded to the nearest whole ton.
 2. Any applicant applying for and receiving a new license after March 15, June 15, September 15, or December 15 is not required to file a quarterly tonnage report for the quarter in which the license application is issued, but shall report the tonnage on the following quarterly tonnage report. Any person who distributed commercial feed without a license as required under A.R.S. § 3-2609 shall pay all past due inspection fees and late penalties before a license is issued.
 3. Any licensee not estimating annual tonnage shall file the following information on a quarterly statement provided by the Department no later than the last day of January, April, July, and October of each year for the preceding calendar quarter and pay the inspection fees and any penalties, if applicable:
 - a. If the inspection fee is being passed on to the purchaser:
 - i. The commercial feed license number issued according to this Article and name of the currently licensed company;
 - ii. The amount of commercial feed in whole tons and by type, indicating whether the commercial feed is bagged or bulk;
 - iii. The name, title, telephone number, and signature of the licensee or the licensee’s authorized representative; and
 - iv. The date of the report.

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- b. If the licensee pays a tonnage fee for the distribution of a commercial feed:
 - i. The amount of commercial feed in whole tons and by type, indicating whether the commercial feed is bagged or bulk;
 - ii. The name, title, telephone number, and signature of the licensee or the licensee's authorized representative; and
 - iii. The date of the report.
- B. Estimated tonnage report. A licensee may estimate the annual commercial feed tonnage if it is 400 tons or less per year and the licensee does not pass the inspection fee responsibility to the purchaser.
 - 1. The licensee shall submit the estimated annual commercial feed tonnage report to the Department with the annual inspection fee no later than July 31 of each year. The tonnage report shall contain:
 - a. The estimated tonnage of commercial feed to be distributed;
 - b. The amount of commercial feed in whole tons and by type, indicating whether the commercial feed is bagged or bulk;
 - c. The name, title, telephone number, and signature of the licensee or the licensee's authorized representative; and
 - d. The date of the report.
 - 2. The licensee shall submit the inspection fee according to subsection (A)(1), which shall be for the amount declared in subsection (B)(1)(a), but not less than \$8 per year. The fee must be included with the annual tonnage report submitted to the Department no later than July 31 of each year. Adjustments for overestimates or underestimates for licensees with 400 tons or less of actual tonnage sales shall be made on the next year's estimating form. Adjustments of underestimates of licensees with actual tonnage sales more than 400 tons shall be made no later than July 31 of each year.
 - 3. The licensee shall verify the accuracy of the previous year's tonnage estimates to actual tonnage sales and submit the tonnage verification no later than July 31 of each year.
 - 4. Overestimation of tonnage.
 - a. The Department shall not refund any inspection fee based on an overestimation if the licensee does not re-license in the subsequent year;
 - b. If a licensee applies for a license in the subsequent year, the Department shall apply any overestimation to the subsequent year's tonnage fees.

Historical Note

Former rule III; Former Section R3-3-43 renumbered and amended as Section R3-3-44, former Section R3-3-42 renumbered and amended as Section R3-3-43 effective January 12, 1978 (Supp. 78-1). Amended effective February 3, 1981 (Supp. 81-1). Section R3-3-903 renumbered from R3-3-43 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-904. Milk and Milk Products Decharacterized for Use as Commercial Feed

- A. A person shall not sell, offer for sale, store, transport, receive, trade or barter, any milk or milk product for commercial feed unless the milk or milk product:
 - 1. Meets Grade A milk standards as specified in A.A.C. R3-2-802;
 - 2. Is produced as prescribed in A.A.C. R3-2-805; or
 - 3. Is decharacterized with food coloring approved under the Federal Food, Drug, and Cosmetic Act, according to 21 CFR §§ 73.1 et seq. (amended November 10, 2022, <https://www.ecfr.gov/current/title-21/chapter-I/subchapter-A/part-73>) and 21 CFR §§ 74.101 et seq. (amended April 5, 1993, <https://www.ecfr.gov/current/title-21/chapter-I/subchapter-A/part-74/subpart-A>). This material is incorporated by reference, is on file with the Department and does not include any later amendments or editions, and the decharacterization:
 - a. Does not affect nutritive value; and
 - b. Matches the color on the Color Requirement card. Any person decharacterizing milk and milk products may obtain a Color Requirement card from the Arizona Department of Agriculture, at 1010 W. Washington Street, Phoenix, Arizona 85007, or by requesting by mail at 1802 West Jackson Street, #78, Phoenix Arizona 85007.
- B. Labeling. All milk or milk product commercial feed labels shall be approved by the Associate Director before use.
 - 1. The principal display panel of a decharacterized milk or milk product commercial feed container shall prominently state "WARNING - NOT FOR HUMAN CONSUMPTION" in capital letters. The letters shall be at least 1/4 inch on containers of 8 oz. or less and at least 1/2 inch on all other containers.
 - 2. The container label shall also bear the statement "This product has not been pasteurized and may contain harmful bacteria" in letters at least 1/8 inch in height.
- C. Milk or milk products intended for commercial feed shall not be displayed, sold, or stored at premises where food is sold or prepared for human consumption, unless it meets Grade A standards or is decharacterized and properly labeled as required in subsection (B).

Historical Note

Former rule IV; Former Section R3-3-44 repealed, former Section R3-3-43 renumbered and amended as Section R3-3-44 effective January 12, 1978 (Supp. 78-1). Amended effective February 3, 1981 (Supp. 81-1). Amended effective July 20, 1984 (Supp. 84-4). Section R3-3-904 renumbered from R3-3-44 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-905. Labeling; Precautionary Statements

- A. Ingredient statement.
 - 1. Each ingredient or collective term for the grouping of ingredients not defined in the Official Publication shall be a common name.
 - 2. All labels for commercial feed and customer-formula feed containing cottonseed or a cottonseed product shall separately list the ingredients in the ingredient statement in addition to any collective term listed.
- B. Labeling and expression of guarantees.
 - 1. All labeling and expression of guarantees shall comply with the commercial feed-labeling guide, medicated com-

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mercial feed labeling, and expression of guarantees requirements prescribed in the Official Publication.

2. All feed with an expired "use by" or "expiration" date shall be removed from consumer access, and are not permitted for sale.
3. The label shall include the brand or product name, and shall indicate the intended use of the feed. The label shall not contain any false or misleading statements.
4. Directions for use and precautionary statements.
 - a. All labeling of whole cottonseed, commercial feed, and customer-formula feed containing any additive (including drugs, special purpose additives, or non-nutritive additives) shall clearly state its safe and effective use. The directions shall not require special knowledge of the purpose and use of the feed.
 - b. Directions for use and precautionary statements shall be provided for feed containing non-protein nitrogen as specified in R3-3-906.
 - c. All whole cottonseed or commercial feed, and customer-formula feed delivered to the consumer shall be accompanied by an accurate label, invoice, weight ticket or other documentation approved by the Department. The documentation shall be left with the consumer and shall contain the following:
 - i. "This feed contains 20 or less ppb aflatoxin and may be fed to any animal;" or
 - ii. "WARNING: This feed contains more than 20 ppb but not more than 300 ppb aflatoxin and shall not be fed to lactating animals whose milk is intended for human consumption."
 - iii. "DANGER: This feed has not been tested for aflatoxin and shall not be used as a feed until tested and found compliant with all state laws."
 - d. A distributor of whole cottonseed or cottonseed product intended for further processing, planting seed, or for any other purpose approved by the Director, shall document in writing to the Department that:
 - i. The lot of whole cottonseed or cottonseed product will not be used as commercial feed until the lot is tested and compliant with all state laws; and
 - ii. The documentation prescribed in subsection (B)(3)(c) is not required.
 - e. The distributor shall maintain the documentation for one year.
 - f. The lot of whole cottonseed or cottonseed product shall be labeled as follows: "WARNING: This material has not been tested for aflatoxin and shall not be distributed for feed or fed to any animal until tested and brought into full compliance with all state laws."

Historical Note

Former rule V; Former Section R3-3-45 repealed, new Section R3-3-45 adopted effective January 12, 1978 (Supp. 78-1). Amended effective February 3, 1981 (Supp. 81-1). Amended effective July 20, 1984 (Supp. 84-4). Section R3-3-905 renumbered from R3-3-45 (Supp. 91-4). Amended by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective

March 4, 2024 (Supp. 24-1).

R3-3-906. Non-protein Nitrogen

- A. Urea and other non-protein nitrogen products are acceptable ingredients in commercial feed for ruminant animals as a source of equivalent crude protein.
 1. If commercial feed contains more than 8.75% of equivalent crude protein from all forms of non-protein nitrogen or if the equivalent crude protein from all forms of non-protein nitrogen exceeds 1/3 of the total crude protein, the label shall include directions for the safe use of the feed and the following precautionary statement: "Caution: Use as Directed."
 2. The directions for use and the precautionary statement shall be printed and placed on the label so that an ordinary person under customary conditions of purchase and use can read and understand the directions.
- B. Non-protein nitrogen products are acceptable ingredients in commercial feeds distributed to non-ruminant animals as a source of nutrients other than equivalent crude protein. The maximum equivalent crude protein from non-protein nitrogen sources in non-ruminant rations shall not exceed 1.25% of the total daily ration.
- C. A medicated feed label shall contain feeding directions or precautionary statements, or both, with sufficient information to ensure that the feed is properly used.

Historical Note

Former rule VI; Former Section R3-3-46 repealed, new Section R3-3-46 adopted effective January 12, 1978 (Supp. 78-1). Amended effective January 29, 1979 (Supp. 79-1). Amended effective February 3, 1981 (Supp. 81-1). Amended effective July 20, 1984 (Supp. 84-4). Section R3-3-906 renumbered from R3-3-46 (Supp. 91-4). Amended by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-907. Repealed**Historical Note**

Former rule VII; Former Section R3-3-47 repealed, former Section R3-3-54 renumbered as Section R3-3-47 effective January 12, 1978 (Supp. 78-1). Amended by adding subsection (F) effective July 20, 1984 (Supp. 84-4). Section R3-3-907 renumbered from R3-3-47 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-908. Repealed**Historical Note**

Former rule VIII; Former Section R3-3-48 repealed, new Section R3-3-48 adopted effective January 12, 1978 (Supp. 78-1). Amended for spelling correction, subsection (E), effective January 29, 1979 (Supp. 79-1). Amended by adding subsection (J) effective July 20, 1984 (Supp. 84-4). Section R3-3-908 renumbered from R3-3-48 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-909. Repealed**Historical Note**

Former rule IX; Former Section R3-3-49 repealed, new Section R3-3-49 adopted effective Jan. 12, 1978 (Supp. 78-1). Amended by adding subsection (D) effective February 3, 1981 (Supp. 81-1). Amended effective July 20, 1984 (Supp. 84-4). Section R3-3-909 renumbered from R3-3-49 (Supp. 91-4). Section repealed by final rulemak-

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ing at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-910. Drug and Feed Additives**A. Drug and feed additive approval.**

1. Before a label is approved by the Associate Director for commercial feed containing additives (including drugs, other special purpose additives, or non-nutritive additives), the distributor may be required to submit evidence demonstrating the safety and efficacy of the commercial feed when used according to the label directions if the material is not recognized as a commercial feed.
2. If a complaint has been filed with the Department, the distributor may be required to submit evidence demonstrating the safety and efficacy of the commercial feed when used according to the label directions.

B. Evidence of safety and efficacy of a commercial feed may be:

1. If the commercial feed containing additives conforms to the requirements of "Food Additives Permitted in Feed and Drinking" in the Official Publication; or
2. If the commercial feed is a substance generally recognized as safe and is defined in the Official Publication or listed as a "Substances Generally Recognized as Safe in Animal Feeds" in the Official Publication.

Historical Note

Former rule X; Former Section R3-3-50 repealed, new Section 3-3-50 adopted effective January 12, 1978 (Supp. 78- 1). Amended effective July 20, 1984 (Supp. 84-4). Section R3-3-910 renumbered from R3-3-50 (Supp. 91-4). Amended by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-911. Repealed**Historical Note**

Former rule XI: Former Section R3-3-51 repealed, new Section R3-3-51 adopted effective January 12, 1978 (Supp. 78- 1). Amended effective July 20, 1984 (Supp. 84-4). Section R3-3-911 renumbered from R3-3-51 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-912. Repealed**Historical Note**

Former rule XII: Former Section R3-3-52 repealed. New Section R3-3-52 adopted effective January 12, 1978 (Supp. 78-1). Section R3-3-912 renumbered from R3-3-52 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

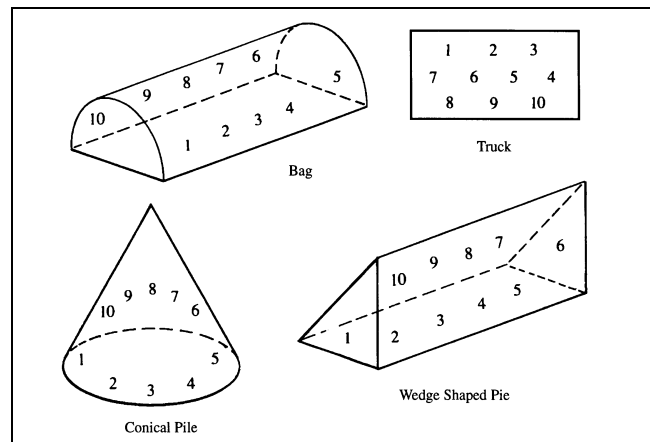
R3-3-913. Sampling Methods

- A. Sampling commercial feed.** The methods of sampling commercial feed shall comply with the procedures established in the Official Method, 965.16 Sampling of Animal Feed, in the "Official Methods of Analysis of AOAC International, 22nd Edition (2023)", which is incorporated by reference, on file with the Department, and does not include any later amendments or editions of the incorporated matter. Copies are available for inspection at the Department located at 1110 West Washington Street, Suite 450, Phoenix, AZ 85007, or may be purchased from AOAC International, 2275 Research Boulevard, Suite 300, Rockville, Maryland 20850, or by purchasing

a print copy or subscribing online at <https://members.aoac.org/bookstore/>.

B. Sampling whole cottonseed.

1. Sample size - A gross sample not less than 30 pounds shall be taken from a lot. The gross sample shall consist of not less than 10 probes evenly spaced or 10 stream sample passes taken following the procedure prescribed in subsection (B)(4)(b).
2. Sample container - The sample container shall consist of a clean cloth, burlap, or paper or plastic mesh bags. The sample shall be delivered to the laboratory within 48 hours (excluding weekends and holidays), stored in a dry, well-aerated location, and the results of the analysis reported by a certified laboratory within five working days from receipt of sample.
3. Sampling equipment. Sampling equipment includes:
 - a. Scale, graduated in one-half pound increments, and any of the following:
 - b. Corkscrew trier, approximately 50 inches in length and capable of taking at least a three-pound sample,
 - c. Pneumatic probe sampler,
 - d. Stream sampler: A container at least 8 inches x 5 inches x 5 1/2 inches attached to a pole that enables the sampler to pass the container through falling streams of cottonseed,
 - e. Automatic stream samplers or other sampling equipment if scientific data documenting its ability to obtain a representative sample is approved by the Associate Director,
 - f. Canister style shop vacuum system of no less than 1.5 hp capable of holding 12 gallons, modified to hold a 15 ft. length of vacuum hose attached to a 13 ft. length of 3/4 inch PVC pipe.
4. Sampling procedure.
 - a. If a corkscrew trier or pneumatic probe sampler is used, at least 10 evenly spaced probes shall be taken per lot. The probed samples shall be taken according to the following patterns:



The probes shall penetrate at least 50 inches, and at least two of the 10 probes per sample shall reach the bottom of the lot being sampled. The probe shall be inserted at an angle perpendicular to the face of the lot.

- b. If a canister style shop vacuum system is used, at least 15 evenly spaced probes shall be taken per lot. The sampling patterns specified in subsection

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(B)(4)(a) shall be modified to allow for the additional samples.

- c. Stream samples shall be taken while the cottonseed is being discharged, if there is a uniform discharge flow over a set period of time. The sample shall consist of at least 10 evenly timed and spaced passes through the discharge flow, resulting in the sample size specified in subsection (B)(1).
- d. The gross sample shall be weighed to the nearest 1/2 pound but shall not be reduced in size. If any gross sample does not meet the minimum 30 pound weight, that gross sample shall be discarded and the sampling procedure repeated from the beginning. If the canister style shop vacuum gross sample is not at least 10 pounds, the sample shall be discarded and the sampling procedure repeated from the beginning.
- e. The Associate Director shall approve any modified sampling procedure if scientific data is provided that documents that representative samples will be obtained through the modified sampling procedure.

Historical Note

Former Administrative Rule 1. Former Section R3-3-53 repealed effective January 12, 1978 (Supp. 78-1). New Section R3-3-53 adopted as an emergency effective October 10, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Amended as an emergency effective October 11, 1978, pursuant to A. R. S. § 41-1003, valid for only 90 days (Supp. 78-5). New Section R3-3-53 adopted effective February 3, 1981 (Supp. 81-1). Amended effective July 20, 1984 (Supp. 84-4). Section R3-3-913 renumbered from R3-3-53 (Supp. 91-4). Patterns omitted in Supp. 98-4 under subsection (C)(4)(a) have been corrected to reflect filed rules (Supp. 99-1). Amended by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-914. Repealed**Historical Note**

Adopted effective August 31, 1977 (Supp. 77-4). Former Section R3-3-54 renumbered as Section R3-3-47 effective January 12, 1978 (Supp. 78-1). New Section R3-3-54 adopted as an emergency effective October 10, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). New Section R3-3-54 adopted effective February 3, 1981 (Supp. 81-1). Amended effective July 20, 1984 (Supp. 84-4). Section R3-3-914 renumbered from R3-3-54 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-915. Repealed**Historical Note**

Adopted effective December 14, 1979 (Supp. 79-6). Section R3-3-915 renumbered from R3-3-55 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-916. Repealed**Historical Note**

Adopted effective July 20, 1994 (Supp. 84-4). Section R3-3-916 renumbered from R3-3-56 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective

November 3, 1999 (Supp. 99-4).

ARTICLE 10. AGRICULTURAL SAFETY**R3-3-1001. Definitions**

In addition to the definitions set forth in A.R.S. § 3-3101 and as defined in the federal regulations under 40 CFR § 170.305 (as amended October 30, 2020, <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-170/subpart-D/section-170.305>). This material is incorporated by reference, is on file with the Department and does not include any later amendments or editions), the following terms apply to this Article:

“Farm labor contractor” means any person who hires or contracts for the services of workers for any type of compensation, to perform activities related to the production of agricultural plants, but does not own or is not responsible for, the management or condition of an agricultural establishment.

“Flagger” means a person who indicates an aircraft spray swath width from the ground.

“Pest control advisor” means a crop advisor, as defined in the Worker Protection Standard, who assesses pest numbers or damage, pesticide distributions, or the status or requirements to sustain the agricultural plants. The term does not include a person who performs hand-labor tasks or handling activities.

“Restricted-entry interval” means the time after the completion of a pesticide application during which entry into a treated area is restricted as indicated by the pesticide product label.

“Restricted use pesticide” means a pesticide classified as such by the United States Environmental Protection Agency (A.R.S. § 3-361(8)).

“Worker Protection Standard” or “WPS” means the regulations as prescribed in 40 CFR §§ 170.1 et seq., excluding 40 CFR §§ 170.401(c)(4) and 170.501(c)(4) (as amended October 30, 2020, <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-170>). This material is incorporated by reference, on file with the Department and does not include any later amendments or editions.

Historical Note

Adopted effective July 13, 1989 (Supp. 89-3). Section R3-3-1001 renumbered from R3-8-201 (Supp. 91-4).

Amended effective March 3, 1995 (Supp. 95-1).

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

Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-1002. Repealed**Historical Note**

Adopted effective July 13, 1989 (Supp. 89-3). Section R3-3-1002 renumbered from R3-8-202 (Supp. 91-4). Section repealed, new Section adopted effective March 3, 1995 (Supp. 95-1). R3-3-1002 renumbered to R3-3-1003; new Section R3-3-1002 adopted effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Repealed by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-1003. Worker and Handler Trainees; Records**A. Trainer requirements.**

1. A person applying for pesticide safety trainer certification shall:

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- a. Complete the Worker Protection Standard compliant pesticide safety training program administered by the Department; or
 - b. Hold a current PCA license or restricted use certification, issued by the Department for a PCA or certified applicator, as prescribed under R3-3-207 or R3-3-208.
2. An applicant shall submit a signed and dated affidavit to the Department verifying that each worker or handler will be trained according to the training requirements of the Worker Protection Standard. The affidavit shall include the applicant's name, address, email address, telephone and fax numbers, as applicable.
 3. Trainer certification is:
 - a. Nontransferable;
 - b. Valid for three years from the date issued under subsection (A)(1)(a), excluding the month in which the trainer was certified, and is renewable upon completion of the Worker Protection Standard compliant pesticide safety training program administered by the Department; or
 - c. Valid initially for one year from the date issued under subsection (A)(1)(b), excluding the month in which the trainer certification was issued; and
 - d. If the PCA license or restricted use certification remains current, is renewable for three years upon completion of the Worker Protection Standard compliant pesticide safety training administered by the Department.
 4. A trainer shall maintain the records required in subsection (B) for two years, excluding the month in which the verification card was issued.
 5. Upon request by the Department, the trainer shall make available worker and handler records prescribed in subsection (B) for inspection and copying by the Department.
 6. A trainer may issue a Worker Protection Standard training verification card to each handler or worker who successfully completes training, and shall maintain a record as required in subsection (B).
- B.** Training records shall include the following recorded in indelible ink:
1. Name and signature of the trained worker or handler;
 2. Training verification card number, if utilized;
 3. Issue and expiration date of the training verification card;
 4. A unique trainer-assigned identification number of the worker or handler;
 5. Name and signature of the trainer; and
 6. Address or location of where the training occurred, including city, county, and state.
- C.** A trainer shall permit the Assistant Director or designee to enter a place where worker safety training is being presented to observe and question trainers and attendees to determine compliance with the requirements of this Section.
- D.** The Department may suspend, revoke, or deny trainer certification if any of the following occur:
1. Failing to follow the worker and handler training requirements prescribed in 40 CFR §§ 170.401 and 170.501 of the WPS;
 2. Failing to maintain the training information prescribed in subsection (B);
 3. Failing to fulfill the requirements of the affidavit as prescribed in subsection (A)(2); or
 4. Having had a similar certification revoked, suspended, or denied in any jurisdiction within the last three years.

Historical Note

Adopted effective July 13, 1989 (Supp. 89-3). Section R3-3-1003 renumbered from R3-8-203 (Supp. 91-4). R3-3-1003 repealed; new Section R3-3-1003 renumbered from R3-3-1002 and amended effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-1004. Notification Requirements for Farm Labor Contractors

- A.** The owner or operator of an agricultural establishment shall provide the farm labor contractor who performs work on that agricultural establishment with:
1. The location of the agricultural establishment's central posting site; and
 2. The restrictions on entering the treated area as specified in 40 CFR § 170.120(d) of the WPS, if a treated area is within 1/4 mile of where workers will be working and the treated area is not posted as allowed or required in 40 CFR § 170.120(a), (b) and (c) of the WPS.
- B.** The farm labor contractor shall:
1. Post or provide the worker in writing, with the information in 40 CFR § 170.122 of the WPS, or shall post or provide the worker in writing, the specific location of the central posting site for each agricultural establishment on which the worker will be working;
 2. Provide the worker with restrictions on entering a treated area as specified in 40 CFR § 170.120(d) of the WPS if the treated area on the agricultural establishment where a worker will be working is within 1/4 mile of where the worker is working, and the treated area is not posted as allowed or required in 40 CFR § 170.120(a), (b) and (c) of the WPS.

Historical Note

Adopted effective July 13, 1989 (Supp. 89-3). Section R3-3-1004 renumbered from R3-8-204 (Supp. 91-4). Amended effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-1005. Container Used For Mixing or Applying Pesticides

- A.** All openings on containers used for applying pesticides shall be equipped with covers that prevent splashes and spills.
- B.** All containers shall:
1. Be translucent, or
 2. Have a means to indicate externally the internal liquid level in the container, or
 3. Have a filler hose nozzle that automatically stops the filling operation before the liquid pesticide mixture spills over the top of the container.
- C.** Any employer who mixes or applies any liquid pesticide mixture in a container with a capacity of more than 49 gallons shall have a handler present whenever pesticides are mixed or containers are filled to ensure that the liquid pesticide mixture does not spill over the top of the container.
- D.** Each handler, while mixing pesticides, shall protect the water supply from back-siphoning pesticide mixtures.

Historical Note

Adopted effective July 13, 1989 (Supp. 89-3). Section

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R3-3-1005 renumbered from R3-8-205 (Supp. 91-4).
Section repealed; new Section adopted effective October 8, 1998 (Supp. 98-4).

R3-3-1006. Agricultural Emergency

- A.** Any grower, a group of growers, or designee may request the Assistant Director for an agricultural emergency.
- B.** Possibility of agricultural emergency.
- If during business hours information is obtained showing that a declaration of an agricultural emergency is necessary, the requesting party shall notify the Department immediately and provide the following information:
 - The cause of the emergency,
 - The area where the emergency may occur,
 - An explanation of why early entry is necessary,
 - Why other methods cannot be used to avoid the early entry, and
 - The justification that substantial economic loss will occur.
 - The Assistant Director shall render a decision to the requesting party on whether an agricultural emergency exists, if the grower or requesting party submits written evidence that includes the information in subsection (B)(1), within four hours of receiving the information.
 - If a grower or requesting party does not submit the written documentation in subsection (B)(1) or if the Assistant Director questions the validity or adequacy of the written evidence of the emergency, the Assistant Director shall investigate a grower's entry into the restricted-entry interval area and advise the requesting party of the reasons for the denial of the agricultural emergency.
 - If the information in subsection (B)(1) is given orally, the requesting party shall notify the Department immediately and provide the Assistant Director with written evidence of the emergency within five days. The Assistant Director shall, within 10 business days of receipt of the written evidence of the emergency or completion of the investigation, issue a letter to the requesting party confirming or denying the request for an agricultural emergency.
- C.** Occurrence of agricultural emergency.
- If information is obtained after business hours, or during a weekend or holiday, showing that a declaration of agricultural emergency is necessary, the requesting party shall inform the Department, orally, the next business day following the emergency and provide the following information, in writing, within 72 hours of the emergency or notification:
 - The cause of the emergency,
 - The area where the emergency occurred,
 - A brief explanation of why early entry was necessary,
 - Why other methods could not be used to avoid the early entry, and
 - The justification that substantial economic loss would have occurred.
 - If a grower or requesting party does not submit the written evidence of the emergency in subsection (B)(1) or if the Assistant Director questions whether the written evidence of emergency could have occurred before the emergency, or the validity or adequacy of the written evidence of the emergency, the Assistant Director shall investigate a grower's entry into the restricted-entry interval area and advise the requesting party of the reasons for the denial.

- The Assistant Director shall within 10 business days of receipt of the evidence of emergency or completion of the investigation issue a letter to the requesting party confirming or denying the request for the agricultural emergency.

Historical Note

Adopted effective July 13, 1989 (Supp. 89-3). Section R3-3-1006 renumbered from R3-8-206 (Supp. 91-4). Section repealed; new Section adopted effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-1007. Violations and Civil Penalties

- A.** Serious violations. The base penalty for any serious violation is \$500 and no adjustment shall be made for mitigating circumstances. The penalty for a violation in which a person is killed or permanently disabled shall be the maximum allowed in A.R.S. §§ 3-3113 and 3-3114.
- B.** Nonserious violations. The Assistant Director shall calculate the base penalty for a nonserious violation and determine the civil penalty amount based on the factors prescribed in A.R.S. § 3-3113(I). If there are contributing or mitigating circumstances, the points may be adjusted, provided the adjustment is documented.

VIOLATION GRAVITY FACTOR

(1 - Lowest; 4 - highest)

| VIOLATION | GRAVITY |
|------------------------------------|---------|
| Central Posting | 1 - 2 |
| Training | 1 - 4 |
| Decontamination | 1 - 4 |
| Personal Protective Equipment | 1 - 4 |
| Pesticide Application and Notice | 1 - 4 |
| Pesticide Application Restrictions | 2 - 4 |
| Other Requirements | 1 - 4 |

- C.** Size-of-business. The Assistant Director shall use:
- The maximum number of employees at any one time during the previous 12 months from the date of notice, including only the Arizona branch offices to determine the size business category; or
 - A site-specific employee count, if the violation does not endanger employees at other locations of the business; or
 - The number of persons trained by a trainer during the previous 12 months that violate the training provisions of R3-3-1003.

SIZE OF BUSINESS

| Size Category | Number of Employees or (Number of People Trained) |
|---------------|------------------------------------------------------|
| I | 1 - 10 |
| II | 11 - 75 |
| III | 76 - 150 |
| IV | More than 150 |

- D.** Base penalty. The Assistant Director shall calculate the base penalty for the alleged violation by using the violation gravity factor established in subsection (B) and applying the size-of-business category established in subsection (C).

BASE PENALTY

| Gravity Factor | Size Category | | | |
|----------------|---------------|-------|-------|-------|
| | I | II | III | IV |
| 1 | \$250 | \$300 | \$350 | \$400 |
| 2 | \$300 | \$350 | \$400 | \$450 |
| 3 | \$350 | \$400 | \$450 | \$500 |
| 4 | \$500 | \$500 | \$500 | \$500 |

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E. Combined or group violations. The Assistant Director may combine or group violations.

- Violations may be combined and assessed one penalty if the violation does not cause any immediate danger to public health or safety or damage to property. Example: Eight workers on a harvest crew have received no training and there is no evidence of exposure. This situation may result in only one training penalty being assessed against the employer.
- Violations may be grouped if they have a common element and it is apparent which violation has the highest gravity. The penalty for a grouped violation is assessed on the violation with the highest gravity. The penalty for a grouped violation is assessed according to the appropriate law or rule with the highest gravity. Example: Two crews from the same company are engaged in an improper handling activity and one crew is using a pesticide with a "danger" signal word, (skull and cross bones) while the other crew is using a pesticide with a "warning" signal word. This situation may result in the employer being assessed one penalty based on the penalty for the "danger" (skull and cross bones) violation.

Historical Note

Adopted effective July 13, 1989 (Supp. 89-3). Section R3-3-1007 renumbered from R3-8-207 (Supp. 91-4). Section repealed; new Section adopted effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-1008. Penalty Adjustments

A. The Assistant Director shall assign an appropriate number of points for each of the following five factors to increase the base penalty for a serious violation, or increase or decrease the base penalty for a nonserious violation.

- If the total adjustment points on a nonserious violation is less than 9, the base penalty is reduced; if it is more than 9, the base penalty is increased.
- If the total adjustment points on a serious violation is 3 or less, the base penalty shall be imposed; if it is more than 3, the base penalty is increased.
- If a violation is a repeated violation, as prescribed in R3-3-1011 for compliance history, a base penalty adjustment factor shall not be used to decrease the penalty.

BASE ADJUSTMENT FACTORS**Pesticide Labeling**

| | |
|-------------------------------------------------|---|
| Signal word "Danger" with skull and cross-bones | 5 |
| Signal word "Danger" | 4 |
| Signal word "Warning" | 3 |
| Signal word "Caution" | 2 |
| Indirect relation to the violation | 1 |

Harm to Human Health

| | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|
| Actual Injuries or temporary reversible illness resulting in hospitalization or a variable but limited period of disability. (hospital care greater than 8 hours) | 9 |
| Actual Injuries or temporary reversible illness resulting in doctor care (doctor care required, less than 8 hours) | 6 |
| Minor supportive care only | 2 - 4 |
| Consequence potential | 1 - 2 |
| No relationship found | 0 |

Compliance History

| | |
|--------------------------------------------------|----------|
| One or more violations in the previous 12 months | 4 |
| One or more violations in the previous 24 months | 3 |
| One or more violations in the previous 36 months | 1 |
| No violation history | 0 |
| Culpability | |
| Knowing or should have known | 4 |
| Negligence | 2 |
| Neither | 0 |
| Good Faith | 0 - (-2) |
| Violation corrected within 14 days | -1 |
| Violation corrected within 7 days | -2 |

B. The Assistant Director may reduce the base penalty for a non-serious violation, as determined in R3-3-1007(C), by as much as 80% depending upon the number of employees or trained persons, good faith, and history of previous violations.

FINAL PENALTY CALCULATION

| | Non-serious Violation | Serious Violation |
|------------------|------------------------------|--------------------------|
| Number of Points | Penalty Adjustment | Penalty Adjustment |
| 3 or below | Base -80% | Base Penalty |
| 4 | Base -65% | Base +10% |
| 5 | Base -50% | Base +20% |
| 6 | Base -35% | Base +30% |
| 7 | Base -20% | Base +40% |
| 8 | Base -5% | Base +50% |
| 9 | Base Penalty | Base +60% |
| 10 | Base +20% | Base +70% |
| 11 | Base +35% | Base +80% |
| 12 | Base +50% | Base +90% |
| 13 | Base +65% | Base +100% |
| 14 | Base +80% | Base +100% |
| 15 or more | Base +100% | Base +100% |

Example: A business employs 26 people in Town A and 14 people in Town B. In addition, 35 seasonal people are employed during the harvest. The total annual employee positions equal 75. The following violations are found during an inspection: (1) No training for 35 seasonal workers on the harvest crew; (2) No available decontamination supplies; (3) No safety poster at the central posting location; (4) No emergency telephone number posted, and no medical facility location posted at the central posting location; (5) No posted pesticide application information at the central posting location.

Step 1. Use the Violation Gravity Factor table to determine the gravity of the violation.

- | | |
|---------------------------------|-------------------------------------------------------------------------------------------------|
| (1) Training, 1-4 points | 2 points, all 35 workers are combined; |
| (2) Decontamination, 1-4 points | 3 points, no supplies were available and it has been 25 days since the most recent application; |

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(3) - (5) Central Posting, 1-2 points 1 point since the violations concerns the same factor, they are combined. (There is evidence that the old poster blew away and the pesticide application information is kept available in the secretary's desk, but it is not 'readily' available.)

Step 2. Use the Size of Business to determine the size category. 35 employees falls into the size category II.

Step 3. Use the *Base Penalty* table to determine the base penalty. Use column II based on the Size of Business determination from Step 2.

| | | |
|-----------------------|---------------------|---------------------------------|
| Violation 1 | Gravity factor of 2 | Equals a base penalty of \$350; |
| Violation 2 | Gravity factor of 3 | Equals a base penalty of \$400; |
| Violation 3, 4, and 5 | Gravity factor of 1 | Equals a base penalty of \$300 |

Step 4. Using the *Base Adjustment Factors* table to calculate the adjustments, if any. In this case, the base adjustments are uniform in all categories except #4, culpability.

| | | |
|-----------|------------------------------------------------------------------------------------------------------------------------|----------|
| Pesticide | It was a indirect relationship because of the timing of the application and when the workers were in the treated area. | 1 point. |
|-----------|------------------------------------------------------------------------------------------------------------------------|----------|

| | | |
|----------------------|------------------------------------------------------------------------------|----------|
| Harm to Human Health | There was no harm to health and the pesticide had not been applied recently. | 1 point. |
|----------------------|------------------------------------------------------------------------------|----------|

| | | |
|--------------------|----------------------------------------------|-----------|
| Compliance History | This farm has no previous violation history. | 0 points. |
|--------------------|----------------------------------------------|-----------|

| | | |
|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|
| Culpability | The supervisor attended a "train-the-trainer" course two years ago and should have been aware of the requirements of the worker protection standard. Therefore, for the first two violations the supervisor should have known about the requirements. For the last three violations, the central posting sight was not checked frequently enough to ensure compliance. | For violations 1 and 2, 4 points for knowing or should have known; For violations 3, 4, and 5, 2 points for negligence. |
|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|

| | | |
|------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|
| Good Faith | The inspector came back five days later and the workers were trained the day of the first inspection, the poster was posted and everything was in compliance. | Since the employer corrected the violations quickly. -1 point. |
|------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|

Step 5. Add the points for each violation from Step 4.

| | |
|-------------|----------------------------------|
| Violation 1 | 1 + 1 + 0 + = 5 points 4 + -1 |
|-------------|----------------------------------|

| | |
|-------------|----------------------------------|
| Violation 2 | 1 + 1 + 0 + = 5 points 4 + -1 |
|-------------|----------------------------------|

| | |
|------------------------|----------------------------------|
| Violations 3, 4, and 5 | 1 + 1 + 0 + = 3 points 2 + -1 |
|------------------------|----------------------------------|

Step 6. Using the Final Penalty Calculation table to determine the appropriate violation penalty adjustment that corresponds with the base adjustment factor point total. Use the definitions for nonserious or serious violations to determine the appropriate violation penalty adjustment column. In this case, use the nonserious penalty adjustment column.

| | | |
|-------------|----------|------------------------------------------|
| Violation 1 | 5 points | Base - \$350 - 50% = \$175 = \$175 |
|-------------|----------|------------------------------------------|

| | | |
|-------------|----------|------------------------------------------|
| Violation 2 | 5 points | Base - \$400 - 50% = \$200 = \$200 |
|-------------|----------|------------------------------------------|

| | | |
|--------------------------------|----------|--------------------------------------|
| Violation 3, 4, and 5 | 3 points | Base - \$300 - 80% = \$240 = \$60 |
| Adjusted Penalty Total = \$435 | | |

Historical Note

Adopted effective July 13, 1989 (Supp. 89-3). Section R3-3-1008 renumbered from R3-8-208 (Supp. 91-4). Section repealed; new Section adopted effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-1009. Failure to Abate

- A. The Director shall include in a citation for an alleged violation of this Article a reasonable time to abate the violation.
- B. When a cited person timely files a request for hearing to contest a violation, the abatement period does not begin to run until the entry of a final order as long as the request for hearing was initiated in good faith and not solely for delay or avoidance of penalties. If a person contests only the amount of the proposed penalty, the person shall correct the violation within the originally prescribed abatement period.
- C. If the Director has reason to believe the cited person has failed to correct the violation within the abatement period, the Director shall notify the person by mail of the failure, the proposed penalty, and the right to request a hearing.
- D. On a showing by a cited person of a good faith effort to comply with the abatement requirements of a citation and that the abatement has not been completed because of factors beyond the person's reasonable control, the Department shall issue an order affirming or modifying the abatement requirements in the citation after an opportunity for a hearing.

Historical Note

Adopted effective October 8, 1998 (Supp. 98-4). Section heading corrected at request of the Department, Office File No. M11-60, filed February 23, 2011 (Supp. 09-4). Section R3-3-1008 renumbered from R3-8-208 (Supp. 91-4). Section repealed; new Section adopted effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-1010. Calculation of Additional Penalties For Unabated Violations

- A. If the Director has reason to believe the cited person has failed to correct a serious or nonserious violation within the abatement period, the Director shall assess additional civil penalties on the cited person as follows:

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1. The Director shall use R3-3-1007 and R3-3-1008 to calculate an additional daily penalty for each unabated violation.
 2. The additional daily penalty shall neither be less than the original penalty for the cited violation or exceed \$1,000 per day per violation.
 3. The additional daily penalty shall be multiplied by the number of calendar days the violation has continued unabated beyond the abatement period.
- B.** Notwithstanding subsection (A), the Director may reduce or eliminate the additional penalty based on:
1. The extent that the violation has been abated,
 2. The cited person's good faith effort in correcting the violation, and
 3. Whether the abatement has not been completed because of factors beyond the cited person's reasonable control.

Historical Note

Adopted effective October 8, 1998 (Supp. 98-4).
 Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-1011. Repeated or Willful Violations

- A.** The penalty for a repeated violation shall be calculated as follows:
1. The penalty for a repeated nonserious violation shall be doubled for the first repeated violation and tripled if the violation has been cited twice before.
 2. The penalty for a repeated serious violation shall be multiplied five times for the first repeated violation and seven times if the violation has been cited twice before.
 3. The penalty for a repeated serious violation in which someone is disabled or killed shall be multiplied 10 times for each repeated violation.
 4. A repeated violation having no initial penalty shall be assessed for the first repeated violation as determined by this Article.
 5. The penalty may be multiplied by 10, not to exceed the maximum penalty, if it is justified through appropriate documentation.
- B.** The Assistant Director may adjust the base penalty found under R3-3-1007(D) by a multiplier up to 10 for any willful violation.
- C.** The Assistant Director shall not use base adjustment factors in R3-3-1008 to reduce the penalty for any serious or nonserious willfully repeated violation.
- D.** Repeated violations are based on prior violations occurring within the previous three years.
- E.** The penalty for a repeated or willful violation shall not exceed \$10,000.

Historical Note

Adopted effective October 8, 1998 (Supp. 98-4).
 Amended by final rulemaking at 30 A.A.R. 89 (January 19, 2024), effective March 4, 2024 (Supp. 24-1).

R3-3-1012. Citation; Posting

An employer shall post a citation prescribed at A.R.S. § 3-3110(C) for three days or until the violation is abated, whichever time period is longer.

Historical Note

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

ARTICLE 11. ARIZONA NATIVE PLANTS**R3-3-1101. Definitions**

In addition to the definitions in A.R.S. § 3-901, the following terms apply to this Article:

"Agent" means a person authorized to manage, represent, and act for a landowner.

"Certificate of inspection for interstate shipments" means a certificate to transport protected native plants out of the state.

"Conservation" means prevention of exploitation, destruction, or neglect of native plants while helping to ensure continued public use.

"Cord" means a specific type string or small rope issued by the Department for attaching tags and seals to protected native plants.

"Cord of wood" means a measurement of firewood equal to 128 cubic feet.

"Department" means the Arizona Department of Agriculture.

"Destroy" means to cause the death of any protected native plant.

"Harvest restricted native plant permit" means a permit required to remove the by-products, fibers, or wood from a native plant listed in Appendix A, subsection (D).

"Landowner" means a person who holds title to a parcel of land.

"Noncommercial salvage permit" means a permit required for the noncommercial salvage of a highly safeguarded native plant.

"Original growing site" means a place where a plant is growing wild and is rooted to the ground or any property owned by the same landowner where a protected native plant is relocated or transplanted without an original transportation permit.

"Permittee" means any person who is issued a permit by the Department for removing and transporting protected native plants.

"Protected native plant" means any living plant or plant part listed in Appendix A and growing wild in Arizona.

"Protected native plant tag" means a tag issued by the Department to identify the lawful removal of a protected native plant, other than a saguaro cactus, from its original growing site.

"Saguaro tag" means a tag issued by the Department to identify a saguaro cactus being lawfully moved.

"Salvage assessed native plant permit" means a permit required to remove a native plant listed in Appendix A, subsection (C).

"Salvage restricted native plant permit" means a permit required to remove a native plant listed in Appendix A, subsection (B).

"Scientific permit" means a permit required to remove a native plant for a controlled experimental project by a qualified person.

"Securely tie" means to fasten in a tight and secure manner to prevent the removal of tags, seals, or cord for reuse.

"Small Native Plant" means any protected plant eight inches in height or less.

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“Survey” means the process by which a parcel of land is examined for the presence of protected native plants. A simple survey determines only whether protected native plants are present. A complete survey establishes the kind and number of each species present.

“Wood receipt” means a receipt issued by the Department to identify the lawful removal of a protected native plant harvested for fuel, being removed from its original growing site.

Historical Note

New Section recodified from R3-4-601 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

R3-3-1102. Protected Native Plant Destruction by a Private Landowner**A. Notice of intent.**

1. Before a protected native plant is destroyed, the private landowner shall provide the following information to the Department on a form obtained from the Department:
 - a. Name, address, and telephone number of the landowner;
 - b. Name, address, and telephone number of the landowner's agent, if applicable;
 - c. Valid documentation indicating land ownership, including but not limited to a parcel identification number, tax assessment, or deed;
 - d. Legal description, map, address, or other description of the area, including the number of acres to be cleared, in which the protected native plants subject to the destruction are located;
 - e. Earliest date of plant destruction; and
 - f. Landowner's intent for the disposal or salvage of protected native plants on the land.
2. A landowner intending to destroy protected native plants on an area of less than one acre may submit the information required in subsection (A)(1) to the Department verbally.

B. A landowner shall not destroy a protected native plant until:

1. The landowner receives a written confirmation notice from the Department, and
2. Notice is given to the Department within the following minimum time periods:
 - a. Twenty days before the plants are destroyed over an area of less than one acre.
 - b. Thirty days before the plants are destroyed over an area of one acre or more but less than 40 acres.
 - c. Sixty days before the plants are destroyed over an area of 40 acres or more.

C. The Department shall provide a salvage operator or other interested person with a copy of a notice of intent submitted under this Section upon receipt of the private landowner's name, address, telephone number, and payment of an annual \$25 nonrefundable fee.**Historical Note**

New Section recodified from R3-4-602 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

R3-3-1103. Disposal and Salvage of Protected Native Plants by a State Agency**A. A state agency intending to remove or destroy protected native plants shall notify the Department, under A.R.S. § 3-905, and shall propose a method of disposal from the following list:**

1. The plants may be sold at a public auction;
2. The plants may be relocated or transported to a different location on the same property or to another property owned by the state, without obtaining a permit;
3. The plants may be donated to nonprofit organizations as provided in A.R.S. § 3-916;
4. The plants may be donated to another state agency or political subdivision, without obtaining a permit; or
5. The plants may be salvaged or harvested by a member of the general public or a commercial dealer, if the person holds a permit as provided under A.R.S. § 3-906 or 3-907.

B. If the plants are highly safeguarded native plants, they shall first be made available to the holder of a scientific permit or a noncommercial salvage permit.**Historical Note**

New Section recodified from R3-4-603 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

R3-3-1104. Protected Native Plant Permits; Tags; Seals; Fees**A. A person shall not collect, transport, possess, sell, offer for sale, dispose, or salvage protected native plants unless that person is 18 years of age or older and possesses an appropriate permit.****B. An applicant shall submit the following information to the Department on a form obtained from the Department, as applicable:**

1. Name, business name, address, telephone number, Social Security number or tax identification number, and signature of the applicant;
2. Name and number of plants to be removed;
3. Purpose of the plant removal;
4. Whether the applicant has a conviction for a violation of a state or federal statute regarding the protection of native plants within the previous five years;
5. Except for salvage assessed native plants:
 - a. Name, address, telephone number, and signature of the landowner;
 - b. Location of the permitted site and size of acreage;
 - c. Destination address where the plants will be transplanted;
 - d. Legal and physical description of the location of the original growing site; and
 - e. Parcel identification number for the permitted site or other documents proving land ownership.

C. Permit fees.

1. A person removing and transporting protected native plants shall submit the following applicable fee to the Department with the permit application:
 - a. Salvage assessed native plant permit, annual use, \$35;
 - b. Harvest restricted native plant permit, annual use, \$35;
 - c. All other native plant permits, one-time use, \$7;
 - d. Certificate of inspection for interstate shipments, \$15.
2. Exemptions. Protected native plants are exempt from fees if:

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- a. The protected native plants intended for personal use by a landowner are taken from one piece of land owned by the landowner to another piece of land also owned by the landowner, remain on the property of the landowner, and are not sold or offered for sale;
 - b. The protected native plants are collected for scientific purposes; or
 - c. A landowner donates the protected native plant to a scientific, educational, or charitable institution.
- D. Tag and harvesting fees.**
- 1. Any person obtaining a saguaro tag or other protected native plant tag or receipt shall submit the following applicable fee to the Department at the time a tag is obtained:
 - a. Saguaro, \$8 per plant;
 - b. Trees cut for firewood and listed in the harvest restricted category, \$6 per cord of wood;
 - c. Small native plant, \$.50 per plant;
 - d. Any other protected native plant referenced in A.R.S. § 3-903(B) and (C) and listed in Appendix A, \$6 per plant.
 - 2. The fee for harvesting *nolina* or *yucca* parts is \$6 per ton. Payment shall be made to the Department in the following manner:
 - a. Unprocessed *nolina* or *yucca* fiber shall be weighed on a state-certified bonded scale; and
 - b. The harvester shall submit payment and weight certificates to the Department no later than the tenth day of the month following each harvest.
- E. Seal fees.** A person obtaining a seal shall submit a \$.15 per plant fee to the Department at the time a seal is obtained.
- F. Salvage assessed native plant permits and plant tags are valid for the calendar year in which they are issued. The tags expire at the end of the calendar year unless the permit is renewed.**

Historical Note

New Section recodified from R3-4-604 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

R3-3-1105. Scientific Permits; Noncommercial Salvage Permits**A. Scientific Permit**

- 1. A person shall not collect any highly safeguarded or other protected native plants for a research project unless that person holds a scientific permit.
- 2. An applicant shall submit the following information to the Department on a form obtained from the Department:
 - a. Name, address, and telephone number of the company or research facility applying for the permit;
 - b. Name, title and experience of the person conducting the research project;
 - c. Purpose and intent of the research project;
 - d. Controls to be used;
 - e. Variables to be considered;
 - f. Time-frame for the project;
 - g. Anticipated results and plans for publication;
 - h. Reports and recordkeeping that will be used to monitor the project;
 - i. Project funding source;
 - j. Funding of the company or research facility;
 - k. Written authorization from the landowner for collection of the plants;

- l. Date of the application;
 - m. Signed affirmation by the applicant that the plants collected will not be sold or used for personal interests; and
 - n. Tax identification number, or if applicant is an individual, a Social Security number.
- 3. A scientific permit shall be issued if the applicant provides documentation that demonstrates the following:
 - a. A plan, pre-approved by the landowner, to restore the removal site to a natural appearance;
 - b. The removal and movement of the native plants shall be accomplished by a person experienced in native plant removal and transplantation;
 - c. The native plants used in the project shall remain accessible to the Department;
 - d. The ecology of the project site is beneficial to the growth of the specific plants in the project if practical;
 - e. Arrangements exist for a suitable permanent planting site for the surviving plants after the project's completion; and
 - f. Description of plant disposition and research hypothesis.
 - 4. A scientific permit is valid for the calendar year in which it is issued.

B. Noncommercial salvage permit:

- 1. Highly safeguarded native plants may only be collected for conservation by a person holding a noncommercial salvage permit.
- 2. An applicant shall submit the following information to the Department, on a form obtained from the Department:
 - a. Name, address, and telephone number of the applicant applying for the permit;
 - b. Proposed relocation site for the plants;
 - c. Written authorization from the landowner for collection of the plants;
 - d. Date of the application; and
 - e. Signed affirmation by the applicant that the plants collected will not be sold or used for personal interests.
- 3. A noncommercial salvage permit shall be issued if all of the following conditions are met through documentation provided to the Department:
 - a. The native plants used in the project shall be accessible to the Department after transplant, and
 - b. The relocation site is beneficial to the growth of the specific plants in the project.
- 4. A noncommercial salvage permit is valid only for the transportation and the transplantation of the particular native plant.

Historical Note

New Section recodified from R3-4-605 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

R3-3-1106. Protected Native Plant Survey; Fee

- A.** Upon request, the Department may conduct a native plant survey. Upon completion, the Department shall notify the individual who made the request of:
- 1. The date the survey was performed;
 - 2. The amount of the survey fee payable to the Department;
 - 3. The name of Department personnel performing the survey;

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4. Upon payment, the survey results including the names and numbers of protected native plants.
- B. A person who requests a native plant survey shall pay the survey fee to the Department within 30 days from the date of the notification. The survey fee shall be based on time and travel expenses, except that no fee shall be charged for a determination of whether protected species exist on the land.

Historical Note

New Section recodified from R3-4-606 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

R3-3-1107. Movement Permits; Tags, Seals, and Cord Use

- A. Any person moving a protected native plant, except a saguaro cactus, previously transplanted from its original growing site in Arizona and transplanting it to another location shall apply to the Department for a Movement Permit. The landowner from where the plant is being moved shall provide the following information on the permit application:
 1. The name, telephone number, and signature of the landowner;
 2. The location of the plant;
 3. The name, address, and telephone number of the receiver;
 4. The name, address, and telephone number of the carrier;
 5. The number, species, and description of the plant being removed;
 6. The tax parcel identification number; and
 7. The date of the application.
- B. Any person moving a saguaro cactus over four feet tall previously transplanted from its original growing site in Arizona and transplanting it to another location shall apply to the Department for a Movement Permit. The landowner from where the saguaro cactus is being moved shall provide the following information on the permit application, unless the applicant maintains a record of the original permit or verifies the Department has a record of a previous legal movement of the cactus by the applicant.
 1. The name, telephone number, and signature of the landowner;
 2. The address where the saguaro cactus is located;
 3. The name, address, and telephone number of the receiver;
 4. The name, address, and telephone number of the carrier;
 5. The number, species, and description of the plant being removed;
 6. The tax parcel identification number of the property where the saguaro cactus is being moved; and
 7. The date of the application.
- C. Movement of protected native plants obtained outside Arizona.
 1. Any person moving a protected native plant obtained outside Arizona and transporting and planting it within the state shall declare the protected native plant at the agricultural inspection station nearest the port of entry. The Department shall place the protected native plant under "Warning Hold" to the nearest permitting office.
 2. If an agricultural station is not in operation at the port of entry, the person shall declare the protected native plant at the nearest permitting office during normal office hours.
 3. After the plants have been declared, the permitting office shall issue a Movement Permit and seal.

- D. Any person moving protected native plants shall obtain the following seals from the Department and securely attach the appropriate seal to each protected native plant:
 1. Protected native plant seals identify protected native plants, except saguaro cacti, that will be moved from locations that are not the original growing sites.
 2. Imported seals identify all imported protected native plants.
- E. Tag, seal, and cord attachment.
 1. A permittee shall attach a tag to each protected native plant taken from its original growing site, using cord provided by the Department, before transport. No other type of rope, string, twine, or wire is allowed.
 2. The cord shall be securely tied around the plant, and the tag attached so that it cannot be removed without breaking the seal or cutting the cord.
 3. The tag shall be placed directly over the knot in the cord and the ends pressed firmly together sealing the knot so that it cannot be removed for reuse.
 4. The protected native plant seal shall be placed directly over the knot and snapped firmly closed, sealing the knot.
 5. The imported seal shall be attached directly to the plant.
 6. Upon loading the plant, every effort shall be made to allow visibility of the tag during transport.

Historical Note

New Section recodified from R3-4-607 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

R3-3-1108. Recordkeeping; Salvage Assessed and Harvest Restricted Native Plants

- A. Salvage Assessed Native Plants.
 1. A permittee shall maintain a record of each protected native plant removed under an annual permit for two years from the date of each transaction and allow Department inspection of the records during normal business hours. The transaction record shall include the date salvage restricted protected native plants were removed and the permit and tag numbers.
 2. Annually, by January 31, a permittee shall submit to the Department a copy of each transaction record for the prior calendar year.
- B. Harvest Restricted Native Plants. A permittee shall submit to the Department by the tenth day of each month the transaction records for the previous month, or a written statement that no transactions were conducted for that month.

Historical Note

New Section recodified from R3-4-608 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

R3-3-1109. Arizona Native Plant Law Education

- A. The Department may schedule seminars and training courses on an as-needed basis.
- B. In addition to the following fees, charges for printed materials or pamphlets shall be assessed based upon printing and mailing costs:
 1. A person attending a seminar or training course on Arizona native plant law shall pay a nonrefundable fee of \$10 to the Department before attending the class.
 2. A person convicted of violating Arizona native plant laws and ordered by a court to attend a native plant educational

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class shall pay a nonrefundable fee of \$25 to the Department before attending the class. The Department shall provide written confirmation of satisfactory completion to a person ordered by a court to attend a class.

Historical Note

New Section recodified from R3-4-609 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

R3-3-1110. Permit Denial

Upon notice of denial of a permit, an applicant may request, in writing, that the Department provide an administrative hearing under A.R.S. Title 41, Chapter 6, Article 10, to appeal the denial.

Historical Note

New Section recodified from R3-4-610 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

R3-3-1111. Repealed**Historical Note**

New Section recodified from R3-4-611 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Repealed by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

Appendix A. Protected Native Plants by Category

- A. Highly safeguarded native plants as prescribed in A.R.S. § 3-903(B)(1), for which removal is not allowed except as provided in R3-3-1105:

AGAVACEAE Agave Family

Agave arizonica Gentry & Weber—Arizona agave
Agave delamateri Hodgson & Slauson
Agave murpheyi Gibson—Hohokam agave
Agave parviflora Torr.—Santa Cruz striped agave, Small-flowered agave
Agave phillipsiana Hodgson
Agave schottii Engelm. var. *treleasei* (Toumey) Kearney & Peebles

APIACEAE Parsley Family. [= Umbelliferae]

Lilaeopsis schaffneriana (Schlecht.) Coult. & Rose ssp. *recurva* (A. W. Hill) Affolter—Cienega false rush, Huachuca water umbel.
 Syn.: *Lilaeopsis recurva* A. W. Hill

APOCYNACEAE Dogbane Family

Amsonia kearneyana Woods.—Kearney's bluestar
Cycladenia humilis Benth. var. *jonesii* (Eastw.) Welsh & Atwood—Jones' cycladenia

ASCLEPIADACEAE Milkweed Family

Asclepias welshii N. & P. Holmgren—Welsh's milkweed

ASTERACEAE Sunflower Family [= Compositae]

Erigeron lemmonii Gray—Lemmon fleabane
Erigeron rhizomatus Cronquist—Zuni fleabane
Senecio franciscanus Greene—San Francisco Peaks groundsel

Senecio huachucanus Gray—Huachuca groundsel

BURSERACEAE Torch Wood Family

Bursera fagaroides (H.B.K.) Engler—Fragrant bursera

CACTACEAE Cactus Family

Carnegiea gigantea (Engelm.) Britt. & Rose—Saguaro: 'Crested' or 'Fan-top' form
 Syn.: *Cereus giganteus* Engelm.

Coryphantha recurvata (Engelm.) Britt. & Rose—Golden-chested beehive cactus
 Syn.: *Mammillaria recurvata* Engelm.

Coryphantha robbinsorum (W. H. Earle) A. Zimmerman—Cochise pincushion cactus, Robbin's cory cactus.
 Syn.: *Cochiseia robbinsorum* W.H. Earle

Coryphantha scheeri (Kuntze) L. Benson var. *robustispina* (Schott) L. Benson—Scheer's strong-spined cory cactus.
 Syn.: *Mammillaria robustispina* Schott

Echinocactus horizontholoni Lemaire var. *nicholii* L. Benson—Nichol's Turk's head cactus

Echinocereus triglochidiatus Engelm. var. *arizonicus* (Rose ex Orcutt) L. Benson—Arizona hedgehog cactus

Echinomastus erectocentrus (Coult.) Britt. & Rose var. *acunensis* (W.T. Marshall) L.Benson—Acuna cactus

Syn.: *Neolloydia erectocentra* (Coult.) L. Benson var. *acunensis* (W. T. Marshall) L. Benson

Pediocactus bradyi L. Benson—Brady's pincushion cactus

Pediocactus paradigmeyi B. W. Benson—Paradine plains cactus

Pediocactus peeblesianus (Croizat) L. Benson var. *fickeiseniae* L. Benson

Pediocactus peeblesianus (Croizat) L. Benson var. *peeblesianus* Peebles' Navajo cactus, Navajo plains cactus

Syn.: *Navajoa peeblesiana* Croizat

Pediocactus sileri (Engelm.) L. Benson—Siler pincushion cactus

Syn.: *Utahia sileri* (Engelm.) Britt. & Rose

COCHLOSPERMACEAE Cochlospermum Family

Amoreuxia gonzalezii Sprague & Riley

CYPERACEAE Sedge Family

Carex specuicola J. T. Howell—Navajo sedge

FABACEAE Pea Family [=Leguminosae]

Astragalus cremnophyllax Barneby var. *cremnophyllax* Sentry milk vetch

Astragalus holmgreniorum Barneby—Holmgren milk-vetch

Dalea tentaculoides Gentry—Gentry indigo bush

LENNOACEAE Lennoa Family

Pholisma arenarium Nutt.—Scaly-stemmed sand plant

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Pholisma sonora (Torr. ex Gray) Yatskievych–
Sandfood, sandroot
Syn.: *Ammobroma sonora* Torr. ex Gray

LILIACEAE Lily Family

Allium gooddingii Ownbey–Goodding's onion

ORCHIDACEAE Orchid Family

Cypripedium calceolus L. var. *pubescens* (Willd.)
Correll–Yellow lady's slipper
Hexalectris warnockii Ames & Correll–Texas purple spike
Spiranthes delitescens C. Sheviak

POACEAE Grass Family [=Gramineae]

Puccinellia parishii A.S. Hitchc.–Parish alkali grass

POLYGONACEAE Buckwheat Family

Rumex orthoneurus Rech. f.

PSILOTACEAE Psilotum Family

Psilotum nudum (L.) Beauv. Bush Moss, Whisk Fern

RANUNCULACEAE Buttercup Family

Cimicifuga arizonica Wats.–Arizona bugbane
Clematis hirsutissima Pursh var. *arizonica* (Heller)
Erickson–Arizona leatherflower

ROSACEAE Rose Family

Purshia subintegra (Kearney) J. Hendrickson–Arizona cliffrose, Burro Creek cliffrose
Syn.: *Cowania subintegra* Kearney

SALICACEAE Willow Family

Salix arizonica Dorn–Arizona willow

SCROPHULARIACEAE Figwort Family

Penstemon discolor Keck–Variegated beardtongue

- B.** Salvage restricted native plants as prescribed in A.R.S. § 3-903(B)(2) that require a permit for removal. In addition to the plants listed under Agavaceae, Cactaceae, Liliaceae, and Orchidaceae, all other species in these families are salvage restricted protected native plants:

AGAVACEAE Agave Family

Agave chrysantha Peebles
Agave deserti Engelm. ssp. *simplex* Gentry–Desert agave
Agave mckelveyana Gentry
Agave palmeri Engelm.
Agave parryi Engelm. var. *couseii* (Engelm. ex Trel.) Kearney & Peebles
Agave parryi Engelm. var. *huachucensis* (Baker) Little ex L. Benson
Syn.: *Agave huachucensis* Baker
Agave parryi Engelm. var. *parryi*
Agave schottii Engelm. var. *schottii* – Shindigger
Agave toumeyana Trel. ssp. *bella* (Breitung) Gentry
Agave toumeyana Trel. ssp. *toumeyana*

Agave utahensis Engelm. spp. *kaibabensis* (McKelvey) Gentry

Syn.: *Agave kaibabensis* McKelvey

Agave utahensis Engelm. var. *utahensis*

Yucca angustissima Engelm. var. *angustissima*

Yucca angustissima Engelm. var. *kanabensis* (McKelvey) Reveal

Syn.: *Yucca kanabensis* McKelvey

Yucca arizonica McKelvey

Yucca baccata Torr. var. *baccata*–Banana yucca

Yucca baccata Torr. var. *vespertina* McKelvey

Yucca baileyi Woot. & Standl. var. *intermedia* (McKelvey) Reveal

Syn.: *Yucca navajoa* Webber

Yucca brevifolia Engelm. var. *brevifolia*–Joshua tree

Yucca brevifolia Engelm. var. *jaegeriana* McKelvey

Yucca elata Engelm. var. *elata*–Soaptree yucca, palmilla

Yucca elata Engelm. var. *utahensis* (McKelvey) Reveal

Syn.: *Yucca utahensis* McKelvey

Yucca elata Engelm. var. *verdiensis* (McKelvey) Reveal

Syn.: *Yucca verdiensis* McKelvey

Yucca harrimaniae Trel.

Yucca schidigera Roezl.–Mohave yucca, Spanish dagger

Yucca schottii Engelm.–Hairy yucca

Yucca thornberi McKelvey

Yucca whipplei Torr. var. *whipplei*–Our Lord's candle

Syn.: *Yucca newberryi* McKelvey

AMARYLLIDACEAE Amaryllis Family

Zephyranthes longifolia Hemsl.–Plains Rain Lily

ANACARDIACEAE Sumac Family

Rhus kearneyi Barkley–Kearney Sumac

ARECACEAE Palm Family [=Palmae]

Washingtonia filifera (Linden ex Andre) H. Wendl–California fan palm

ASTERACEAE Sunflower Family [=Compositae]

Cirsium parryi (Gray) Petrak ssp. *mogollonicum* Schaak

Cirsium virginensis Welsh–Virgin thistle

Erigeron kuschei Eastw.–Chiricahua fleabane

Erigeron piscaticus Nesom–Fish Creek fleabane

Flaveria macdougalii Theroux, Pinkava & Keil

Perityle ajoensis Todson–Ajo rock daisy

Perityle cochisensis (Niles) Powell–Chiricahua rock daisy

Senecio quaerens Greene–Gila groundsel

BURSERACEAE Torch-Wood Family

Bursera microphylla Gray–Elephant tree, torote

CACTACEAE Cactus Family

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Carnegiea gigantea (Engelm.) Britt. & Rose–Saguaro

Syn.: *Cereus giganteus* Engelm.

Coryphantha missouriensis (Sweet) Britt. & Rose

Coryphantha missouriensis (Sweet) Britt. & Rose var. *marstonii* (Clover) L. Benson

Coryphantha scheeri (Kuntze) L. Benson var. *valida* (Engelm.) L. Benson

Coryphantha strobiliformis (Poselger) var. *orcuttii* (Rose) L. Benson

Coryphantha strobiliformis (Poselger) var. *strobiliformis*

Coryphantha vivipara (Nutt.) Britt. & Rose var. *alversonii* (Coult.) L. Benson

Coryphantha vivipara (Nutt.) Britt. & Rose var. *arizonica* (Engelm.) W. T. Marshall
Syn.: *Mammillaria arizonica* Engelm.

Coryphantha vivipara (Nutt.) Britt. & Rose var. *bisbeeana* (Orcutt) L. Benson

Coryphantha vivipara (Nutt.) Britt. & Rose var. *deserti* (Engelm.) W. T. Marshall
Syn.: *Mammillaria chlorantha* Engelm.

Coryphantha vivipara (Nutt.) Britt. & Rose var. *rosea* (Clokey) L. Benson

Echinocactus polycephalus Engelm. & Bigel. var. *polycephalus*

Echinocactus polycephalus Engelm. & Bigel. var. *xeranthemoides* Engelm. ex Coult.
Syn.: *Echinocactus xeranthemoides* Engelm. ex Coult.

Echinocereus engelmannii (Parry ex Engelm.) Lemaire var. *acicularis* L. Benson

Echinocereus engelmannii (Parry ex Engelm.) Lemaire var. *armatus* L. Benson

Echinocereus engelmannii (Parry ex Engelm.) Lemaire var. *chrysocentrus* L. Benson

Echinocereus engelmannii (Parry ex Engelm.) Lemaire var. *engelmannii*

Echinocereus engelmannii (Parry) Lemaire var. *variegatus* (Engelm.) Engelm. ex Rümpler

Echinocereus fasciculatus (Engelm. ex B. D. Jackson) L. Benson var. *fasciculatus*

Syn.: *Echinocereus fendleri* (Engelm.) Rümpler var. *fasciculatus* (Engelm. ex B. D. Jackson) N. P. Taylor, *Echinocereus fendleri* (Engelm.) Rümpler var. *robusta* L. Benson; *Mammillaria fasciculata* Engelm.

Echinocereus fasciculatus (Engelm. ex B. D. Jackson) L. Benson var. *bonkeriae* (Thornber & Bonker) L. Benson.

Syn.: *Echinocereus boyce-thompsonii* Orcutt var. *bonkeriae* Peebles; *Echinocereus fendleri* (Engelm.) Rümpler var. *bonkeriae* (Thornber & Bonker) L. Benson

Echinocereus fasciculatus (Engelm. ex B. D. Jackson) L. Benson var. *boyce-thompsonii* (Orcutt) L. Benson

Syn.: *Echinocereus boyce-thompsonii* Orcutt

Echinocereus fendleri (Engelm.) Rümpler var. *boyce-thompsonii* (Orcutt) L. Benson

Echinocereus fendleri (Engelm.) Rümpler var. *fendleri*

Echinocereus fendleri (Engelm.) Rümpler var. *rectispinus* (Peebles) L. Benson

Echinocereus ledingii Peebles

Echinocereus nicholii (L. Benson) Parfitt.

Syn.: *Echinocereus engelmannii* (Parry ex Engelm.) Lemaire var. *nicholii* L. Benson

Echinocereus pectinatus (Scheidw.) Engelm. var. *dasyacanthus* (Engelm.) N. P. Taylor

Syn.: *Echinocereus pectinatus* (Scheidw.) Engelm. var. *neomexicanus* (Coult.) L. Benson

Echinocereus polyacanthus Engelm. (1848) var. *polyacanthus*

Echinocereus pseudopectinatus (N. P. Taylor) N. P. Taylor

Syn.: *Echinocereus bristolii* W. T. Marshall var. *pseudopectinatus* N. P. Taylor, *Echinocereus pectinatus* (Scheidw.) Engelm. var. *pectinatus sensu* Kearney and Peebles, Arizona Flora, and L. Benson, The Cacti of Arizona and The Cacti of the United States and Canada.

Echinocereus rigidissimus (Engelm.) Hort. F. A. Haage.

Syn.: *Echinocereus pectinatus* (Scheidw.) Engelm. var. *rigidissimus* (Engelm.) Engelm. ex Rümpler–Rainbow cactus

Echinocereus triglochidiatus Engelm. var. *gonacanthus* (Engelm. & Bigel.) Boiss.

Echinocereus triglochidiatus Engelm. var. *melanacanthus* (Engelm.) L. Benson

Syn.: *Mammillaria aggregata* Engelm.

Echinocereus triglochidiatus Engelm. var. *mojavensis* (Engelm.) L. Benson

Echinocereus triglochidiatus Engelm. var. *neomexicanus* (Standl.) Standl. ex W. T. Marshall.

Syn.: *Echinocereus triglochidiatus* Engelm. var. *polyacanthus* (Engelm. 1859 non 1848) L. Benson

Echinocereus triglochidiatus Engelm. var. *triglochidiatus*

Echinomastus erectocentrus (Coult.) Britt. & Rose var. *erectocentrus*

Syn.: *Neolloydia erectocentra* (Coult.) L. Benson var. *erectocentra*

Echinomastus intertextus (Engelm.) Britt. & Rose
Syn.: *Neolloydia intertexta* (Engelm.) L. Benson

Echinomastus johnsonii (Parry) Baxter–Beehive cactus

Syn.: *Neolloydia johnsonii* (Parry) L. Benson

Epithelantha micromeris (Engelm.) Weber ex Britt. & Rose

Ferocactus cylindraceus (Engelm.) Orcutt var. *cylindraceus*–Barrel cactus

Syn.: *Ferocactus acanthodes* (Lemaire) Britt. & Rose var. *acanthodes*

Ferocactus cylindraceus (Engelm.) Orcutt var. *eastwoodiae* (Engelm.) N. P. Taylor

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Syn.: *Ferocactus acanthodes* (Lemaire) Britt. & Rose var. *eastwoodiae* L. Benson; *Ferocactus eastwoodiae* (L. Benson) L. Benson

Ferocactus cylindraceus (Engelm.) Orcutt. var. *lecontei* (Engelm.) H. Bravo

Syn.: *Ferocactus acanthodes* (Lemaire) Britt. & Rose var. *lecontei* (Engelm.) Lindsay; *Ferocactus lecontei* (Engelm.) Britt. & Rose

Ferocactus emoryi (Engelm.) Orcutt-Barrel cactus
Syn.: *Ferocactus covillei* Britt. & Rose

Ferocactus wislizenii (Engelm.) Britt. & Rose-Barrel cactus

Lophocereus schottii (Engelm.) Britt. & Rose-Senita

Mammillaria grahamii Engelm. var. *grahamii*

Mammillaria grahamii Engelm. var. *oliviae* (Orcutt) L. Benson

Syn.: *Mammillaria oliviae* Orcutt

Mammillaria heyderi Mühlenpf. var. *heyderi*

Syn.: *Mammillaria gummifera* Engelm. var. *applanata* (Engelm.) L. Benson

Mammillaria heyderi Mühlenpf. var. *macdougalii* (Rose) L. Benson

Syn.: *Mammillaria gummifera* Engelm. var. *macdougalii* (Rose) L. Benson; *Mammillaria macdougalii* Rose

Mammillaria heyderi Mühlenpf. var. *meiacantha* (Engelm.) L. Benson

Syn.: *Mammillaria gummifera* Engelm. var. *meiacantha* (Engelm.) L. Benson

Mammillaria lasiacantha Engelm.

Mammillaria mainiae K. Brand.

Mammillaria microcarpa Engelm.

Mammillaria tetrancistra Engelm.

Mammillaria thornberi Orcutt

Mammillaria viridiflora (Britt. & Rose) Bödeker.
Syn.: *Mammillaria orestra* L. Benson

Mammillaria wrightii Engelm. var. *wilcoxii* (Toumey ex K. Schumann) W. T. Marshall

Syn.: *Mammillaria wilcoxii* Toumey

Mammillaria wrightii Engelm. var. *wrightii*

Opuntia acanthocarpa Engelm. & Bigel. var. *acanthocarpa*-Buckhorn cholla

Opuntia acanthocarpa Engelm. & Bigel. var. *coloradensis* L. Benson

Opuntia acanthocarpa Engelm. & Bigel. var. *major* L. Benson

Syn.: *Opuntia acanthocarpa* Engelm. & Bigel. var. *ramosa* Peebles

Opuntia acanthocarpa Engelm. & Bigel. var. *thornberi* (Thornber & Bonker) L. Benson

Syn.: *Opuntia thornberi* Thornber & Bonker

Opuntia arbuscula Engelm.-Pencil cholla

Opuntia basilaris Engelm. & Bigel. var. *aurea* (Baxter) W. T. Marshall-Yellow beavertail

Syn.: *Opuntia aurea* Baxter

Opuntia basilaris Engelm. & Bigel. var. *basilaris*-Beavertail cactus

Opuntia basilaris Engelm. & Bigel. var. *longiareolata* (Clover & Jotter) L. Benson

Opuntia basilaris Engelm. & Bigel. var. *treleasei* (Coul.) Toumey

Opuntia bigelovii Engelm.-Teddy-bear cholla

Opuntia campii ined.

Opuntia canada Griffiths (*O. phaeacantha* Engelm. var. *laevis* X *major* and *O. gilvescens* Griffiths).

Opuntia chlorotica Engelm. & Bigel.-Pancake prickly-pear

Opuntia clavata Engelm.-Club cholla

Opuntia curvospina Griffiths

Opuntia echinocarpa Engelm. & Bigel-Silver cholla

Opuntia emoryi Engelm.-Devil cholla

Syn.: *Opuntia stanlyi* Engelm. ex B. D. Jackson var. *stanlyi*

Opuntia engelmannii Salm-Dyck ex Engelm. var. *engelmannii*-Engelmann's prickly-pear

Syn.: *Opuntia phaeacantha* Engelm. var. *discata* (Griffiths) Benson & Walkington

Opuntia engelmannii Salm-Dyck ex Engelm. var. *flavospina* (L. Benson) Parfitt & Pinkava

Syn.: *Opuntia phaeacantha* Engelm. var. *flavispina* L. Benson

Opuntia erinacea Engelm. & Bigel. var. *erinacea*-Mohave prickly-pear

Opuntia erinacea Engelm. & Bigel. var. *hystricina* (Engelm. & Bigel.) L. Benson

Syn.: *Opuntia hystricina* Engelm. & Bigel.

Opuntia erinacea Engelm. & Bigel. var. *ursina* (Weber) Parish-Grizzly bear prickly-pear

Syn.: *Opuntia ursina* Weber

Opuntia erinacea Engelm. & Bigel. var. *utahensis* (Engelm.) L. Benson

Syn.: *Opuntia rhodantha* Schum.

Opuntia fragilis Nutt. var. *brachyarthra* (Engelm. & Bigel.) Coul.

Opuntia fragilis Nutt. var. *fragilis*-Little prickly-pear

Opuntia fulgida Engelm. var. *fulgida*-Jumping chain-fruit cholla

Opuntia fulgida Engelm. var. *mammillata* (Schott) Coul.

Opuntia imbricata (Haw.) DC.-Tree cholla

Opuntia X kelvinensis V. & K. Grant pro sp.
Syn.: *Opuntia kelvinensis* V. & K. Grant

Opuntia kleiniae DC. var. *tetracantha* (Toumey) W. T. Marshall

Syn.: *Opuntia tetrancistra* Toumey

Opuntia kunzei Rose.

Syn.: *Opuntia stanlyi* Engelm. ex B. D. Jackson var. *kunzei* (Rose) L. Benson; *Opuntia kunzei* Rose var. *wrightiana* (E. M. Baxter) Peebles; *Opuntia wrightiana* E. M. Baxter

CHAPTER 3. DEPARTMENT OF AGRICULTURE - ENVIRONMENTAL SERVICES DIVISION

Opuntia leptocaulis DC.—Desert Christmas cactus, Pencil cholla

Opuntia littoralis (Engelm.) Cockl. var. *vaseyi* (Coult.) Benson & Walkington

Opuntia macrocentra Engelm.—Purple prickly-pear
Syn.: *Opuntia violacea* Engelm. ex B. D. Jackson var. *macrocentra* (Engelm.) L. Benson; *Opuntia violacea* Engelm. ex B. D. Jackson var. *violacea*

Opuntia macrorhiza Engelm. var. *macrorhiza*—Plains prickly-pear
Syn.: *Opuntia plumbea* Rose

Opuntia macrorhiza Engelm. var. *pottsii* (Salm-Dyck) L. Benson

Opuntia martiniana (L. Benson) Parfitt
Syn.: *Opuntia littoralis* (Engelm.) Cockerell var. *martiniana* (L. Benson) L. Benson; *Opuntia macrocentra* Engelm. var. *martiniana* L. Benson

Opuntia nicholii L. Benson—Navajo Bridge prickly-pear

Opuntia parishii Orcutt.
Syn.: *Opuntia stanlyi* Engelm. ex B. D. Jackson var. *parishii* (Orcutt) L. Benson

Opuntia phaeacantha Engelm. var. *laevis* (Coult.) L. Benson
Syn.: *Opuntia laevis* Coult.

Opuntia phaeacantha Engelm. var. *major* Engelm.

Opuntia phaeacantha Engelm. var. *phaeacantha*

Opuntia phaeacantha Engelm. var. *superbospina* (Griffiths) L. Benson

Opuntia polyacantha Haw. var. *juniperina* (Engelm.) L. Benson

Opuntia polyacantha Haw. var. *rufispina* (Engelm.) L. Benson

Opuntia polyacantha Haw. var. *trichophora* (Engelm. & Bigel.) L. Benson

Opuntia pulchella Engelm.—Sand cholla

Opuntia ramosissima Engelm.—Diamond cholla

Opuntia santa-rita (Griffiths & Hare) Rose—Santa Rita prickly-pear

Syn.: *Opuntia violacea* Engelm. ex B. D. Jackson var. *santa-rita* (Griffiths & Hare) L. Benson

Opuntia spinosior (Engelm.) Toumey—Cane cholla

Opuntia versicolor Engelm.—Staghorn cholla

Opuntia vivipara Engelm

Opuntia whipplei Engelm. & Bigel. var. *multigeniculata* (Clokey) L. Benson

Opuntia whipplei Engelm. & Bigel. var. *whipplei*—Whipple cholla

Opuntia wigginsii L. Benson

Pediocactus papyracanthus (Engelm.) L. Benson
Grama grass cactus

Syn.: *Toumeyia papyracanthus* (Engelm.) Britt. & Rose

Pediocactus simpsonii (Engelm.) Britt & Rose var. *simpsonii*

Peniocereus greggii (Engelm.) Britt. & Rose var. *greggii*—Night-blooming cereus
Syn.: *Cereus greggii* Engelm.

Peniocereus greggii (Engelm.) Britt & Rose var. *transmontanus*—Queen-of-the-Night

Peniocereus striatus (Brandegge) Buxbaum.
Syn.: *Neoevansia striata* (Brandegge) Sanchez-Mejorada; *Cereus striatus* Brandegge; *Wilcoxia diguetii* (Webber) Peebles

Sclerocactus parviflorus Clover & Jotter var. *intermedius* (Peebles) Woodruff & L. Benson
Syn.: *Sclerocactus intermedius* Peebles

Sclerocactus parviflorus Clover & Jotter var. *parviflorus*

Syn.: *Sclerocactus whipplei* (Engelm. & Bigel.) Britt. & Rose var. *roseus* (Clover) L. Benson

Sclerocactus pubispinus (Engelm.) L. Peebles

Sclerocactus spinosior (Engelm.) Woodruff & L. Benson

Syn.: *Sclerocactus pubispinus* (Engelm.) L. Benson var. *sileri* L. Benson

Sclerocactus whipplei (Engelm. & Bigel.) Britt. & Rose

Stenocereus thurberi (Engelm.) F. Buxbaum—Organ pipe cactus

Syn.: *Cereus thurberi* Engelm.; *Lemaiocereus thurberi* (Engelm.) Britt. & Rose

CAMPANULACEAE Bellflower Family

Lobelia cardinalis L. ssp. *graminea* (Lam.) McVaugh—Cardinal flower

Lobelia fenestralis Cav.—Leafy lobelia

Lobelia laxiflora H. B. K. var. *angustifolia* A. DC.

CAPPARACEAE Cappar Family [=Capparidaceae]

Cleome multicaulis DC.—Playa spiderflower

CHENOPODIACEAE Goosefoot Family

Atriplex hymenelytra (Torr.) Wats.

CRASSULACEAE Stonecrop Family

Dudleya arizonica (Nutt.) Britt. & Rose

Syn.: *Echeveria pulverulenta* Nutt. ssp. *arizonica* (Rose) Clokey

Dudleya saxosa (M.E. Jones) Britt. & Rose ssp. *colomiae* (Rose) Moran

Syn.: *Echeveria collomiae* (Rose) Kearney & Peebles

Graptopetalum bartramii Rose

Syn.: *Echeveria bartramii* (Rose) K. & P.

Graptopetalum bartramii Rose—Bartram's stonecrop, Bartram's live-forever

Syn.: *Echeveria bartramii* (Rose) Kearney & Peebles

Graptopetalum rusbyi (Greene) Rose

Syn.: *Echeveria rusbyi* (Greene) Nels. & Macbr.

Sedum cockerellii Britt.

Sedum griffithsii Rose

Sedum lanceolatum Torr.

Syn.: *Sedum stenopetalum* Pursh

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- Sedum rhodanthum* Gray
Sedum stelliforme Wats.
- CROSSOSOMATACEAE Crossosoma Family
Apacheria chiricahuensis C. T. Mason–Chiricahua rock flower
- CUCURBITACEAE Gourd Family
Tumamoca macdougalii Rose–Tumamoc globeberry
- EUPHORBIACEAE Spurge Family
Euphorbia plummerae Wats.–Woodland spurge
Sapium biloculare (Wats.) Pax–Mexican jumping-bean
- FABACEAE Pea Family [=Leguminosae]
Astragalus corbrensis Gray var. *maguirei* Kearney
Astragalus cremnophyllax Barneby var. *myriorrhaphis* Barneby–Cliff milk-vetch
Astragalus hypoxylum Wats.–Huachuca milk-vetch
Astragalus nutriosensis Sanderson–Nutrioso milk-vetch
Astragalus xiphoides (Barneby) Barneby–Gladiator milk-vetch
Cercis occidentalis Torr.–California redbud
Errazurizia rotundata (Woot.) Barneby
Syn.: *Parryella rotundata* Woot.
Lysiloma microphylla Benth. var. *thorneri* (Britt. & Rose) Isely–Feather bush
Syn.: *Lysiloma thornberi* Britt. & Rose
Phaseolus supinus Wiggins & Rollins
- FOUQUIERIACEAE Ocotillo Family
Fouquieria splendens Engelm.–Ocotillo, coach-whip, monkey-tail
- GENTIANACEAE Gentian Family
Gentianella wislizenii (Engelm.) J. Gillett
Syn.: *Gentiana wislizenii* Engelm.
- LAMIACEAE Mint Family
Hedeoma diffusum Green–Flagstaff pennyroyal
Salvia dorrii ssp. *mearnsii*
Trichostema micranthum Gray
- LILIACEAE Lily Family
Allium acuminatum Hook.
Allium bigelovii Wats.
Allium biseptum Wats. var. *palmeri* (Wats.) Cronq.
Syn.: *Allium palmeri* Wats.
Allium cernuum Roth. var. *neomexicanum* (Rydb.) Macbr.–Nodding onion
Allium cernuum Roth. var. *obtusum* Ckll.
Allium geyeri Wats. var. *geyeri*
Allium geyeri Wats. var. *tenerum* Jones
Allium kunthii Don
Allium macropetalum Rydb.
Allium nevadense Wats. var. *cristatum* (Wats.) Ownbey
Allium nevadense Wats. var. *nevadense*
Allium parishii Wats.
Allium plummerae Wats.
Allium rhizomatum Woot. & Standl. Incl.: *Allium glandulosum* Link & Otto sensu Kearney & Peebles
Androstephium breviflorum Wats.–Funnel-lily
Calochortus ambiguus (Jones) Ownbey
Calochortus aureus Wats.
Syn.: *Calochortus nuttallii* Torr. & Gray var. *aureus* (Wats.) Ownbey
Calochortus flexuosus Wats.–Straggling mariposa
Calochortus gunnisonii Wats.
Calochortus kennedyi Porter var. *kennedyi*–Desert mariposa
Calochortus kennedyi Porter var. *munzii* Jeps.
Dichelostemma pulchellum (Salisbi) Heller var. *pauciflorum* (Torr.) Hoover
Disporum trachycarpum (Wats.) Benth. & Hook. var. *subglabrum* Kelso
Disporum trachycarpum (Wats.) Benth. & Hook. var. *trachycarpum*
Echeandia flavescens (Schultes & Schultes) Cruden
Syn.: *Anthericum torreyi* Baker
Eremocrinum albomarginatum Jones
Fritillaria atropurpurea Nutt.
Hesperocallis undulata Gray–Ajo lily
Lilium parryi Wats.–Lemon lily
Lilium umbellatum Pursh
Maianthemum racemosum (L.) Link. ssp. *amplexicaule* (Nutt.) LaFrankie
Syn.: *Smilacina racemosa* (L.) Desf. var. *amplexicaulis* (Nutt.) Wats.
Maianthemum racemosum (L.) Link ssp. *racemosum*–False Solomon’s seal
Syn.: *Smilacina racemosa* (L.) Desf. var. *racemosa*; *Smilacina racemosa* (L.) Desf. var. *cylindrata* Fern.
Maianthemum stellatum (L.) Link
Syn.: *Smilacina stellata* (L.) Desf.–Starflower
Milla biflora Cav.–Mexican star
Nothoscordum texanum Jones
Polygonatum cobrense (Woot. & Standl.) Gates
Streptopus amplexifolius (L.) DC.–Twisted stalk
Triteleia lemmonae (Wats.) Greene
Triteleiaopsis palmeri (Wats.) Hoover
Veratrum californicum Durand.–False hellebore
Zephyranthes longifolia Hemsl.–Plains rain lily
Zigadenus elegans Pursh–White camas, alkali-grass
Zigadenus paniculatus (Nutt.) Wats.–Sand-corn
Zigadenus virescens (H. B. K.) Macbr.
- MALVACEAE Mallow Family
Abutilon parishii Wats.–Tucson Indian mallow
Abutilon thurberi Gray–Baboquivari Indian mallow
- NOLINACEAE Nolina

CHAPTER 3. DEPARTMENT OF AGRICULTURE - ENVIRONMENTAL SERVICES DIVISION

Dasyliiron wheeleri Wats.—Sotol, desert spoon
Nolina bigelovii (Torr.) Wats.—Bigelow's nolina
Nolina microcarpa Wats.—Bearchgrass, sacahuista
Nolina parryi Wats.—Parry's nolina
Nolina texana Wats. var. *compacta* (Trel.) Johnst.—
 Bunchgrass

ONAGRACEAE Evening Primrose Family

Camissonia exilis (Raven) Raven

ORCHIDACEAE Orchid Family

Calypso bulbosa (L.) Oakes var. *americana* (R. Br.)
 Luer

Coeloglossum viride (L.) Hartmann var. *virescens*
 (Muhl.) Luer

Syn.: *Habenaria viridis* (L.) R. Br. var. *bracteata*
 (Muhl.) Gray

Corallorhiza maculata Raf.—Spotted coral root

Corallorhiza striata Lindl.—Striped coral root

Corallorhiza wisteriana Conrad—Spring coral root

Epipactis gigantea Douglas ex Hook.—Giant helle-
 borine

Goodyera oblongifolia Raf.

Goodyera repens (L.) R. Br.

Hexalectris spicata (Walt.) Barnhart—Crested coral
 root

Listera convallarioides (Swartz) Nutt.—Broad-
 leaved twayblade

Malaxis corymbosa (S. Wats.) Kuntze

Malaxis ehrenbergii (Reichb. f.) Kuntze

Malaxis macrostachya (Lexarza) Kuntze—Mountain
 malaxia

Syn.: *Malaxis soulei* L. O. Williams

Malaxis tenuis (S. Wats.) Ames

Platanthera hyperborea (L.) Lindley var. *gracilis*
 (Lindley) Luer

Syn.: *Habenaria sparsiflora* Wats. var. *laxiflora*
 (Rydb.) Correll

Platanthera hyperborea (L.) Lindley var. *hyper-*
borea—Northern green orchid

Syn.: *Habenaria hyperborea* (L.) R. Br.

Platanthera limosa Lindl.—Thurber's bog orchid

Syn.: *Habenaria limosa* (Lindley) Hemsley

Platanthera sparsiflora (Wats.) Schlechter var. *ensi-*
folia (Rydb.) Luer

Platanthera sparsiflora (Wats.) var. *laxiflora*
 (Rydb.) Correll

Platanthera sparsiflora (Wats.) Schlechter var. *spar-*
siflora—Sparsely-flowered bog orchid

Syn.: *Habenaria sparsiflora* Wats.

Platanthera stricta Lindl.—Slender bog orchid

Syn.: *Habenaria saccata* Greene; *Platanthera sac-*
cata (Greene) Hulten

Platanthera viridis (L.) R. Br. var. *bracteata* (Muhl.)
 Gray—Long-bracted habenaria

Spiranthes michauxiana (La Llave & Lex.) Hemsl.

Spiranthes parasitica A. Rich. & Gal.

Spiranthes romanzoffiana Cham.—Hooded ladies
 tresses

PAPAVERACEAE Poppy Family

Arctomecon californica Torr. & Frém.—Golden-bear
 poppy, Yellow-flowered desert poppy

PINACEAE Pine Family

Pinus aristata Engelm.—Bristlecone pine

POLYGONACEAE Buckwheat Family

Eriogonum apachense Reveal

Eriogonum capillare Small

Eriogonum mortonianum Reveal—Morton's buck-
 wheat

Eriogonum ripleyi J. T. Howell—Ripley's wild buck-
 wheat, Frazier's Well buckwheat

Eriogonum thompsonae Wats. var. *atwoodii* Reveal—
 Atwood's buckwheat

PORTULACACEAE Purslane Family

Talinum humile Greene—Pinos Altos flame flower

Talinum marginatum Greene

Talinum validulum Greene—Tusayan flame flower

PRIMULACEAE Primrose Family

Dodecatheon alpinum (Gray) Greene ssp. *majus* H.
 J. Thompson

Dodecatheon dentatum Hook. ssp. *ellisiae* (Standl.)
 H. J. Thompson

Dodecatheon pulchellum (Raf.) Merrill

Primula hunnewellii Fern.

Primula rusbyi Greene

Primula specuicola Rydb.

RANUNCULACEAE Buttercup Family

Aquilegia caerulea James ssp. *pinetorum* (Tidest.)
 Payson—Rocky Mountain Columbine

Aquilegia chrysantha Gray

Aquilegia desertorum (Jones) Ckll.—Desert colum-
 bine, Mogollon columbine

Aquilegia elegantula Greene

Aquilegia longissima Gray—Long Spur Columbine

Aquilegia micrantha Eastw.

Aquilegia triternata Payson

ROSACEAE Rose Family

Rosa stellata Woot.—ssp. *abyssa* A. Phillips Grand
 Canyon rose

Vauquelinia californica (Torr.) Sarg. ssp. *pauciflora*
 (Standl.) Hess & Henrickson—Few-flowered Arizona
 rosewood

SCROPHULARIACEAE Figwort Family

Castilleja mogollonica Pennell

Penstemon albomarginatus Jones

Penstemon bicolor (Brandeg.) Clokey & Keck ssp.
roseus Clokey & Keck

Penstemon clutei A. Nels.

CHAPTER 3. DEPARTMENT OF AGRICULTURE - ENVIRONMENTAL SERVICES DIVISION

Penstemon distans N. Holmgren–Mt. Trumbull beardtongue

Penstemon linarioides spp. maguirei

SIMAROUBACEAE Simarouba Family

Castela emoryi (Gray) Moran & Felger–Crucifixion thorn

Syn.: *Holacantha emoryi* Gray

STERCULIACEAE Cacao Family

Fremontodendron californicum (Torr.) Coville–Flannel bush

- C. Salvage assessed native plants as prescribed in A.R.S. § 3-903(B)(3) that require a permit for removal:

BIGNONIACEAE Bignonia Family

Chilopsis linearis (Cav.) Sweet var. *arcuata* Fosberg–Desert-willow

Chilopsis linearis (Cav.) Sweet var. *glutinosa* (Engelm.) Fosberg

FABACEAE Pea Family [=Leguminosae]

Cercidium floridum Benth.–Blue palo verde

Cercidium microphyllum (Torr.) Rose & Johnst.–Foothill palo verde

Olneya tesota Gray–Desert ironwood

Prosopis glandulosa Torr. var. *glandulosa*–Honey mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *glandulosa* (Torr.) Ckll.

Prosopis glandulosa Torr. var. *torreyana* (Benson) M. C. Johnst.–Western honey mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *torreyana* Benson

Prosopis pubescens Benth.–Screwbean mesquite

Prosopis velutina Woot.–Velvet mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *velutina* (Woot.) Sarg.

Psorothamnus spinosus (Gray) Barneby–Smoke tree.

Syn.: *Dalea spinosa* Gray

- D. Harvest restricted native plants as prescribed at A.R.S. § 3-903(B)(4) that require a permit to cut or remove the plants for their by-products, fibers, or wood:

AGAVACEAE Agave Family (including Nolinaceae)

Nolina bigelovii (Torr.) Wats.–Bigelow's nolina

Nolina microcarpa Wats.–Beargrass, sacahuista

Nolina parryi Wats.–Parry's nolina

Nolina texana Wats. var. *compacta* (Trel.) Johnst.–Bunchgrass

Yucca baccata Torr. var. *baccata*–Banana yucca

Yucca schidigera Roezl.–Mohave yucca, Spanish dagger

FABACEAE Pea Family [=Leguminosae]

Olneya tesota Gray–Desert ironwood

Prosopis glandulosa Torr. var. *glandulosa*–Honey mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *glandulosa* (Torr.) Ckll.

Prosopis glandulosa Torr. var. *torreyana* (Benson) M. C. Johnst.–Western honey mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *torreyana* Benson

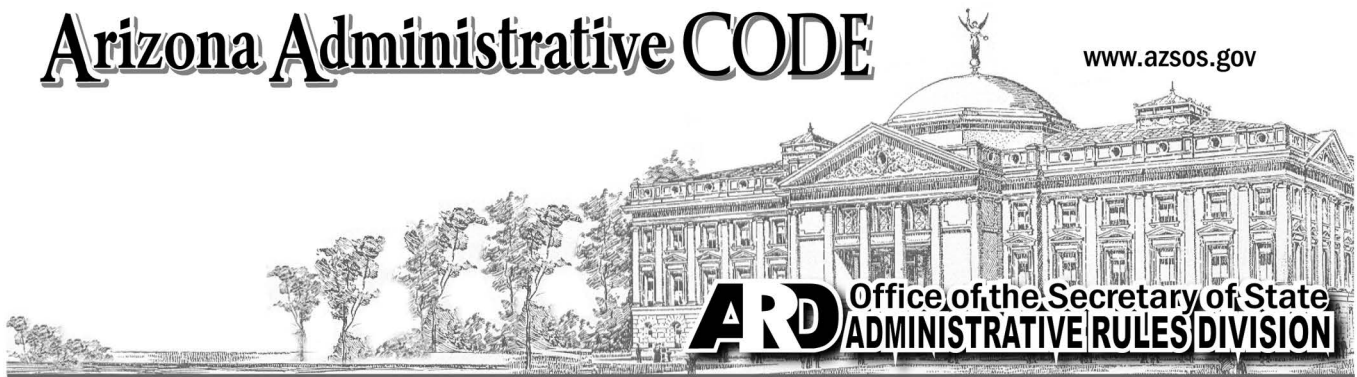
Prosopis pubescens Benth.–Screwbean mesquite

Prosopis velutina Woot.–Velvet mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *velutina* (Woot.) Sarg.

Historical Note

New Section recodified from 3 A.A.C. 4, Article 6 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).



4 A.A.C. 10

Supp. 24-1

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 10. BARBERING AND COSMETOLOGY BOARD

The table of contents on page one contains links to the referenced page numbers in this Chapter.

Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
January 1, 2024 through March 31, 2024

This Chapter contain rules that were codified in supplement 24-1 to include making new Parts and repealing Articles and Sections.
Refer to Article introductions and Section historical notes to review changes to the rules.

Questions about these rules? Contact:

Board: Barbering and Cosmetology Board
Address: 1740 W. Adams St., Ste. 4400
Phoenix, AZ 85007
Website: <https://bcb.az.gov/>
Name: Frank Migali, Executive Director
Telephone: (480) 784-4539
Email: azboard@bcb.az.gov

The release of this Chapter in Supp. 24-1 replaces Supp. 22-2, 1-32 pages.

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

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division

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TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 10. BARBERING AND COSMETOLOGY BOARD

Authority: Laws 2021, Ch. 334 and A.R.S. § 32-304

Supp. 24-1

Editor's Note: The Board of Cosmetology was merged with the Board of Barbers; the name of this Chapter was changed to the Barbering and Cosmetology Board under Laws 2021, Ch. 334. The Board of Barbers rules codified under 4 A.A.C. 5, were recodified to Articles 5, 6, 7, 8, and 9 under Laws 2021, Ch. 334 and A.R.S. § 32-304, at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2).

Editor's Note: The Board of Cosmetology repealed or renumbered Sections with the old Administrative Code numbering scheme and adopted new Sections under the current numbering scheme (Supp. 96-2). The old and new Sections cannot be shown in numerical order because of the two Articles; therefore the old numbers are not shown here. Please refer to this Chapter as published in Revised Format 6-92 for historical note information on the old numbered Sections.

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ARTICLE 1. GENERAL PROVISIONS

R4-10-101. Definitions

The definitions in A.R.S. §§ 32-301, 32-501, 32-516, and 32-572 apply to this Chapter. Additionally, in this Chapter unless otherwise specified:

1. "Accredited" means approved by any regional or national accreditation organization.
2. "Administrative completeness review" means the Board's process for determining that an applicant has provided all information and documents required by Board statute or rule for an application.
3. "Applicant" means an individual or any of the following seeking licensure or registration by the Board:
 - a. If a corporation, one officer as the applicant and a list of all officers of the corporation; or
 - b. If a partnership, one partner as the applicant and a list of all other partners; or
 - c. If a limited liability company, the designated corporate contact person, or if no contact person is designated, one member as the applicant and a list of all other members.
4. "Application packet" means the forms and documents the Board requires an applicant to submit.
5. "Approved by the Board," as used in A.R.S. §§ 32-302 and 32-501, means a cosmetologist, aesthetician, barber, hair stylist, or nail technician has a current license issued by the Board and no record of disciplinary action.
6. "Bracing" means to use a support that helps to steady or strengthen while performing a procedure.
7. "Barber pole" means a stationary or revolving sign composed of a vertical cylinder or pole with alternating, diagonal, stripes of any combination including red, white, and blue or a likeness of the sign.
8. "Certificate of hours" means a document issued by a licensed school to a student that states the total number of hours or credits completed at the school by the student who is transferring or withdrawing.
9. "Certification of licensure" means the status of the license, signed by the authorized individual of the agency authorized to issue cosmetology, hairstyling, nail technician, aesthetics, barbering, or instructor licenses in the jurisdiction in which the applicant received a license.
10. "Change of ownership," as used in A.R.S. §§ 32-328, 32-545, and 32-552, means a change of 10 percent or more of the owners holding a license to operate an establishment or school.
11. "Classroom" means an area in which instruction or demonstration is provided.
12. "Clinic" means the area where a student practices cosmetology, hairstyling, nail technology, aesthetics, or barbering on the general public for a fee.
13. "Course" means an organized subject matter in which instruction is offered within a given period of time and for which credit toward graduation is given.
14. "Credit" means one earned academic unit of study based on completing the required number of class sessions per calendar week in a course at a community college, an accredited college or university, or a high school.
15. "Crossover hours" means hours of training obtained by a licensed aesthetician, cosmetologist, hair stylist, nail technician, or barber that a school licensee accepts as hours of training required to complete a course of training in a different discipline.
16. "Days" means business days.
17. "Direct supervision" means a licensee is physically present and observing the work of a supervisee.
18. "Discipline" means the fields of study or service regulated by the Board including cosmetology, hairstyling, aesthetics, nail technology, eyelash technology, and barbering.
19. "Disinfect" means the use of chemicals to kill most microbial life that can lead to infection in humans.
20. "EPA" means the U.S. Environmental Protection Agency.
21. "Establishment" means a business for which the Board has issued a license to a person under A.R.S. §§ 32-326 or 32-541, as applicable.
22. "Establishment suite" means multiple individually operated and licensed establishments that share a physical address except for suite number.
23. "Graduation" or "graduated from a school" means completion of the criteria established by a licensed cosmetology, hairstyling, aesthetics, nail technology, or barbering school for the course in which the applicant was enrolled including completion of the required curriculum hours.
24. "High school diploma or equivalency" means:
 - a. A high school diploma from a school recognized by the basic education authority or the Department of Education in the jurisdiction in which the school is located,
 - b. A passing score on a high school equivalency general educational development test or its equivalent as required by the Department of Education,
 - c. An associate degree or 15 academic credits from a junior college recognized by the basic education authority in the jurisdiction in which the college is located, or
 - d. Any degree from a college or university recognized by the basic education authority in the jurisdiction in which the college or university is located.
25. "Licensed in another state of the United States or foreign country" means:
 - a. A governmental regulatory agency in the state or country is authorized to examine the competency of individuals who graduate from a licensed cosmetology, hairstyling, nail technology, aesthetics, or barbering school, or instructors for these disciplines; and
 - b. The governmental regulatory agency issues licenses over which the state or country has regulatory and disciplinary jurisdiction.
26. "Manager" means an individual who is responsible for ensuring an establishment for which the Board has issued a license to operate complies with A.R.S. Title 32, Chapters 3 and 5, as applicable, and this Chapter.
27. "Mentor," as defined at A.R.S. §§ 32-301 and 32-501, means an aesthetician, barber, cosmetologist, hair stylist, or nail technician who is approved by the Board to train an individual in an apprenticeship program that is approved by the Department of Economic Security and occurs at a licensed establishment.
28. "Model" means an individual or mannequin on which an applicant performs demonstrations for the practical section of a licensing examination.
29. "Practice" means engaging in one of the disciplines regulated by the Board or engaging as an instructor of one of the disciplines in accordance with the license or registration issued by the Board and Title 32, Chapters 3 and 5, as applicable, and this Chapter.

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30. "Owner" means a person that has controlling interest in an establishment or school or the owner's designee.
 31. "Reciprocity" means the procedure for granting an Arizona license to an applicant who is currently licensed in another state of the United States or a foreign country.
 32. "School" means an educational facility for which the Board has issued a license to a person under A.R.S. §§ 32-325 or 32-551, as applicable.
 33. "Student instructor" means an individual who is licensed by the Board in a discipline and training to be an instructor in that discipline.
 34. "Substantive review" means the Board's process for determining whether an applicant for licensure, registration, or other approval meets the requirements for the license, registration, or other approval for which application is made including, if applicable, taking and passing an examination required by the Board.
 35. "Two years of high school or its equivalent" means one of the following:
 - a. Ten high school credits attained by an individual;
 - b. If the individual is homeschooled, a copy of the Affidavit of Intent filed with the county school superintendent and proof the individual is at least 16 years old;
 - c. Proof of being at least 18 years old; or
 - d. Obtaining a passing score on a high school equivalency general educational development (GED) test or its equivalent as required by the Department of Education.
 36. "Transfer hours" means hours of study a student completed at one school that a school licensee accepts to meet the requirements at a second school.
 37. "Virtual learning" means the use of technology to teach students who may or may not be physically present in a classroom.
 38. "Workstation" means a specific location within an establishment, mobile unit, offsite training facility, or school where services are performed not including hair-cleaning activity.
4. Personal reciprocity or universal recognition license: \$60.00
 5. Establishment initial license: \$110.00
 6. Establishment renewal: \$50.00
 7. Establishment delinquent renewal: \$80.00
 8. School license: \$600.00
 9. School renewal: \$250.00
 10. Delinquent school renewal: \$350.00
- B. Barbering.** Under the specific authority provided by A.R.S. § 32-328, and subject to R4-10-103, the Board establishes and shall collect the following fees:
1. Barber
 - a. License by reciprocity or universal recognition: \$175
 - b. Initial license: \$40
 - c. Renewal valid for two years: \$80
 2. Instructor
 - a. Initial license: \$50
 - b. License by reciprocity or universal recognition: \$175
 - c. Renewal valid for two years: \$60
 3. Establishment
 - a. Application and initial inspection: \$150
 - b. Change of location or ownership: \$85
 - c. Renewal: \$50 annually
 4. Late-renewal fee for any license issued under subsections (B)(1) through (3)
 - a. First time in a five-year period: \$25 plus the renewal fee
 - b. Second time in a five-year period: \$50 plus the renewal fee
 - c. Third time in a five-year period: \$75 plus the renewal fee
 5. School
 - a. Application and initial inspection: \$1,000
 - b. Change of location or ownership: \$500
 - c. Renewal: \$400 annually
 - d. Late-renewal fee:
 - i. First time in five-year period: \$50 plus the renewal fee
 - ii. Second time in five-year period: \$100 plus the renewal fee
 - iii. Third time in five-year period: \$150 plus the renewal fee
- C. Eyelash technology.** Under the specific authority provided by A.R.S. § 32-507, and subject to R4-10-103, the Board establishes and shall collect the following fees:
1. Initial personal registration: \$45
 2. Personal registration renewal: \$45
 3. Delinquent personal registration renewal: \$45 for personal registration renewal as specified under subsection (C)(2) plus \$30 for delinquent renewal for every two years or a portion of two years that the registration is inactive to a maximum of five years
 4. Approval of an eyelash technician training program \$250
- D.** An applicant for licensure by examination shall pay directly to the national professional organization with which the Board contracts the amount charged to administer and grade the written and practical examinations.
- E.** The Board shall collect the following charges for the services provided:
1. Board administered educational classes: \$25.00
 2. Certification of licensure or hours: \$30.00

Historical Note

Adopted effective April 9, 1996 (Supp. 96-2). Amended by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2). Amended by final rulemaking at 12 A.A.R. 807, effective April 8, 2006 (Supp. 06-1).

Amended by final rulemaking at 23 A.A.R. 3028, effective December 31, 2017 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-102. Fees and Charges

- A.** Cosmetology, aesthetics, hairstyling, and nail technology. Under the specific authority provided by A.R.S. § 32-507 and subject to R4-10-103, the Board establishes and shall collect the following fees:
1. Initial personal license: \$60.00
 2. Personal licensing renewal: \$60.00
 3. Delinquent personal license renewal: \$60 for personal license renewal as specified under subsection (A)(2) plus \$30 for delinquent renewal for every two years or a portion of two years that the license is inactive to a maximum of five years

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3. Service charge for use of a credit or debit card: \$3.00 per transaction
 4. For copying public documents: 50¢ per page
 5. For audiotapes, videotapes, computer discs, or other media used for recording sounds, images, or information: \$15 per tape, disc, or other medium
 6. For a list of licensees' names and mailing addresses: a maximum of 25¢ per name
 7. Issuing an updated license following receipt of a notice of establishment-suite change: \$20
- F.** As authorized by A.R.S. § 44-6852, the Board shall charge a service fee of \$20.00 for the return of a dishonored check or the failure of any other means of payment to be honored plus the actual charges assessed by the financial institution dishonoring the check or other means of payment.
- G.** The Board shall consider a fee payment timely only if the fee is received in the correct amount, in the form specified in R4-10-103(B), and:
1. The Board receives the fee on or before the date due, or
 2. The fee is postmarked or electronically submitted on or before the date due.

Historical Note

Adopted effective April 9, 1996 (Supp. 96-2). Amended by final rulemaking at 9 A.A.R. 1050, effective May 6, 2003 (Supp. 03-1). Amended by final rulemaking at 21 A.A.R. 3441, effective January 30, 2016 (Supp. 15-4). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-103. Payment of Fees

- A.** A fee is not considered paid until the Board receives the amount required in the form specified in subsection (B). The Board shall not provide services, administer examinations, or issue licenses or registrations until it receives the required fee.
- B.** Form of payment. The Board shall accept:
1. A credit card, money order, or cashier's check as payment of licensing fees for an establishment or school;
 2. A credit card, cashier's check, business check, or money order as payment of a civil penalty; and
 3. A credit or debit card as payment of all other fees and service charges.
- C.** If payment for a renewal is returned because it is dishonored, the renewal application is incomplete and any license or registration renewal issued is void effective the date the Board provides written notice to the licensee or registrant that the license or registration is void.
- D.** An applicant, licensee, or registrant whose fee payment to the Board is dishonored is not entitled to a further service, license, or registration until the Board receives the following:
1. The amount of the fee for which the payment was dishonored;
 2. The service charge provided in R4-10-102 (F); and
 3. If applicable, the delinquent fee for each year or part of a year the license or registration was inactive or expired.
- E.** Fees are nonrefundable except if A.R.S. § 41-1077 applies.
- F.** The Board shall not refund fees tendered for fewer than \$5.00 over the amount specified in R4-10-102, except the Board shall refund fees paid over the amount specified as the maximum fee in A.R.S. §§ 32-328 or 32-507, as applicable.

Historical Note

Adopted effective April 9, 1996 (Supp. 96-2). Amended by final rulemaking at 9 A.A.R. 1050, effective May 6,

2003 (Supp. 03-1). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-104. Renumbered**Historical Note**

Adopted effective April 9, 1996 (Supp. 96-2). Former Section R4-10-104 renumbered to R4-10-108; new Section adopted by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2). Amended by final rulemaking 11 A.A.R. 4239, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 23 A.A.R. 3028, effective December 31, 2017 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Section R4-10-104 renumbered to R4-10-202, by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-105. Renumbered**Historical Note**

Section R4-10-105 renumbered from former Section R4-10-27 and amended effective April 9, 1996 (Supp. 96-2). Former Section R4-10-105 renumbered to R4-10-109; new Section adopted by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2). Amended by final rulemaking at 12 A.A.R. 807, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 23 A.A.R. 3028, effective December 31, 2017 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Section R4-10-105 renumbered to R4-10-201, by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-106. Time Frames

- A.** The overall, administrative completeness, and substantive review time frames described in A.R.S. § 41-1072 for each type of license, registration, or approval granted by the Board are listed in Tables A1 and B1, as applicable. The applicant and Executive Director of the Board may agree in writing to extend the overall time frame. The substantive review time frame may not be extended by more than 25 percent of the overall time frame.
- B.** The administrative completeness review time frame begins when the Board receives an application packet.
1. If an application packet is incomplete, the Board shall send the applicant a written notice specifying the missing document or incomplete information. The administrative completeness review time frame and the overall time frame are suspended from the date of the notice until the date the Board receives a complete application packet from the applicant.
 2. If an application packet is complete, the Board shall send a written notice of administrative completeness to the applicant.
 3. If the Board grants a license, registration, or approval during the administrative completeness time frame, the Board shall not issue a separate written notice of administrative completeness.
- C.** The substantive review time frame begins on the date of notice of administrative completeness.

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1. As part of the substantive review for a license to operate a school, the Board shall conduct an inspection that may require more than one visit to the school.
2. During the substantive review time frame, the Board may make one comprehensive written request for additional information or documentation. If the applicant has applied for licensure by examination, the Board may request evidence of passing the required examination. The time frame for the Board to complete the substantive review is suspended from the date of the comprehensive written request for additional information or documentation until the Board receives the additional information or documentation.
3. If an applicant does not meet the requirements of A.R.S. Title 32, Chapter 3 or 5, as applicable, and this Chapter, the Board shall send a written notice denying a license, registration, or approval to the applicant. The Board shall include in the notice of denial the basis for the denial and an explanation of the applicant's right to appeal under A.R.S. Title 41, Chapter 6, Article 10.

- D.** The Board shall consider an application withdrawn if within 90 days from the application submission date the applicant fails to supply the missing information under subsection (B)(1) or (C)(2).
- E.** An individual shall not practice as an aesthetician, cosmetologist, hairstylist, instructor, nail technician, barber, or eyelash technician until the individual receives and posts the license or registration issued by the Board at the individual's place of employment.

Historical Note

Adopted effective April 9, 1996 (Supp. 96-2). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-107. Renumbered**Historical Note**

Adopted effective April 9, 1996 (Supp. 96-2). Former Section R4-10-107 renumbered to R4-10-110; new Section adopted by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2). Amended by final rulemaking at 11 A.A.R. 4239, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 21 A.A.R. 3441, effective January 30, 2016 (Supp. 15-4). Amended by final rulemaking at 23 A.A.R. 3028, effective December 31, 2017 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Section R4-10-107 renumbered to R4-10-203, by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-108. Repealed**Historical Note**

Adopted effective April 9, 1996 (Supp. 96-2). Former Section R4-10-108 renumbered to R4-10-111; new Section R4-10-108 renumbered from Section R4-10-104 by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2). Amended by final rulemaking at 12 A.A.R. 807, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 22 A.A.R. 3329, effective November 4, 2016 (Supp. 16-4). Amended by final

rulemaking at 23 A.A.R. 3028, effective December 31, 2017 (Supp. 17-4). Amended by final rulemaking at 23 A.A.R. 3028, effective December 31, 2017 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Repealed by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-109. Repealed**Historical Note**

Adopted effective April 9, 1996 (Supp. 96-2). Former Section R4-10-109 renumbered to R4-10-112; new Section R4-10-109 renumbered from Section R4-10-105 by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2). Section repealed by final rulemaking at 12 A.A.R. 807, effective April 8, 2006 (Supp. 06-1).

R4-10-110. Renumbered**Historical Note**

Adopted effective April 9, 1996 (Supp. 96-2). Former Section R4-10-110 renumbered to Section R4-10-113; new Section R4-10-110 renumbered from Section R4-10-107 by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2). Amended by final rulemaking at 12 A.A.R. 807, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 3441, effective January 30, 2016 (Supp. 15-4). Amended by final rulemaking at 23 A.A.R. 3028, effective December 31, 2017 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Section R4-10-110 renumbered to R4-10-204, by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-111. Display of Licenses, Registrations, and Signs

- A.** An establishment or school licensee shall ensure the name on the establishment's or school's sign, advertising, and publications is the same as the name on the license to operate the establishment or school issued by the Board. The establishment's or school's sign shall be prominently posted in view of the public.
- B.** A school licensee shall:
1. Display the licenses of the school licensee and all instructors near the school entrance, visible to the public; and
 2. Ensure that if "accredited," "approved," or a similar term appears in the school catalog, publication, or advertisement, the name of the accrediting or approving organization is provided.
- C.** An establishment licensee shall:
1. Prominently post the license of the establishment licensee in view of the public, and
 2. Ensure that the personal license or registration of each licensee or registrant performing services in the establishment is posted at the licensee's or registrant's workstation.
- D.** A licensee or registrant performing mobile services shall prominently display, in view of the public and in the area where mobile services are provided:
1. A duplicate of the licensee's or registrant's personal license or registration, and
 2. A duplicate of the Board-issued license to operate an establishment.
- E.** A copy of R4-10-112 shall be prominently posted in each establishment and school.

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- F. If applicable, an establishment licensee shall prominently post a sign, in view of the public, that reads: "These services are not regulated by the Arizona Barbering and Cosmetology Board" and include a list of services provided but not regulated.
- G. Display of barber pole.
1. Under A.R.S. § 32-355(A)(4), it is unlawful to display a sign or advertise as being engaged in the practice or business of barbering without being licensed under A.R.S. Title 32, Chapter 3, and this Chapter.
 2. The Board has trademarked through the Office of the Secretary of State the barber pole as a sign of the barbering business.
 3. A business shall not display a barber pole unless a barber licensed under A.R.S. Title 32, Chapter 3, and this Chapter is available to provide barbering services during the business hours the barber pole is displayed.

Historical Note

Adopted effective April 9, 1996 (Supp. 96-2). Former Section R4-10-111 renumbered to Section R4-10-114; new Section R4-10-111 renumbered from R4-10-108 by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2). Amended by final rulemaking at 12 A.A.R. 807, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-112. Infection Control and Safety Standards

- A. The holder of an establishment or school license issued under A.R.S. Title 32, Chapter 3 or 5, and this Chapter, shall ensure the establishment or school has and maintains the following minimum equipment and supplies:
1. Non-leaking, solid-side waste receptacles with liners, which are emptied, cleaned, and disinfected daily;
 2. Ventilated, covered, containers for soiled linens including towels and capes;
 3. Covered, clean containers or cabinets to hold clean linens including towels and capes;
 4. Covered, wet disinfectant container that:
 - a. Is set up with disinfectant solution at all times the establishment or school is open, and
 - b. Is changed as determined by the manufacturer's instructions or when visibly cloudy or contaminated; and
 5. An EPA-registered bactericidal, virucidal, or fungicidal, disinfectant effective against HIV and human hepatitis B virus, which shall be mixed and used according to manufacturer's directions on all tools, instruments, and equipment.
- B. Procedure for disinfecting non-electrical equipment. A licensee, registrant, or student shall disinfect non-electrical equipment by:
1. Cleaning with soap or detergent and warm water, rinsing with clean water, and patting dry; and
 2. Totally immersing in the wet disinfectant required under subsection (A)(5) following manufacturer's recommended directions.
- C. Procedure for storing tools and instruments. A licensee, registrant, or student shall:
1. Place a tool or instrument that has been used on a client or soiled in any manner in a covered receptacle that is labeled "dirty"; and
 2. Place a disinfected instrument in a disinfected, dry, covered container that is labeled "ready to use" and isolate the disinfected instrument from contaminants.
- D. Procedure for disinfecting electrical equipment, which shall be in good repair, before each use. A licensee, registrant, or student shall disinfect electrical equipment by:
1. Removing all foreign matter from the equipment;
 2. Cleaning and spraying or wiping with an EPA-registered bactericidal, virucidal, or fungicidal disinfectant, compatible with electrical equipment, as required in subsection (A)(5), ensuring the electrical equipment is in contact with the disinfectant for the time specified on the disinfectant label;
 3. Storing the disinfected electrical equipment in a clean place separated from cords for the electrical equipment; and
 4. If the electrical equipment has removable parts, disinfecting the removed parts as described in subsection (B).
- E. Tools, instruments, and supplies. A licensee, registrant, or student shall:
1. Dispose of all tools, instruments, or supplies that come into direct contact with a client and cannot be disinfected (for example, cotton pads, sponges, porous emery boards, and neck strips) by placing them in a waste receptacle immediately after use;
 2. Not store or carry disinfected tools and instruments in a leather or cloth pouch or pocket;
 3. Dispose of a sharp tool or instrument by sealing the tool or instrument in a rigid, puncture-proof container and disposing in a manner that keeps licensees, registrants, students, clients, and sanitation workers safe;
 4. Not place clips or other tools and instruments in the mouth, pocket, or other holder that cannot be cleaned and disinfected;
 5. Sharpen pencil cosmetics before each use and clean and disinfect the sharpener after each use; and
 6. A client's personal tools and instruments that are brought into and used in the establishment shall comply with these rules.
- F. If there is exposure to blood or other body fluids during a service, a licensee, registrant, or student shall stop the service and:
1. If the wound is on the licensee's, registrant's or student's hand, the licensee, registrant, or student shall:
 - a. Clean the wound with an antiseptic solution;
 - b. Cover the wound with a sterile bandage; and
 - c. Cover the wounded area with a glove or finger cover;
 2. Discard all blood-stained tissue or cotton or other blood-contaminated material;
 3. Disinfect all equipment, tools, and instruments that came in contact with blood or other body fluids as discussed in subsections (A)(5) and (B); and
 4. Disinfect electrical equipment as discussed in subsection (D).
- G. An establishment or school licensee shall ensure all circulating and non-circulating tubs or spas are cleaned as follows:
1. After each client or service, complete the following:
 - a. Drain the tub; and
 - b. Remove and discard a used tub liner and replace the used tub liner with a new, unused tub liner; or
 - c. Clean the tub according to manufacturer's instructions, taking special care to remove all film, especially at the water line, rinse the tub and fill with

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- disinfectant listed in subsection (A)(5), and allow the disinfectant to stand or circulate for the time specified in the manufacturer's instructions.
2. At the end of the day, complete all of the following:
 - a. Drain the tub;
 - b. Remove all filters, screens, drains, jets, and other removable parts;
 - c. Scrub all removed parts with a brush and soap or detergent until free from debris;
 - d. Rinse the removed parts;
 - e. Completely immerse the removed parts in the disinfectant listed under subsection (A)(5);
 - f. Rinse the tub;
 - g. Replace the disinfected parts;
 - h. Fill the tub with clean water and the amount of disinfectant proper for the volume of water;
 - i. Circulate the water and disinfectant for the full contact time listed on the manufacturer's label. If the tub does not have jets, allow the water and disinfectant to stand for the full contact time listed on the manufacturer's label; and
 - j. Drain the tub.
- H. Personal cleanliness.** A licensee, registrant, or student shall:
1. Thoroughly wash his or her hands with soap and warm water or any equally effective hand sanitizer immediately before providing services to each client, before checking a student's work on a client, or after smoking, eating, or using the restroom;
 2. Wash a client's skin on which services will be performed with soap and warm water or wipe the skin with waterless hand sanitizer approved for use on skin before a nail technology service, including a pedicure service, is provided; and
 3. Wear clean, fluid-proof, single-use, protective gloves while performing any service if any bodily discharge is present from the licensee, registrant, student, or client or if any discharge is likely to occur from the client because of services being performed. Discard gloves immediately after use.
- I. Disease and infestation.** A licensee, registrant, or student shall not perform a service on an individual:
1. Who has a contagious disease that may be transmitted by the performing of the service on the individual; or
 2. Who is exhibiting a sign of infection such as reddened, erupted, or open skin.
- J. Client protection.** A licensee, registrant, or student shall:
1. Protect a client's clothing from direct contact with shampoo bowls or headrests by using clean linens, capes, robes, or protective neck strips;
 2. Maintain infection control and perform services safely;
 3. Use bracing when performing a service around a client's eyes, ears, lips, fingers, and toes; and
 4. When applicable, provide a client a pre- and post-analysis that includes appropriate instructions for follow-up.
- K. Care and storage of linens including towels, robes, and capes.** An establishment licensee shall ensure:
1. Clean linens are provided for each client and laundered after each use;
 2. Soiled linens are stored in a ventilated receptacle;
 3. Laundering includes washing linens using detergent and bleach; and
 4. Clean linens are stored in covered containers or closets.
- L. Care and storage of products including liquids, creams, oils, gels, antiseptics, clay, ointments, waxes, powders, cosmetics, chemicals, and disinfectants.** An establishment licensee shall ensure:
1. All products are stored in a container that is clean and free of corrosion, labeled to identify contents, and in compliance with state and local laws and manufacturer's instruction;
 2. All products containing poisonous substances are distinctly marked;
 3. When only a portion of a product is to be used, the portion is removed from the container in a way that does not contaminate the remaining product; and
 4. Once dispensed, a product is not returned to the original container.
- M. Prohibited hazardous substances and use of products.** An establishment licensee shall ensure:
1. No products containing hazardous substances banned by the U.S. Food and Drug Administration (FDA) for use in products on clients, including liquid methyl methacrylate monomer and methylene chloride, are on the establishment premises;
 2. All products are used only in a manner approved by the FDA, EPA, or other regulatory agency; and
 3. Instructions on the manufacturer's label are followed at all times.
- N. Care of headrests, shampoo bowls, and treatment tables.** An establishment licensee shall ensure:
1. Headrests of chairs and treatment tables are disinfected at least daily;
 2. Treatment tables are covered with a clean linen or paper sheet for each client;
 3. Shampoo bowls and neck rests are cleaned with soap and warm water or other detergent and disinfected after each use and kept in good repair; and
 4. Shampoo neck rests are disinfected with a solution listed under subsection (A)(5) before each use.
- O. Prohibited devices, tools, or chemicals; invasive procedures.** An establishment licensee shall ensure:
1. Except as provided in this subsection and subsection (O)(2), all of the following devices, tools, or chemicals are not present in or used in an establishment:
 - a. A device, tool, or chemical designed or used to pierce the dermis; and
 - b. A low-frequency, or low-power ultrasonic, or sonic device except one intended for skin cleansing, exfoliating, or product application.
 2. A licensee or registrant that provides an invasive procedure, using a device, tool, or chemical described in subsection (O)(1), that is otherwise allowed under Arizona law, complies with statutes and rules governing the procedure, training, or supervision as required by the relevant, regulatory authorities.
- P. Skin peeling.** A licensee shall:
1. Except as provided in subsection (O)(2), remove only the non-living, uppermost layer of skin, known as the epidermis, by any method or means and only for the purpose of beautification;
 2. Not use a skin removal technique or practice that affects the dermal layer of the skin;
 3. Not mix or combine skin removal products except as required by manufacturer instructions and approved by the FDA; and
 4. Use only commercially available products for the removal of epidermis for the purpose of beautification.
- Q. Restricted use tools and instruments.** A licensee shall use:

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1. Nippers only to remove loose cuticles; and
 2. Pre-sterilized, disposal lancets only to dilate follicles and release sebaceous debris from the follicle.
- R.** Lash use and storage. A cosmetology or aesthetics licensee or registrant shall:
1. Have at the lashing workstation a covered, wet disinfectant container large enough to submerge tools completely;
 2. Clean hands between clients;
 3. Perform all lash services using clean or clean-gloved hands;
 4. Store lashes in the original tray or jar in a covered container that is free from debris or contaminants;
 5. Dispense lashes from the original tray or jar using only a disinfected tool;
 6. Not return a lash to the original tray or jar after the lash is dispensed from the original tray or jar;
 7. Spray and wipe the lash workstation with an EPA-registered disinfectant after each client;
 8. Disinfect all cutting implements after use and store the disinfected cutting implements in a covered container that is free from debris or contaminants;
 9. Keep tape dispensers inside a labeled, clean, closed drawer; and
 10. Disinfect lash tweezers, adhesive stones, lash tiles, lash pallets, lash cases, and other items between clients.
- S.** An establishment licensee shall maintain cleanliness and repair of the establishment according to the following guidelines:
1. Discard hair and nail clippings immediately after each client;
 2. Clean and disinfect shampoo bowls using a disinfectant listed under subsection (A)(5) and ensure drains are free running;
 3. Disinfect counters and all work areas after each client by using a disinfectant discussed in subsection (A)(5).
- T.** An establishment licensee, including the licensee of an establishment in a residence, shall ensure compliance with the following building standards:
1. There is an entrance into the establishment from the outside. If the establishment is in a residence, the entrance may be through living quarters;
 2. Except for an establishment in a residence, an establishment shall not be used for residential or other living purposes;
 3. The establishment has a restroom open and available for employees' and clients' use during business hours. The restroom has a wash basin, running water, liquid soap, and disposable towels; is kept clean and sanitary at all times; and is in close enough proximity to the establishment to ensure safety for procedures during use;
 4. Extra material stored in the establishment restroom is locked in a cabinet;
 5. The establishment, including a mobile unit, has sufficient hot and cold running water; and
 6. The establishment has natural or mechanical ventilation and an air filtration system that provides free flow of air to each room, prevents the build-up of emissions and particulates, keeps odors and diffusions from chemicals and solutions at a safe level, and provides sufficient air circulation and oxygen.
- U.** An establishment licensee shall ensure compliance with the following general requirements.

1. A first-aid kit that contains, at a minimum, bandages, gauze, antiseptic, and antibiotic cream is present in the establishment and easily accessible;
2. No animals except fish in aquariums and service animals are allowed in the establishment; and
3. The establishment complies with federal and state requirements.

Historical Note

Section R4-10-112 renumbered from former Section R4-10-33 and amended effective April 9, 1996 (Supp. 96-2). Former Section R4-10-112 renumbered to Section R4-10-115; new Section R4-10-112 renumbered from Section R4-10-109 by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2). Amended by final rulemaking at 11 A.A.R. 4239, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 2083, effective July 5, 2008 (Supp. 08-2). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-113. Establishment and School Management

- A.** An establishment or school licensee shall ensure:
1. Licenses, notices, and the Board's most recent inspection sheet are prominently displayed in view of the public;
 2. All licensees or registrants in the establishment, school, or a mobile service area have current licenses or registrations;
 3. Infection control and safety standards are maintained; and
 4. If the establishment or school closes, the licensee or authorized representative notifies the Board within 10 days by completing a form that is available on the Board's website.
- B.** The Board shall hold the establishment or school licensee responsible for all violations of requirements in subsection (A) that occur within the establishment or school.
- C.** If an establishment licensee rents or leases space within the establishment to a person who obtains a separate license to operate an establishment, the Board shall hold the second licensee responsible for all violations of requirements in subsection (A) that occur within the portion of the establishment the second licensee is licensed to operate.

Historical Note

New Section R4-10-113 renumbered from Section R4-10-110 by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-114. Board Inspection

- A.** A licensee or manager of an establishment or school shall permit a Board inspector or representative to inspect the premises of the establishment or school regardless of whether the establishment or school has been identified in a complaint.
- B.** A Board inspector or representative may inspect:
1. The premises of a location alleged to be operating as an establishment or school without a license from the Board;
 2. The premises of each establishment at least once during every two years; and
 3. An establishment or school at any time allowed under A.R.S. §§ 32-304(B), 32-325, 32-542, and 32-562.

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- C. Inspection procedure. According to the requirements of A.R.S. Title 32, Chapters 3 and 5, and this Chapter, the Board inspector or representative shall document that:
1. The establishment or school complies with R4-10-111(C) through (G);
 2. All required equipment and implements necessary to provide services are present, clean, in good working order, and in appropriate quantity to the number of establishment employees;
 3. All procedures, including those in R4-10-112, are followed by establishment and school employees; and
 4. All applicable statutes and rules are followed.
- D. Inspection findings. The Board inspector or representative shall provide a copy of a completed inspection report to the licensee or manager of the establishment or school and the Board.
- E. Disciplinary action. The Board shall follow disciplinary procedures established under A.R.S. §§ 32-352 through 32-356 or 32-571 through 32-576 for any inspection finding indicating a violation of any provision of A.R.S. Title 32, Chapters 3 or 5, or this Chapter.

Historical Note

New Section R4-10-114 renumbered from Section R4-10-111 by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-115. Rehearing or Review of a Board Decision

- A. The Board shall provide for a rehearing or review of its decisions under A.R.S. Title 41, Chapter 6, Article 10 and the rules established by the Office of Administrative Hearings.
- B. Except as provided in subsection (H), a party is required to file a motion for rehearing or review of a Board decision, within 30 calendar days after service of the decision, to exhaust the party's administrative remedies.
- C. A motion for rehearing or review may be amended at any time before it is ruled on by the Board. A response may be filed within 15 calendar days after service of a motion or amended motion by any party. The Board may require the filing of written briefs regarding the issues raised in the motion and may provide for oral argument.
- D. The Board may grant a rehearing or review for any of the following causes materially affecting the moving party's rights:
1. Irregularity in the administrative proceedings or any order or abuse of discretion that deprived the moving party of a fair hearing;
 2. Misconduct of the Board or its staff, an administrative hearing officer, or the prevailing party;
 3. Accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing;
 5. Excessive penalties;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing or during the progress of the proceedings; or
 7. A decision that is not justified by the evidence or is contrary to law.
- E. The Board may affirm or modify the decision or grant a rehearing or review to any of the parties on all or part of the issues for any of the reasons in subsection (D). The Board shall specify the particular grounds for any order modifying a decision or granting a rehearing or review. If a rehearing or review is granted, the rehearing or review shall cover only the matters specified in the order. If a rehearing is granted, the Board shall hold the rehearing within 60 days after the date on the order granting the rehearing.
- F. No later than 30 calendar days after the date of a decision and after giving the parties notice and an opportunity to be heard, the Board may, on its own initiative, order a rehearing or review of its decision for any reason for which it might have granted a rehearing or review on motion of a party. The Board may grant a motion for rehearing or review, timely served, for a reason not stated in the motion. An order granting a rehearing or review shall specify the grounds on which the rehearing or review is granted.
- G. When a motion for rehearing or review is based on affidavits, they shall be served with the motion. An opposing party may, within 20 calendar days after service, serve opposing affidavits. This time may be extended for an additional period not exceeding 20 calendar days by the Board when there is a showing of good cause or written stipulation of the parties. Reply affidavits may be permitted.
- H. If the Board makes a specific finding that a particular decision needs to be effective immediately to preserve public peace, health, or safety and that a rehearing or review of the decision is impractical, unnecessary, or contrary to the public interest, the Board may issue the decision as a final decision without an opportunity for rehearing or review.
- I. A Board order is final on expiration of the time for filing a motion for review or rehearing or on denial of a motion for review or rehearing, whichever is later. A party that has exhausted the party's administrative remedies may appeal a final order of the Board under A.R.S. Title 12, Chapter 7, Article 6.
- J. A person that files a complaint with the Board against a licensee or registrant:
1. Is not a party to:
 - a. A Board administrative action, decision, or proceeding; or
 - b. A court proceeding for judicial review under A.R.S. Title 12, Chapter 7, Article 6; and
 2. Is not entitled to seek rehearing or review of a Board action or decision under this Section.

Historical Note

New Section R4-10-115 renumbered from Section R4-10-112 by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

Table 1. Renumbered**Historical Note**

New Table 1 adopted by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2). Table 1 amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Table 1 renumbered to Part A., Table A1 and Part B., Table B2 by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

PART A. BARBERING**R4-10-A101. Definitions**

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The following definitions apply to this Chapter unless the context otherwise requires:

“Barbering implement” means any tool or device used for barbering.

“Domestic administration,” as used in A.R.S. § 32-321, means a licensee performs barbering on the licensee or another person to whom the licensee is related by blood, marriage, or state action.

“One year’s experience as a licensed barber,” as used in A.R.S. § 32-322(C), means that during 12 consecutive months, an individual maintained a valid license issued under A.R.S. § 32-322, and engaged in barbering at least 1,500 hours.

“Practiced barbering for at least two years,” as used in A.R.S. § 32-323(B), means that during 24 consecutive months, an individual engaged in barbering at least 1,500 hours during each 12-month consecutive period.

“Tool drawer” means an ultraviolet electrical sanitizer or a clean, dust-proof cabinet, drawer, or other container that is disinfected with an EPA-registered disinfecting agent and used exclusively to store disinfected barbering implements.

Historical Note

New Section R4-10-A101, made under Article 1, Part A renumbered from R4-10-501 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

Table A1. Time Frames (in days)

| License | Authority | Overall Time Frame | Administrative Time Frame | Time to Respond | Substantive Time Frame | Time to Respond |
|-------------------------------------------------|---------------------------|--------------------|---------------------------|-----------------|------------------------|-----------------|
| Barber | A.R.S. §§ 32-322; 32-327 | 28 | 21 | 90 | 7 | 30 |
| License by reciprocity or universal recognition | A.R.S. §§ 32-328; 32-4302 | 28 | 21 | 90 | 7 | 30 |
| Instructor | A.R.S. §§ 32-323; 32-327 | 28 | 21 | 90 | 7 | 30 |
| School | A.R.S. §§ 32-325; 32-327 | 90 | 30 | 30 | 60 | 60 |
| Establishment | A.R.S. §§ 32-326; 32-327 | 90 | 30 | 30 | 60 | 60 |

Historical Note

New Table A1, made under Article 1, Part A renumbered from Table 1 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

PART B. COSMETOLOGY

Table B1. Time Frames (in days)

| Type of Approval | Statutory Authority | Overall Time Frame | Administrative Completeness Time Frame | Substantive Review Time Frame |
|----------------------------------------------------|-----------------------------------------------------|--------------------|----------------------------------------|-------------------------------|
| License by Examination | A.R.S. §§ 32-510, 32-511, 32-512, 32-512.01, 32-531 | 90 | 60 | 30 |
| Registration as Eyelash Technician | A.R.S. § 32-519 | 45 | 15 | 30 |
| License by Reciprocity or Universal Recognition | A.R.S. §§ 32-513, 32-532, 32-4302 | 60 | 30 | 30 |
| School License | A.R.S. § 32-551 | 90 | 30 | 60 |
| Approval of an Eyelash Technician Training Program | A.R.S. § 32-519 | 60 | 20 | 40 |
| License or Registration Renewal | A.R.S. §§ 32-517, 32-519, 32-535, 32-544, 32-564 | 75 | 45 | 30 |
| Establishment License | A.R.S. §§ 32-541, 32-542 | 90 | 30 | 60 |
| License Reactivation | A.R.S. § 32-518 | 30 | 15 | 15 |

Historical Note

New Table B1, made under Article 1, Part B renumbered from Table 1 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

ARTICLE 2. PERSONAL LICENSURE OR REGISTRATION

Editor’s Note: Article 2, Schools renumbered to Article 3 by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

Editor’s Note: The Board of Cosmetology repealed or renumbered Sections with the old Administrative Code numbering scheme and adopted new Sections under the current numbering scheme (Supp. 96-2). The old and new Sections cannot be shown in numerical order because of the two Articles; therefore the old numbers are not shown here. Please refer to this Chapter as published in Revised Format 6-92 for historical note information on the old numbered Sections.

tion on the old numbered Sections.

R4-10-201. Application for License by Reciprocity; Application for License by Universal Recognition

A. An applicant for an aesthetics, cosmetology, hairstyling, nail technology, barber, or instructor license by reciprocity shall submit the applicable fee required in R4-10-102 and all of the following to the Board:

1. An application form available on the Board’s website that contains:
 - a. The applicant’s name, full mailing, physical, and email addresses, telephone number, Social Security number, and birth date;

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- b. If previously licensed by the Board, the type of license, license number, license expiration date, and name used on the license;
 - c. A statement of whether the applicant has ever had an aesthetics, cosmetology, hairstyling, nail technology, barber, or instructor license suspended or revoked in any state of the United States or foreign country; and
 - d. The applicant's signature and verification the information provided is true and correct;
 - 2. A passport-style photo of the applicant;
 - 3. A list of states in the United States or foreign countries in which the applicant is or was previously licensed or authorized to practice barbering, hairstyling, nail technology, aesthetics, or cosmetology and satisfactory evidence of an active license or authorization in good standing; and
 - 4. Documentation specified under A.R.S. § 41-1080 indicating the applicant's presence in the United States is authorized under federal law.
- B.** In addition to the requirements in subsection (A), under A.R.S. § 32-322, an applicant for a barber or barber instructor license by reciprocity shall:
- 1. If licensed in another state of the United States, submit evidence of compliance with A.R.S. § 32-322(C); or
 - 2. If licensed or otherwise authorized to practice barbering by a foreign country, submit evidence of compliance with A.R.S. § 32-322(D).
- C.** In addition to the requirements in subsection (A), under A.R.S. § 32-532, an applicant for a cosmetology, aesthetics, nail technology, or hairstyling instructor license by reciprocity shall submit evidence of the experience required under A.R.S. § 32-532(2).
- D.** An applicant for an aesthetics, cosmetology, hairstyling, nail technology, barber, or instructor license who meets the requirements specified at A.R.S. § 32-4302 is eligible for licensure by universal recognition. To apply for licensure by universal recognition, an applicant shall submit the applicable fee required in R4-10-102 and all of the following to the Board:
- 1. An application form available on the Board's website that contains:
 - a. The applicant's name, full mailing, physical, and email addresses, telephone number, Social Security number, and birth date; and
 - b. The applicant's signature and verification the information provided is true and correct;
 - 2. A passport-style photo of the applicant;
 - 3. A list of all states in which the applicant is currently and has been licensed for at least one year and certification from the licensing states that the applicant's license is in good standing; and
 - 4. Proof of Arizona residency.

Historical Note

Adopted effective April 9, 1996 (Supp. 96-2). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2). Amended by final rulemaking at 12 A.A.R. 807, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). R4-10-201 renumbered to R4-10-302; new Section R4-10-201 renumbered from R4-10-105 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-202. Application for a Cosmetology, Aesthetics,**Hairstyling, Nail Technology, or Barber License by Examination**

- A.** An applicant for an aesthetics, cosmetology, hairstyling, nail technology, or barber license by examination shall submit to the Board:
- 1. The fee required for an initial personal license in R4-10-102;
 - 2. A passport-style photo of the applicant; and
 - 3. An application form available on the Board's website that contains:
 - a. The applicant's name, full mailing and physical addresses, email address, telephone number, Social Security number, and birth date;
 - b. The name and address of each licensed school attended by the applicant;
 - c. The name of course completed, the name of the school where completed, and the starting date and date of graduation;
 - d. If previously licensed by the Board, type of license, license number, license expiration date, and the name used on the license;
 - e. A statement of whether the applicant has ever had an aesthetics, cosmetology, hairstyling, nail technology, or barber license suspended or revoked in any state of the United States or foreign country; and
 - f. The applicant's signature verifying the information provided is true and correct; and
 - 4. Documentation specified under A.R.S. § 41-1080 indicating the applicant's presence in the United States is authorized under federal law.
- B.** In addition to complying with the requirements in subsection (A), an applicant for an aesthetics, cosmetology, hairstyling, nail technology, or barber license by examination shall:
- 1. Comply with A.R.S. § 32-322, 32-510, 32-511, 32-512, or 32-512.01 by submitting documentation of two years of high school or its equivalent;
 - 2. Comply with A.R.S. § 32-322, 32-510, 32-511, 32-512, or 32-512.01 by submitting a copy of one of the following:
 - a. If the applicant graduated from a course presented by a school licensed by the Board, a copy of the certificate of graduation required under R4-10-305(E);
 - b. If the applicant attended more than one school in Arizona, a copy of a certificate of hours from each school attended, as required under R4-10-305(E);
 - c. If the applicant completed an apprenticeship program described under A.R.S. § 32-322, 32-510(A)(2)(c), 32-511(A)(3)(c), 32-512(A)(3)(c), or 32-512.01(A)(3)(c), a notice of completion from the Department of Economic Security;
 - d. If the applicant graduated from a course presented by a school in another state or country, evidence the school's requirements at the time the applicant graduated were substantially the same as those required by the Board; and
 - e. Comply with R4-10-102 regarding examination fees.

Historical Note

Adopted effective April 9, 1996 (Supp. 96-2). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Section R4-10-202 renumbered from R4-10-304.1; new Section R4-10-202 renumbered from R4-10-104 and amended by final rulemaking at 30

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A.A.R. 527 (March 29, 2024), effective May 6, 2024
(Supp. 24-1).

R4-10-203. Personal License or Registration Renewal

An aesthetician, cosmetologist, hairstylist, nail technician, barber, or instructor licensee or an eyelash technician registrant shall electronically submit an application for renewal to the Board on or before the licensee's or registrant's birthday every two years. A renewal application consists of:

1. A form provided by the Board that contains the licensee's or registrant's name, address, email address, Social Security number, and signature;
2. If the documentation submitted at the time of initial licensure or registration did not establish citizenship in the United States or was not a non-expiring work authorization, documentation specified under A.R.S. § 41-1080 that the licensee's or registrant's presence in the United States continues to be authorized under federal law;
3. A statement of whether the licensee or registrant has changed the licensee's or registrant's name since the previous application and, if the name has changed, a copy of a legal document, such as a marriage license, divorce decree, or driver license showing the name change; and
4. The fee required in R4-10-102.

Historical Note

Adopted effective April 9, 1996 (Supp. 96-2). Amended by final rulemaking at 12 A.A.R. 807, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 23 A.A.R. 3028, effective December 31, 2017 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Section R4-10-203 renumbered to R4-10-306; new Section R4-10-203 renumbered from R4-10-107 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-204. Reactivating an Inactive or Expired License or Registration

- A. A cosmetology, hairstyling, nail technology, aesthetics, barbering, or instructor license or eyelash technician registration that has been inactive or expired for fewer than two years may be reactivated by paying the delinquent renewal fee.
- B. A cosmetology, hairstyling, nail technology, aesthetics, barbering, or instructor license or eyelash technician registration that has been inactive or expired for more than two years, but fewer than five years, may be reactivated by the inactive or expired licensee or registrant paying the delinquent renewal fee, as described in R4-10-102, and paying for and completing the infection protection class and law review class, offered by the Board.
- C. If a cosmetology, hairstyling, nail technology, aesthetics, barbering, or instructor license or eyelash technician registration has been inactive or expired for more than five years, the inactive or expired licensee or registrant shall pay five years of delinquent renewal fees and comply with all application requirements in R4-10-202, R4-10-A202, R4-10-B201, or R4-10-B202 as applicable, before practicing or teaching barbering, cosmetology, aesthetics, hairstyling, nail technology, or eyelash technology in Arizona.

Historical Note

Adopted effective April 9, 1996 (Supp. 96-2). Amended by final rulemaking at 12 A.A.R. 807, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 23 A.A.R. 3028, effective December 31, 2017 (Supp. 17-4).

Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Section R4-10-204 renumbered to R4-10-305; new Section R4-10-204 renumbered from R4-10-110 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-205. Renumbered**Historical Note**

Adopted effective April 9, 1996 (Supp. 96-2). Amended by final rulemaking at 12 A.A.R. 807, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 23 A.A.R. 3028, effective December 31, 2017 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Section R4-10-205 renumbered to R4-10-B301 by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-206. Renumbered**Historical Note**

Adopted effective April 9, 1996 (Supp. 96-2). Amended by final rulemaking at 12 A.A.R. 807, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 23 A.A.R. 3028, effective December 31, 2017 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Section R4-10-206 renumbered to R4-10-B302 by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-206.1. Renumbered**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 3028, effective December 31, 2017 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Section R4-10-206.1 renumbered to R4-10-B303 by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-207. Renumbered**Historical Note**

Adopted effective April 9, 1996 (Supp. 96-2). Amended by final rulemaking at 11 A.A.R. 4239, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Section R4-10-207 renumbered to R4-10-B304 by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-208. Renumbered**Historical Note**

Adopted effective April 9, 1996 (Supp. 96-2). Amended by final rulemaking at 11 A.A.R. 4239, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 23 A.A.R. 3028, effective December 31, 2017 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Section R4-10-208 renumbered to R4-10-308 by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-209. Renumbered

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Historical Note

Adopted effective April 9, 1996 (Supp. 96-2). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Section R4-10-209 renumbered to R4-10-310 by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-210. Renumbered**Historical Note**

New Section made by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Section R4-10-210 renumbered to R4-10-301 by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

PART A. BARBERING**R4-10-A201. Examinations**

Required examinations.

1. Except for an applicant for licensure by reciprocity or universal recognition, an applicant for a barber or instructor license shall pass an examination covering the topics listed in A.R.S. § 32-324(A); and
2. As authorized under A.R.S. § 32-322(A)(2) and A.R.S. § 32-323(A)(2), the Board shall ensure that applicants for licensure by reciprocity and universal recognition possess necessary qualifications by requiring:
 - a. All applicants for licensure by reciprocity or universal recognition to pass an examination regarding A.R.S. Title 32, Chapter 3 and this Chapter; and
 - b. Applicants for licensure by reciprocity or universal recognition as an instructor to pass an examination regarding procedures the Board uses to measure the practical skills of barbering students.

Historical Note

New Section R4-10-A201 made under Article 2, Part A renumbered from R4-10-601 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-A202. Application for a Barber Instructor License by Examination

- A. An applicant for licensure by examination as an instructor shall attach the following to the application form required under subsection (B):
 1. Proof the applicant is at least 19 years old;
 2. Proof the applicant has a high school diploma or its equivalent;
 3. Proof the applicant has practiced barbering for at least one year. The proof shall contain the notarized signature of the barber or barbers where the work was performed;
 4. Documentation specified under A.R.S. § 41-1080(A) that the applicant's presence in the U.S. is authorized under federal law;
 5. A photograph of the applicant that is passport style and suitable for use on an identification card; and
 6. The applicable fee specified in R4-10-102. Unless exempt under A.R.S. § 32-323(C), the applicant shall also pay the examination fee as directed under R4-10-102.
- B. An applicant for licensure as an instructor by examination shall submit an application form, which is available on the Board's website, and provide the following information:
 1. Full name;
 2. Other names, if any, by which the applicant has been known;

3. Full mailing and physical addresses and email address;
4. Telephone number;
5. Social Security number;
6. Birth date;
7. Current Arizona barber license number;
8. If the applicant attended an Arizona school for training as a barber instructor, a copy of the certificate of graduation required under R4-10-305(E).
9. A statement regarding whether the applicant:
 - a. Has ever been licensed as a barber instructor in Arizona and if so, when;
 - b. Has ever been a licensed barber instructor in any other country or state and if so, the country or state and dates of licensure as a barber instructor; and
 - c. Has had a former instructor license suspended or revoked in the five years before the date of application and if so, a complete explanation of the circumstances;
10. Any other information required by the Board; and
11. The applicant's signature and verification that the information provided is true and correct.

Historical Note

New Section R4-10-A202 made under Article 2, Part A renumbered from R4-10-603 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

PART B. COSMETOLOGY**R4-10-B201. Application for an Instructor License by Examination**

- A. An applicant for instructor license by examination shall submit to the Board:
 1. The fee required for an initial personal license in R4-10-102;
 2. A passport-style photo of the applicant; and
 3. An application form available on the Board's website that contains:
 - a. The applicant's name, full mailing and physical addresses, email address, telephone number, Social Security number, and birth date;
 - b. The name and address of each licensed school attended by the applicant;
 - c. The name of course completed, the name of the school where completed, and the starting date and date of graduation;
 - d. If previously licensed by the Board, type of license, license number, license expiration date, and the name used on the license;
 - e. A statement of whether the applicant has ever had an instructor license suspended or revoked in any state of the United States or foreign country; and
 - f. The applicant's signature verifying the information provided is true and correct; and
 4. Documentation specified under A.R.S. § 41-1080 indicating the applicant's presence in the United States is authorized under federal law.
- B. In addition to complying with the requirements in subsection (A), an applicant for an instructor license by examination shall:
 1. Comply with A.R.S. § 32-531 by submitting the following:
 - a. Documentation, as specified in subsection (B)(3), of required work experience;

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- b. Proof of current licensure in the discipline in which work experience was gained;
 - c. Proof of licensure during the period work experience was gained; and
 - d. Proof of being at least 18 years old; or
 - e. Proof of graduation from high school or its equivalent.
 2. Comply with A.R.S. § 32-531(3) by submitting a copy of one of the following documents:
 - a. If the applicant graduated from a course presented by a school licensed by the Board, a copy of the certificate of graduation required under R4-10-305(E);
 - b. If the applicant attended more than one school in Arizona, a copy of a certificate of hours from each school attended, as required under R4-10-305(E);
 - c. If the applicant completed an apprenticeship program as described under A.R.S. §§ 32-510(A)(2)(c), 32-511(A)(3)(c), 32-512(A)(3)(c), or 32-512.01(A)(3)(c), a notice of completion from the Department of Economic Security;
 - d. If the applicant graduated from a course presented by a school in another state or country, evidence the school's requirements at the time the applicant graduated were substantially the same as those required by the Board; and
 3. Submit documentation of the work experience required by A.R.S. § 32-531, which shall be signed by an owner or manager of an establishment, an individual, or a supplier of cosmetology products with knowledge based on actual observation of the applicant's licensed experience in the discipline for which the applicant seeks an instructor license. The person providing the documentation verifying the applicant's experience shall also indicate the following:
 - a. Discipline in which applicant gained the experience;
 - b. Starting and ending dates of applicant's experience in the discipline;
 - c. Name of licensed establishment and address where applicant gained experience in the discipline; and
 - d. License number and name of the licensed individual completing the form; or
 - e. Name, address, and telephone number of the individual providing the information.
 - i. If the applicant was licensed by the Board as a cosmetologist or aesthetician before October 30, 2023, the license number; or
 - ii. A copy of the provisional registration required under A.R.S. § 32-519(A)(3) verifying successful completion of a Board-approved eyelash technician training program;
 - c. For an individual not previously licensed by the Board, one of the following:
 - i. A copy of any eyelash extension training certificate of completion received before October 30, 2023; or
 - ii. A copy of the provisional registration required under A.R.S. § 32-519(A)(3) verifying successful completion of a Board-approved eyelash technician training program;
 - d. A statement of whether the applicant has ever had an aesthetics, cosmetology, hairstyling, nail technology, or instructor license suspended or revoked in any state of the United States or foreign country; and
 - e. The applicant's signature verifying the information provided is true and correct;
4. Documentation of two years of high school or its equivalent as defined at R4-10-101; and
 5. Documentation specified under A.R.S. § 41-1080 indicating the applicant's presence in the United States is authorized under federal law.

Historical Note

New Section R4-10-B202, under Article 2, Part B made by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

ARTICLE 3. SCHOOLS; EYELASH TECHNOLOGY TRAINING PROGRAM

Editor's Note: Article 3, heading repealed; new Article 3 heading renumbered from Article 2 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-301. License to Operate a School

- A. A license to operate a school is not transferrable.
- B. To continue to operate a school, a school licensee shall apply for a new license and pay the fee specified under R4-10-102 when:
 1. The physical address of the school changes;
 2. The name of the school changes; or
 3. There is a change of ownership of the school.
- C. The school licensee shall submit the application and fee required under subsection (B) within 10 days after a change specified under subsection (B) occurs.
- D. The school licensee shall ensure a Board-issued license to operate the school, indicating the correct name, physical location, and ownership of the school, is posted in the school before the school is opened for business.

Historical Note

Adopted effective April 9, 1996 (Supp. 96-2). Amended by final rulemaking at 14 A.A.R. 2083, effective July 5, 2008 (Supp. 08-2). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Section R4-10-301 repealed; new Section R4-10-301 renumbered from R4-10-210 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

Historical Note

New Section R4-10-B201, under Article 2, Part B made by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-B202. Application for an Eyelash Technician Registration

An applicant for an eyelash technician registration shall submit to the Board:

1. The fee for an initial personal registration required in R4-10-102;
2. A passport-style photo of the applicant;
3. An application, on a form available on the Board's website, that provides:
 - a. The applicant's name, full mailing and physical addresses, email address, telephone number, Social Security number, and birth date;
 - b. For a licensed cosmetologist or aesthetician, one of the following:

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R4-10-302. Application for a License to Operate a Barber, Cosmetology, Aesthetician, Hairstyling, or Nail Technology School

- A.** An applicant for a license to operate a barber, cosmetology, aesthetician, hairstyling, or nail technology school shall submit:
1. An application, on a form available on the Board's website, which is signed by the applicant and provides the following information:
 - a. The applicant's name, full mailing, physical, and email addresses, federal tax identification number, and telephone number;
 - b. If the applicant is a partnership, each partner's name, address, and an identification of whether each is a limited or general partner;
 - c. If the applicant is a corporation, the state of incorporation and name, title, and address of at least two officers of the corporation and the statutory agent;
 - d. If the applicant is a limited liability company, name and address of each member, manager, and statutory agent;
 - e. If the applicant is an Arizona school district or community college:
 - i. Office address of the school district or community college, and
 - ii. Number of the school district and name of the superintendent, or
 - iii. Name of the community college dean;
 - f. Documentation specified under A.R.S. § 41-1080(A) that the presence in the U.S. of all individuals owning at least 10 percent of the applicant is authorized under federal law;
 - g. The name and Board-issued license number of the instructor in charge of the school;
 - h. If a change of ownership, the date the applicant will be assuming ownership;
 - i. If a change of location, both the old and new physical addresses of the school;
 - j. If a new school, the scheduled date for opening the school; and
 - k. A statement by the applicant verifying the information provided is true and correct;
 2. A Certificate of Good Standing from the Arizona Corporation Commission, if applicable.
 3. A signed statement that the school has the equipment required by statute and rule;
 4. An unexecuted student-school contract form, as required under R4-10-305;
 5. An operating schedule that includes the hours of each day and each day of a calendar week during which the school will be open for instruction;
 6. A proposed schedule of courses to be taught at the school;
 7. The name, address, email address, and telephone number of a bonding company, as required under A.R.S. § 32-325(C) or 32-551, as applicable, and a copy of the bond;
 8. A copy of all school policies and procedures;
 9. A school catalog that contains the information required under A.R.S. § 32-559 and:
 - a. The number of days during course enrollment necessary to complete the course hours;
 - b. The days and hours of operation, vacation periods, and holidays;
 - c. Policies regarding leaves of absence, refunds, and vacation approval for students; and

10. The fee required in R4-10-102.

- B.** Demonstrate compliance with A.R.S. Title 32, Chapter 3 or 5, as applicable, and this Chapter through a school inspection conducted by the Board. The Board shall schedule the inspection only after the applicant has submitted a complete application. The applicant shall not open a school until the inspection is completed and the Board determines the school complies with all requirements.

Historical Note

Adopted effective April 9, 1996 (Supp. 96-2). Amended by final rulemaking at 11 A.A.R. 4239, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 23 A.A.R. 3028, effective December 31, 2017 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). R4-10-302 renumbered to R4-10-307; new Section R4-10-302 renumbered from R4-10-201 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-303. Application to Renew a License to Operate a School

A school licensee shall annually submit to the Board an electronic application for renewal on or before the license renewal date.

1. A renewal application consists of:
 - a. A form provided by the Board that contains:
 - i. The school's name;
 - ii. The licensee's license number; and
 - iii. If the licensee is an individual or partnership, the signature and tax identification number of the licensee or if the licensee is a corporation or limited liability company, the signature of the authorized signer and the tax identification number of the corporation or limited liability company;
2. A statement that indicates:
 - a. Any modifications, additions, or deletions to the previously submitted catalog;
 - b. Any changes that have occurred regarding the school's accrediting or approving organization; and
 - c. The school continues to maintain all equipment required by statute and rule;
3. A subject description for each new course, if applicable;
4. The name, full mailing and physical addresses, and email address of a new statutory agent if the statutory agent will change beginning with the new license year;
5. The name and license number of the instructor in charge of the school;
6. The name, full mailing address, email address, and telephone number of the bonding company, the bond number, expiration date of the bond, and a copy of the bond required under A.R.S. § 32-325 or 32-551;
7. If the documentation submitted at the time of initial licensure was not a non-expiring work authorization, documentation specified under A.R.S. § 41-1080 that the school licensee's presence in the United States continues to be authorized under federal law; and
8. The fee required in R4-10-102.

Historical Note

Adopted effective April 9, 1996 (Supp. 96-2). Amended by final rulemaking at 11 A.A.R. 4239, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 2083, effective July 5, 2008 (Supp. 08-2). Amended by final rulemaking at 26 A.A.R. 3123, effective May 6, 2024 (Supp. 24-1).

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tive January 31, 2021 (Supp. 20-4). Section repealed;
new Section R4-10-303 made by final rulemaking at 30
A.A.R. 527 (March 29, 2024), effective May 6, 2024
(Supp. 24-1).

R4-10-304. Notification of Changes

- A.** A school licensee shall send written notice and updated information to the Board within 10 days if the school licensee:
1. Amends the school catalog or school policies,
 2. Stops offering a course or offers a new course,
 3. Appoints a new statutory agent,
 4. Changes the number of instructional hours devoted to a course,
 5. Changes the hours during which instruction is provided,
 6. Changes the school supervisor,
 7. Enters a new contract regarding management of the school, or
 8. Establishes an offsite training facility in an establishment.
- B.** A change listed under R4-10-301 requires the school licensee to apply for a new license.

Historical Note

Adopted effective April 9, 1996 (Supp. 96-2). Amended by final rulemaking at 11 A.A.R. 4239, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 2083, effective July 5, 2008 (Supp. 08-2). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Section repealed; new Section R4-10-304 renumbered from R4-10-802 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-304.1 School Closure

- A.** The Board shall consider a school to be closed if the school licensee fails for five consecutive school days to ensure instruction is provided in accordance with the schedule of operations on file with the Board.
1. The school licensee shall notify all enrolled students and employees in writing of a pending closure at least five calendar days before closure of the school, unless the time of closure could not have been anticipated. A copy of the notice shall be sent to the Board at the time the notice is delivered to students and employees.
 2. The licensee of a closed school shall release students' and employees' personal belongings, including equipment, tools, and instruments at the time of closure.
 3. The licensee of a closed school shall provide students with written information regarding how to make a claim against the bond required under A.R.S. § 32-325(C)(6) or 32-551(A)(2), as applicable.
 4. The licensee of a closed school shall electronically deliver or otherwise send the following student records to the Board within 10 business days after the school closes:
 - a. Copies of hour sheets documenting all student hours and the current time cards or time records received by the student after the last monthly report before the school closed;
 - b. A copy of the file of each student who was enrolled the last school day before closure. If a teach-out was arranged with another school, the licensee of the closed school shall transfer the student's file to that school; and
 - c. A written statement signed by each enrolled student verifying the school licensee's compliance with all provisions of this Section that apply to students.

- B.** The Board shall consider failure to comply with subsection (A) as possible grounds for refusal to issue a school license to an owner, or the licensee of the school at the time of closure.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 3028, effective December 31, 2017 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Section repealed; new Section R4-10-304.1 renumbered from R4-10-202 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-305. School Records; Student Certificates

- A.** A school licensee shall maintain a student's records at the school where the student is enrolled. The Board may inspect the records at any time the school is open.
- B.** A school licensee shall ensure that when a student withdraws or transfers from one school to another, the school from which the student is transferring or withdrawing:
1. Keeps a copy of the student's transcript,
 2. Forwards one copy of the student's certificate of hours, required under subsection (E), to the student and another copy to the Board within three days of the date of transfer or withdrawal, and
 3. Removes the student from the school records and monthly report submitted to the Board in the month following the transfer or withdrawal.
- C.** A school licensee shall ensure the following are maintained:
1. A complete and accurate record of the time devoted by each student to the enrolled course of study, including hours devoted to alternative learning and field trips;
 2. A complete and accurate record that shows the basis for certification of the student hours. A school licensee shall certify only hours of training the student receives at the licensee's school or transfer hours the school licensee accepts from another licensed school in Arizona or another state or country;
 3. A complete and accurate individual student file for each student enrolled containing:
 - a. Executed student-school contract;
 - b. Financial aid transcript;
 - c. Proof of being at least 16 years old and two years of high school or its equivalent for a student enrolled in an aesthetics, cosmetology, hairstyling, nail technology, or barbering course or proof of high school diploma or its equivalent or 18 years of age for a student enrolled in an aesthetics, cosmetology, hairstyling, or nail technology instructor course or 19 years of age for a student enrolled in a barbering instructor course;
 - d. Proof of licensed work experience for a student instructor:
 - i. Under A.R.S. § 32-531, one year for aesthetics, cosmetology, hairstyling, or nail technology; and
 - ii. Under A.R.S. § 32-323, two years for barbering;
 - e. A statement signed by a school administrator and the student that provides a list of the supplies contained in the training kit provided to the student; and
 - f. A record of transfer and crossover hours, if applicable; and
 4. Complete and accurate academic transcripts and attendance and hour records or time cards.

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- D.** A school licensee shall keep a complete and accurate monthly report, containing the following information:
- Only for each student enrolled since the prior monthly report:
 - Name;
 - Enrollment date;
 - Mailing, physical, and email addresses;
 - Telephone number;
 - Transfer hours accepted, if applicable;
 - Crossover hours accepted, if applicable; and
 - Birth date.
 - The discipline in which each student is enrolled;
 - The name and license number of the instructor in charge of the school and name of the custodian of records;
 - The name and license number of each instructor employed by the school licensee;
 - The signature of the instructor who prepares and certifies the report is correct;
 - The name, scheduled attendance, and Board-issued license number for each student instructor;
 - For each demonstration given, the name of the demonstrator, name of the observing instructor, name of the process or product demonstrated, number of students in attendance, and name of the course in which the demonstration was given;
 - Hours received by each student for the prior month, the current month, and total cumulative hours. The school licensee shall not amend total hours without satisfactory proof of error;
 - The school licensee's certification of the students who meet graduation requirements, including the day, month, and year of graduation; and
 - The notation "transferred," "withdrawn," or "leave of absence" for students who discontinue training, and the day, month, and year training was discontinued.
- E.** A school licensee shall provide the following certificates to each student:
- Certificate of graduation. When a student successfully completes the course of study offered by the school licensee, the school licensee shall provide the student with a certificate of graduation that includes the following information:
 - Name of the school;
 - License number of the school licensee;
 - Name of the graduating student;
 - Discipline in which the student completed the course of study;
 - Hours of study completed at the school;
 - Transfer hours accepted by the school licensee;
 - Crossover hours accepted by the school licensee;
 - Grand total of the hours under subsections (E)(1)(e) through (g);
 - The dates on which the student started and ended the course of study at the school; and
 - Dated signature of the school licensee or authorized representative.
 - Certificate of hours. When a student withdraws or transfers from one school to another, the school licensee shall provide the student with a certificate of hours that includes the following information:
 - Name of the school;
 - License number of the school licensee;
 - Name of the withdrawing or transferring student;
 - Discipline in which the student was enrolled;
 - Hours of study completed at the school;
 - The date on which the student started the course of study at the school and the date on which the student withdrew or transferred; and
 - Dated signature of the school licensee or authorized representative.
- F.** A school licensee shall credit a student with additional hours earned after graduation if the student completes the required hours for graduation, registers for the required examination, and stays in school until the date of the examination.
- G.** A school licensee is not required to maintain a student file for licensed individuals.

Historical Note

Adopted effective April 9, 1996 (Supp. 96-2). Amended by final rulemaking at 11 A.A.R. 4239, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Section repealed; new Section R4-10-305 renumbered from R4-10-204 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-306. General Barber, Cosmetology, Aesthetics, Hairstyling, or Nail Technology School Requirements

- A.** The licensee of a barber, aesthetics, cosmetology, hairstyling, or nail technology school shall ensure the school complies with R4-10-112 and has the following minimum facilities, equipment, supplies, and materials:
- An area of instruction for students;
 - Sufficient instructional fixtures and facilities for instructor and student use;
 - A board on which to write or post materials during instruction;
 - A secured area for personal items of students and instructors;
 - A sink area for every 50 students in attendance for preparing, mixing, and dispensing supplies and chemicals, and for disinfecting small tools or instruments;
 - At least one restroom that meets the requirements of R4-10-112; and
 - Separate receptacles for garbage and soiled linens.
- B.** The school licensee shall furnish equipment, tools, instruments, materials, and supplies needed to perform assignments and for instructional purposes, except each student may be required to furnish small tools or instruments. The school licensee shall ensure all equipment, tools, and materials are establishment quality and maintained in good repair at all times.
- C.** The school licensee shall ensure students have access to the following materials whether in a school library or electronically:
- Standard dictionary;
 - Medical dictionary;
 - Anatomy chart on bones, muscles, nerves, hands, arms, nails, veins, arteries, circulatory system, hair, and skin;
 - Current aesthetics, barbering, cosmetology, hairstyling, or nail technology instruction manuals or textbooks, as applicable to the disciplines taught at the school; and
 - Current Board statutes and rules.
- D.** The school licensee may allow a student to satisfy theory curriculum requirements by participating in virtual learning.
- E.** The school licensee shall maintain at the school a complete file on all current curriculum requirements.

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- F.** The school licensee shall not pay an enrolled student for time while the student is taking courses or receiving credit. Under A.R.S. § 32-557(C), an employee who is enrolled in a school for the purpose of becoming an instructor may be paid for work done as an employee.
- G.** The school licensee may offer a postgraduate or advanced continuing education barber, aesthetics, cosmetology, hairstyling, or nail technology course to currently licensed individuals without a licensed instructor present and to students currently enrolled in the school with a licensed instructor present. The school licensee shall not report postgraduate credit hours to the Board or apply the hours toward graduation.
- H.** The school licensee shall not allow enrolled students to perform services on a person without a licensed instructor present.
- I.** A school licensee may enroll an individual licensed by the Board in the school for a refresher course as a current student.
- J.** A school licensee shall establish a periodic grading schedule and ensure student transcripts are kept current.
- K.** A school licensee shall ensure each student is evaluated for progress and suggestions are provided to the student for remedial deficiencies.
- L.** A school licensee shall schedule a minimum of four hours of theory courses each week for each full-time student and a minimum of two hours of theory courses each week for each part-time student.
- M.** A school licensee shall ensure safety and infection control measures relating to each subject are taught in conjunction with that subject.
- N.** A school licensee shall not solicit students for enrollment at other school sites.
- O.** A school licensee shall ensure that while teaching, instructors wear a tag indicating the instructor's name and disciplines taught.
- P.** A school licensee shall ensure compliance with the following:
1. A student does not attend school more than 56 hours in any one week;
 2. A student operates only safe equipment in good repair;
 3. A student of barbering, aesthetics, cosmetology, hairstyling, or nail technology performs services within the enrolled course, on the public or fellow students, only in the presence of a licensed instructor and, except for shampooing, only after completing the specified hours applicable to the student:
 - a. 120 hours of aesthetics training;
 - b. 300 hours of barbering, cosmetology, or hairstyling training; or
 - c. 80 hours of nail technology training;
 4. The school licensee does not receive remuneration for clinical services a student performs for the public until the student has completed the applicable hours specified in subsection (P)(3);
 5. A student is not prevented or discouraged from making a complaint to the Board;
 6. A student is not dismissed from a scheduled theory instruction or written or practical examination to perform clinical services for the public;
 7. While in school, each student wears a tag indicating the student's name and the course in which the student is enrolled; and
- Q.** The school licensee shall ensure a nonreturnable student training kit, containing at least the following, is provided to each enrolled student:
1. One disinfected, covered container to store disinfected tools and instruments as specified under R4-10-112; and
 2. One container for contaminated tools and instruments as specified under R4-10-112.

Historical Note

Adopted effective April 9, 1996 (Supp. 96-2). Amended by final rulemaking at 11 A.A.R. 4239, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 2083, effective July 5, 2008 (Supp. 08-2). Amended by final rulemaking at 23 A.A.R. 3028, effective December 31, 2017 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Section R4-10-306 renumbered to R4-10-309; new Section R4-10-306 renumbered from R4-10-203 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-307. Instructor 350-hour Curriculum Requirements

- A.** A school licensee shall ensure each student in a barber, aesthetics, cosmetology, hairstyling, or nail technology instructor course completes 350 curriculum hours that include the following:
1. Orientation and review of Board statutes and rules;
 2. Theory, preparation, and practice curriculum development. This includes:
 - a. Developing and using educational aids;
 - b. Practical and written presentation principles;
 - c. Classroom management evaluation, assessment, and remediation methods;
 - d. Diversity in learning including cultural differences;
 - e. Methods of teaching;
 - f. Professional development including ethics; and
 - g. Alternative learning;
 3. Classroom and clinic oversight.
- B.** A school licensee may allow a student in an instructor course to satisfy, in part, curriculum hours required under subsection (A)(2) by completing a course at an accredited college or university or an educational institution described under R4-10-101(24)(c) and (d). Hours obtained under this subsection are subject to the following limits:
1. No more than nine credit hours for barbering, cosmetology, hairstyling, nail technology, or aesthetics; and
 2. Each credit hour equals no more than 30 of the curriculum hours required under subsection (A).
- C.** A school licensee may allow a student in an instructor course to satisfy the curriculum hours required under subsection (A)(2) by participating in virtual learning.
- D.** A school licensee shall ensure all instruction given by a student instructor is under the direct supervision and observation of a licensed instructor.
- E.** A school licensee shall not allow a student instructor to instruct students or check student services performed on the public until the student instructor has received at least 80 hours of instructor training.
- F.** Under A.R.S. § 32-557, a student enrolled in a school for the purpose of becoming an instructor may be a paid employee of the school.

Historical Note

New Section R4-10-307 renumbered from R4-10-302 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-308. Combined School Requirements

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- A.** A school licensee shall ensure the following hours are taught to a student enrolled in the specific curriculum before allowing the student to graduate:
1. Aesthetics course – 600 hours,
 2. Aesthetics instructor course – 350 hours,
 3. Cosmetology course – 1500 hours,
 4. Cosmetology instructor course – 350 hours,
 5. Hairstyling course – 1000 hours,
 6. Hairstyling instructor course – 350 hours,
 7. Nail technology course – 600 hours,
 8. Nail technology instructor course – 350 hours,
 9. Barbering course – 1200 hours, and
 10. Barbering instructor course – 350 hours.
- B.** A school licensee that provides training in all of the above courses shall have the minimum records, facilities, equipment, supplies, and materials required under:
1. R4-10-305,
 2. R4-10-306,
 3. R4-10-B301 except subsection (A)(1) is one workstation for each two aesthetics students in attendance,
 4. R4-10-B302,
 5. R4-10-B303, and
 6. R4-10-B304 except subsection (A)(1) is one workstation for each two nail technology students in attendance.
- C.** A school licensee that provides the curriculum specified in subsections (A)(3) through (A)(8) only shall have the minimum records, facilities, equipment, supplies, and materials required under:
1. R4-10-305,
 2. R4-10-306,
 3. R4-10-B302,
 4. R4-10-B303, and
 5. R4-10-B304 except subsection (A)(1) is one workstation for each two nail technology students in attendance.
- D.** A school licensee that provides the curriculum specified in subsections (A)(1) through (A)(6) only shall have the minimum records, facilities, equipment, supplies, and materials required under:
1. R4-10-305,
 2. R4-10-306,
 3. R4-10-B301 except subsection (A)(1) is one workstation for each two aesthetics students in attendance,
 4. R4-10-B302, and
 5. R4-10-B303.
- E.** A school licensee that provides the curriculum specified in subsections (A)(1), (A)(2), (A)(7) and (A)(8) only shall have the minimum records, facilities, equipment, supplies, and material required under:
1. R4-10-305,
 2. R4-10-306,
 3. R4-10-B301, and
 4. R4-10-B304.
- F.** A school licensee that provides the curriculum specified in subsections (A)(9) and (A)(10) only shall have the minimum records, facilities, equipment, supplies, and material required under:
1. R4-10-305, and
 2. R4-10-306.
- A.** A school licensee shall ensure hours of training received in a barbering, aesthetics, cosmetology, hairstyling, or nail technology course are not applied toward hours required to obtain an instructor's license.
- B.** A school licensee shall ensure hours of training received in an instructor course are not applied toward hours required to obtain a barber, aesthetician, cosmetologist, hairstylist, or nail technician license. Hours received in an instructor course may apply toward hours required to reactivate a barber, aesthetics, cosmetology, hairstyling, or nail technology license if the instructor hours are received after inactive status occurs.
- C.** A school licensee shall ensure that when a student completes a course of instruction, the cumulative hours for the student equal, at a minimum, those specified in this Article, as applicable.
- D.** A school licensee shall ensure that infection control, disinfection procedures, and safety issues are taught with every subject and every procedure.
- E.** Alternative learning hours are hours a school licensee may authorize to enable a student to pursue knowledge of barbering, cosmetology, aesthetics, hairstyling, or nail technology in an alternative format or at a location other than an establishment. A school licensee shall ensure a student is not credited with more than 20 percent of the total hours required for graduation as alternative learning hours. The school licensee shall ensure the record of alternative learning hours required under R4-10-305(C) is maintained.
- F.** A school licensee that authorizes alternative learning hours under subsection (E) shall include details of the alternative learning format or location in the school policies and procedures in the school catalog.
- G.** A school licensee may grant a maximum of 16 hours obtained during field trips toward the hours required for graduation if the field trips are provided by or in the presence of a licensed instructor. The school licensee shall ensure the record of field trip hours required under R4-10-305(C) is maintained.
- H.** If a school is physically closed while alternative learning hours or a field trip is provided, the school licensee shall ensure a notice visible to the public and students is posted.
- I.** A student instructor may obtain classroom hours in a licensed school other than the licensed school in which the student instructor is enrolled if the student:
1. Has available proof of enrollment in a licensed school to show to a Board inspector, and
 2. Earns no more than the classroom hours required under R4-10-307.

Historical Note

New Section R4-10-309 renumbered from R4-10-306 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-310. Demonstrators; Exclusions

- A.** A school licensee shall ensure only an individual who holds an instructor license or a student instructor is allowed to teach in a school.
- B.** A school licensee shall ensure an unlicensed individual who demonstrates a process, product, or appliance to enrolled students:
1. Presents the demonstration only when a licensed instructor is present and observing the demonstration; and
 2. Confines the demonstration to an explanation of the products, procedures, and appliances being promoted.

Historical Note**Historical Note**

New Section R4-10-308 renumbered from R4-10-208 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-309. Curricula Hours

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New Section R4-10-310 renumbered from R4-10-209 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

PART A. BARBERING

R4-10-A301. Barbering School Operations

- A. A barbering school licensee shall file the school's operating schedule with the Board at the time of the initial inspection.
- B. The barbering school licensee shall ensure all equipment provided under this Chapter is establishment quality and maintained in good repair.
- C. Unless a student who is studying barbering possesses the equipment listed under this subsection at the time of enrollment, the barbering school licensee shall provide the student with a non-returnable training kit that includes the following equipment, all of which are new:
 1. Course textbooks,
 2. One mannequin for barbering practice,
 3. Twelve combs and four brushes,
 4. One hair dryer,
 5. One straight razor with interchangeable blades,
 6. One pair of haircutting shears with at least six-inch blades,
 7. One pair of thinning shears,
 8. One clipper with interchangeable blades sizes 1 and .000 or an adjustable clipper,
 9. One neck duster, and
 10. One copy of the current statutes and rules governing the Board.
- D. As provided under R4-10-307(D), a student instructor shall not teach students until the student instructor has received 80 hours of training in methods of teaching.
- E. The barbering school licensee shall ensure a student wears a name tag that includes the student's name and status as a student whenever the student is at the barbering school.

Historical Note

New Section R4-10-A301 made under Article 3, Part 1 renumbered from R4-10-805 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-A302. Barbering School 1200-hour Curriculum Requirements

In addition to complying with the minimum requirements under A.R.S. § 32-325, the barbering school licensee shall include instruction in the following:

1. Professional ethics,
2. Establishment management, and
3. Regulatory provisions prescribed under A.R.S. Title 32, Chapter 3, and this Chapter.

Historical Note

New Section R4-10-A302 made under Article 3, Part 1 renumbered from R4-10-807 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-A303. Offsite Training Facility

- A. A barbering school licensee may operate an offsite training facility in an establishment that complies with the provisions of Article 4, Part A of this Chapter, and portions of R4-10-306 applicable to the instruction provided at the offsite training facility, R4-10-A302(D), and R4-10-A303(B).
- B. In addition to the requirements of subsection (A), a barbering school licensee operating an offsite training facility shall:

1. Clearly indicate to the public the specific portion of the establishment designated as an offsite training facility,
2. Post a sign indicating that barbering services at the offsite training facility are provided by students,
3. Require a student to give oral notice of status as a student to each client,
4. Restrict student barbering to the portion of the establishment designated as an offsite training facility,
5. Ensure a student receives no more than 50 percent of the student's training at the offsite training facility.

Historical Note

New Section R4-10-A303 made under Article 3, Part 1 renumbered from R4-10-811 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

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R4-10-B301. Aesthetic School and 600-hour Curriculum Requirements

- A. School requirements. The licensee of a school that provides aesthetics 600-hour training for students, 350-hour training for instructors, or both, shall ensure the following minimum facilities, equipment, supplies, and materials are provided in addition to those required under R4-10-305 and R4-10-306:
 1. A workstation for each student in attendance to perform aesthetics services for the public for a fee, each having:
 - a. A facial chair or table;
 - b. A supported table top;
 - c. A dry, disinfected, covered container to store disinfected tools and instruments as specified under R4-10-112; and
 - d. A labeled receptacle for contaminated tools and instruments as specified under R4-10-112.
 2. One steamer machine for each group of four students in attendance during classroom instruction and two students in attendance during clinic instruction;
 3. One microdermabrasion machine to be used at a non-invasive level;
 4. One magnifying lamp of at least 5 diopters for each group of two students in attendance during classroom instruction and each group of four students in attendance during clinic instruction;
 5. Cleansers;
 6. Massage medium;
 7. Toner; and
 8. Exfoliants and masks.
- B. Curriculum requirements. The licensee shall ensure students in an aesthetics course are provided the following 600-hour curriculum:
 1. Theory of aesthetics, infection control, anatomy, physiology and histology of the body, diseases and disorders, and Board statutes and rules; and
 2. Clinical and classroom aesthetics including theory involving all skin types:
 - a. Principles and practices of infection control and safety;
 - b. Recognition of diseases and the treatment of disorders of the skin;
 - c. Interpersonal skills and professional ethics;
 - d. Clinical and classroom practice that includes face and body;
 - e. Morphology and treatment of skin, including face and body, by hand and machine;

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- f. Product pharmacology and chemistry interaction, formulation, composition, and hazards;
- g. Aesthetics machines, tools, and instruments and their uses;
- h. Alternative skin technology;
- i. Client pre- and post- service consultation, documentation, and analysis;
- j. Spa body modalities;
- k. Exfoliation modalities;
- l. Body and face massage and manipulations;
- m. Body and facial hair removal except by electrolysis;
- n. Introduction to electricity and light therapy for cosmetic purposes including laser/Intense Pulsed Light (IPL) procedures and devices;
- o. Cosmetic enhancement applications; and
- p. Required industry standards and ecology, including monitor duties.

Historical Note

New Section R4-10-B301 made under Article 3, Part 2 renumbered from R4-10-205 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-B302. Cosmetology School and 1500-hour Curriculum Requirements

- A.** School requirements. The licensee of a school that provides cosmetology 1500-hour training for students, 350-hour training for instructors, or both, shall ensure the following minimum facilities, equipment, supplies, and materials are provided in addition to those specified under R4-10-305 and R4-10-306:
- 1. A workstation for each student in attendance to perform cosmetology services for the public for a fee, each having:
 - a. A mirror for client services;
 - b. A table top or counter;
 - c. An industry standard chair for the service being provided;
 - d. A dry, disinfected, covered receptacle to store disinfected tools and instruments as specified under R4-10-112; and
 - e. A container for contaminated tools and instruments as specified under R4-10-112;
 - 2. One shampoo basin for each group of 10 students in attendance during classroom or clinic instruction;
 - 3. One hand-held hair dryer for each student in attendance during classroom or clinic instruction;
 - 4. Two electric clippers in the school;
 - 5. Chemical hair straighteners;
 - 6. One nail technology table for each group of 10 students in attendance during practical instruction;
 - 7. A facial workstation for each group of 10 students in attendance and receiving classroom or clinic aesthetics instruction;
 - 8. A receptacle large enough to completely immerse two feet for each group of 10 students in attendance during classroom or clinic nail technology instruction;
 - 9. One electronic nail file for filing and buffing; and
 - 10. Nail products for acrylics, gels, tips, wraps, and polishing.
- B.** Curriculum requirements. The licensee shall ensure students in a cosmetology course are provided the following 1500-hour curriculum:

- 1. Theory of cosmetology, infection control, anatomy, physiology and histology of the body, diseases and disorders, and Board statutes and rules; and
- 2. Clinical and classroom cosmetology including theory that involves nails, hair, and skin:
 - a. Principles and practices of infection control and safety;
 - b. Recognition of diseases and the treatment of disorders of the hair, skin, and nails;
 - c. Morphology and treatment of hair, skin, and nails;
 - d. Interpersonal skills and professional ethics;
 - e. Product pharmacology and chemistry interaction, formulation, composition, and hazards;
 - f. Cosmetology machines, tools, and instruments and their uses;
 - g. Chemical texturizing;
 - h. Changing existing hair color;
 - i. Hair and scalp care;
 - j. Fundamentals of hairstyling including braiding and extensions;
 - k. Body, scalp, and facial massage and manipulations;
 - l. Hair cutting fundamentals;
 - m. Fundamental aesthetics of the body and face;
 - n. Fundamentals of nail technology;
 - o. Clinical and classroom practice that includes hair, skin, and nails;
 - p. Alternative hair, skin, and nail technology;
 - q. Client pre- and post- service consultation, documentation, and analysis;
 - r. Body and facial hair removal except by electrolysis;
 - s. Cosmetology technology; and
 - t. Required industry standards and ecology, including monitor duties.

Historical Note

New Section R4-10-B302 made under Article 3, Part 2 renumbered from R4-10-206 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-B303. Hairstyling School and 1000-hour Curriculum Requirements

- A.** School requirements. The licensee of a school that provides hairstyling 1000-hour training for students, 350-hour training for instructors, or both, shall ensure the minimum facilities, equipment, supplies, and materials listed under R4-10-B302(A)(1) through (A)(5) are provided in addition to those specified under R4-10-305 and R4-10-306.
- B.** Curriculum requirements. The licensee shall ensure students in a hairstyling course are provided the following 1000-hour curriculum:
- 1. Theory of hairstyling, infection control, anatomy, diseases and disorders, and Board statutes and rules; and
 - 2. Clinical and classroom instruction in hairstyling including theory that involves hair:
 - a. Principles and practices of infection control and safety;
 - b. Recognition of diseases and the treatment of disorders of the hair and scalp;
 - c. Morphology and treatment of hair;
 - d. Interpersonal skills and professional ethics;
 - e. Product pharmacology and chemistry interaction, formulation, composition, and hazards;
 - f. Hairstyling machines, tools, and instruments and their uses;

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- g. Chemical texturizing;
- h. Changing existing hair color;
- i. Hair and scalp care;
- j. Fundamentals of hairstyling including braiding and extensions;
- k. Neck and scalp massage and manipulations;
- l. Hair cutting fundamentals;
- m. Clinical and classroom practice that includes hair;
- n. Alternative hair technology;
- o. Client pre- and post-service consultation, documentation, and analysis;
- p. Hairstyling technology;
- q. Facial hair removal except by electrolysis; and
- r. Required industry standards and ecology, including monitor duties.

Historical Note

New Section R4-10-B303 made under Article 3, Part 2 renumbered from R4-10-206.1 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-B304. Nail Technology School and 600-hour Curriculum Requirements

- A.** School requirements. The licensee of a school that provides nail technology 600-hour training for students, 350-hour training for instructors, or both, shall ensure the following minimum facilities, tools, instruments, equipment, supplies, and materials are provided, in addition to those specified under R4-10-305 and R4-10-306:
1. A workstation to perform nail technology services for the public for a fee for each student in attendance containing:
 - a. A nail technology table;
 - b. Industry standard chairs appropriate for the skills being taught;
 - c. A disinfected, covered container to store disinfected tools and instruments as specified under R4-10-112;
 - d. A container with wet disinfectant as specified under R4-10-112;
 - e. A container for soiled tools and instruments as specified under R4-10-112;
 - f. A waste receptacle as specified under R4-10-112; and
 - g. A disinfectant for blood or body-fluid exposure as specified under R4-10-112.
 2. One container large enough to immerse two feet completely, for every five students in attendance during clinic instruction;
 3. Nail products for acrylics, gels, tips, wraps, and polishing; and
 4. One ultraviolet light.
- B.** In addition to the nonreturnable student training kit required under R4-10-306(Q), a school licensee shall ensure the following nonreturnable items are provided to each enrolled nail technology student:
1. One simulated hand;
 2. Disinfected tools and instruments including pusher, nipper, file or porous emery boards, tweezer, nail brush, and finger bowl;
 3. Artificial nail enhancement kit with remover, wrap kit, two dappen dishes, polish kit, nail forms, finishing tools and instruments, and one brush product applicator; and
 4. One electric nail file.

- C.** Curriculum requirements. The licensee shall ensure students in a nail technology course are provided the following 600-hour curriculum:

1. Theory of nail technology; infection control; diseases and disorders of the nails and skin; anatomy; physiology and histology of the limbs, nails, and skin structures; and Board statutes and rules; and
2. Clinical and classroom instruction in nail technology including theory that involves nails, skin, and limbs:
 - a. Principles and practices of infection control and safety;
 - b. Recognition of diseases and the treatment of disorders of the nail and skin;
 - c. Massage and manipulation of the limbs;
 - d. Interpersonal skills and professional ethics;
 - e. Product pharmacology and chemistry interaction, formulation, composition, and hazards;
 - f. Nail technology machines, tools, and instruments and their uses;
 - g. Clinical and classroom practice that includes nails, skin, and limbs;
 - h. Client pre- and post- treatment consultation, documentation, and analysis;
 - i. Manicuring, including use of nippers;
 - j. Pedicuring, including use of nippers;
 - k. Artificial nail enhancements (application and removal);
 - l. Alternative nail technology;
 - m. Electric file use;
 - n. Pedicure spa modalities;
 - o. Exfoliation modalities on limbs or the body; and
 - p. Required industry standards and ecology, including monitor duties.

Historical Note

New Section R4-10-B304 made under Article 3, Part 2 renumbered from R4-10-207 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-B305. Distant Classrooms

If an aesthetics, cosmetology, hairstyling, or nail technology school has a distant classroom, the school licensee shall ensure the equipment in the distant classroom is the same as that required under R4-10-305 and R4-10-306; and:

1. Private postsecondary and public educational facilities do not extend beyond Arizona boundaries;
2. A copy of the Board-issued license to operate the school or Board-issued, wallet-size license card to operate the school is posted in each distant classroom;
3. Duplicate instructor licenses are not required in a distant classroom; and
4. No clinic or public services are provided in the distant classroom.

Historical Note

New Section made by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-B306. Approval of an Eyelash Technician Training Program

- A.** Board approval of an eyelash technician training program is non-transferable.
- B.** To obtain Board approval of an eyelash technician training program, an applicant shall submit the following to the Board:

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1. An application form available on the Board's website that contains:
 - a. The applicant's name, full mailing and physical addresses, email address, federal tax identification number, and telephone number;
 - b. Name of person responsible for the eyelash technician training program if different from the applicant;
 - c. Name of the instructor who will be in charge of the approved training program and evidence the instructor meets the qualifications specified in R4-10-B307(B);
 - d. An outline of the training program including the topics to be addressed, hours devoted to each topic, and evidence the training program will comply with the standards specified in R4-10-B307(C), (D), and (E); and
 - e. A verification signed by the applicant indicating the training program has the equipment and supplies listed in R4-10-B307(A); and
2. A copy of the provisional registration, required under A.R.S. § 32-519, which will be completed and provided to each student to verify the student successfully completed the training program. A completed provisional registration shall include:
 - a. Name of the trainee,
 - b. Name of the approved training program,
 - c. Name of the person responsible for the approved training program,
 - d. Address of the approved training program,
 - e. Name of the instructor in charge of the approved training program,
 - f. Total number of hours of training completed, and
 - g. Dates of training completed.

Historical Note

New Section made by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-B307. Requirements of an Eyelash Technician Training Program

- A. The person responsible for an eyelash technician training program shall ensure the training program:
 1. Complies with R4-10-112;
 2. Has the following minimum equipment and supplies:
 - a. Sufficient instructional fixtures and facilities for instructor and student use;
 - b. Covered, wet disinfectant container;
 - c. EPA-registered disinfectant;
 - d. Sufficient sinks with hot and cold running water;
 - e. Separate receptacles for garbage and soiled linens;
 - f. One chalkboard or whiteboard;
 - g. Functioning time display;
 - h. A wall mirror; and
 - i. Sufficient mannequins;
 3. Furnish establishment-quality equipment, tools, instruments, materials, and supplies for instructional purposes and for students to perform assignments except a student may be required to furnish small tools and instruments; and
 4. Maintain all equipment, tools, instruments, materials, and supplies in good repair.
- B. The person responsible for an eyelash technician training program shall ensure the instructor in charge of the training program is qualified. An instructor in charge is qualified if the instructor in charge:
 1. Is a cosmetologist or aesthetician licensed by the Board before the effective date of this Section or an eyelash technician registered by the Board;
 2. Provides a notarized letter from an individual licensed or registered by the Board who has personal knowledge of the instructor's work and can verify that the instructor has practiced as an eyelash technician for at least 30 hours a week for two years; and
 3. Provides a statement indicating whether the instructor has ever had an aesthetics, cosmetology, hairstyling, nail technology, or instructor license or eyelash technology registration suspended or revoke in any state of the United States or a foreign country.

- C. The person responsible for an eyelash technician training program shall ensure the training program includes the following minimum curriculum:
 1. Ten hours of preclinical theoretical instruction in:
 - a. Eye structure,
 - b. Function and disorders of the eye and orbital areas,
 - c. Eyelash growth cycles,
 - d. Contraindications and allergic reactions,
 - e. Infection control,
 - f. Eye shapes and eyelash evaluation,
 - g. Product ingredients,
 - h. Health and safety, and
 - i. Board statutes and rules; and
 2. Twenty hours of clinical instruction in the practical application of eyelash extensions including:
 - a. Client consultation,
 - b. Design,
 - c. Cleansing the eye area,
 - d. Applying eyelash extensions, and
 - e. Removing eyelash extensions.

- D. As part of the clinical instruction specified under subsection (C)(2), the person responsible for an eyelash technician training program shall ensure each student is required to complete clinical service exercises in:
 1. Applying eyelash extensions,
 2. Removing eyelash extensions, and
 3. Conducting a patch test before eyelash extension service.
- E. The person responsible for an eyelash technician training program shall ensure:
 1. All training is provided by the qualified instructor in charge, and
 2. No training is provided by a guest presenter or on a field trip.

Historical Note

New Section made by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

ARTICLE 4. ESTABLISHMENTS**R4-10-401. Changes Affecting a License to Operate an Establishment**

- A. A license to operate an establishment is not transferrable.
- B. Except as provided in subsection (E), an establishment licensee shall apply for a new license and pay the fee specified under R4-10-102 when:
 1. The physical address of the establishment changes;
 2. The name of the establishment changes;
 3. Ten percent or more of the ownership of the establishment changes; or

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4. If the establishment licensee is a corporation, limited liability company, or partnership, a corporate officer, partner, or statutory agent changes.
- C. The establishment licensee shall submit the application and fee required under subsection (B) within 10 days after a change specified under subsection (B) occurs.
- D. The establishment licensee shall ensure a Board-issued license to operate the establishment, indicating the correct name, physical location, and ownership of the establishment, is posted in the establishment before the establishment is opened for business.
- E. If the only change to the physical address of an establishment is the suite number, the establishment licensee shall apply for an updated license rather than a new license and pay the fee specified at R4-10-102.

Historical Note

Adopted effective April 9, 1996 (Supp. 96-2). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2). Amended by final rulemaking at 12 A.A.R. 807, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Section R4-10-401 renumbered to R4-10-402; new Section R4-10-401 renumbered from R4-10-402 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-402. Application for a License to Operate a Barber, Cosmetology, Aesthetics, Hairstyling, Nail, or Eyelash Establishment

An applicant for a license to operate a barber, cosmetology, aesthetics, hairstyling, nail, or eyelash establishment shall submit:

1. An application on a form available on the Board's website, and provide the following information:
 - a. The applicant's name, full mailing, physical, and email addresses, telephone number, and federal tax identification number;
 - b. If the applicant is a partnership, each partner's name, full mailing and physical addresses, and an indication of whether each is a limited or general partner;
 - c. If the owner is an individual or sole proprietor, the person's Social Security or federal tax identification number;
 - d. If the applicant is a corporation, the state of incorporation and name, title, and mailing address of each officer of the corporation and the statutory agent;
 - e. If the applicant is a limited liability company, name and mailing address of each member, manager, and statutory agent;
 - f. Documentation specified under A.R.S. § 41-1080(A) that the presence in the U.S. of the applicant and anyone owning at least 10 percent of the applicant is authorized under federal law;
 - g. If the location of the barber, cosmetology, aesthetics, hairstyling, nail, or eyelash establishment is changing, both the old and new physical addresses;
 - h. If a change of ownership is occurring, the date the applicant will assume ownership;
 - i. A history of the barber, cosmetology, aesthetics, hairstyling, nail, or eyelash establishment including:
 - i. If the location was previously licensed by the Board, the name of the previous barber, cosmetology, aesthetics, hairstyling, nail, or eyelash establishment;

- ii. The name of each business operating at the barber, cosmetology, aesthetics, hairstyling, nail, or eyelash establishment address; and
- iii. A statement of whether a barber, cosmetology, aesthetics, hairstyling, or nail license or eyelash technician registration of the applicant or any partner, corporate officer, or member or manager of the applicant has ever been suspended or revoked by any state or foreign country; and
- j. A statement of the kind of establishment to be operated: barber, cosmetology, aesthetics, hairstyling, nail technology, or eyelash technology.
2. A Certificate of Good Standing from the Arizona Corporation Commission, if applicable.
3. The applicant's signature and verification that the information provided is true and correct and the barber, cosmetology, aesthetics, hairstyling, nail, or eyelash establishment is in compliance with A.R.S. Title 32, Chapters 3 and 5, and this Chapter and has all basic equipment required to be in a barber, cosmetology, aesthetics, hairstyling, nail, or eyelash establishment.
4. The fee required in R4-10-102.

Historical Note

Former Section R4-10-402 renumbered to R4-10-403; new Section adopted by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2). Amended by final rulemaking at 12 A.A.R. 807, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Section R4-10-402 renumbered to R4-10-401; new Section R4-10-402 renumbered from R4-10-401 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-403. Barber, Cosmetology, Aesthetics, Hairstyling, Nail, or Eyelash Establishment Requirements and Minimum Equipment

- A. A barber, cosmetology, aesthetics, hairstyling, nail, or eyelash establishment licensee shall ensure all services performed at the establishment for the public are consistent with the type of license issued to the licensee. A barber, cosmetology, aesthetics, hairstyling, nail, or eyelash establishment licensee shall ensure that, except as provided in R4-10-B402, all services are performed for the public by an individual who holds a Board-issued license or registration.
- B. A barber, cosmetology, aesthetics, hairstyling, nail, or eyelash establishment licensee shall ensure the establishment has enough equipment, materials, supplies, tools, and instruments to control infection and protect the safety of the public and employees.
- C. A barber, cosmetology, aesthetics, hairstyling, nail, or eyelash establishment licensee shall ensure the establishment has:
 1. A workstation for each licensee or registrant using space within the barber, cosmetology, aesthetics, hairstyling, nail, or eyelash establishment;
 2. If licensees using space in the establishment are performing barbering, cosmetology, or hairstyling services, at least one shampoo bowl and one hair dryer, which may be a blow dryer; and
 3. If licensees or registrants using space in the establishment are performing aesthetics, nail technology, or eyelash technology services, at least one sink in addition to the restroom.

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- D.** A barber, cosmetology, aesthetics, hairstyling, nail, or eyelash establishment licensee shall ensure licensed barbers, aestheticians, cosmetologists, hairstylists, nail technicians, and eyelash technicians have enough equipment, materials, supplies, tools, and instruments to provide services, control infection, and disinfect between clients.

Historical Note

Adopted April 9, 1996 (Supp. 96-2). Former Section R4-10-403 renumbered to R4-10-404; new Section R4-10-403 renumbered from Section R4-10-402 by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2). Amended by final rulemaking at 12 A.A.R. 807, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 23 A.A.R. 3028, effective December 31, 2017 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). Amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-404. Renewal of an Establishment License

An establishment licensee shall annually submit to the Board an electronic application for renewal on or before the license renewal date.

1. If the license renewal date falls on a Saturday, Sunday, or legal holiday, the licensee may file the application on the next business day following the license renewal date.
2. A renewal application consists of:
 - a. A form available on the Board's website that contains:
 - i. The establishment's name;
 - ii. The licensee's license number; and
 - iii. If the licensee is an individual or partnership, the signature and tax identification number of the licensee or if the licensee is a corporation or limited liability company, the signature of the authorized signer and the tax identification number of the corporation or limited liability company;
 - b. If the documentation submitted at the time of initial licensure was not a non-expiring work authorization, documentation specified under A.R.S. § 41-1080 that the establishment licensee's presence in the United States continues to be authorized under federal law; and
 - c. The fee required in R4-10-102.

Historical Note

Adopted April 9, 1996 (Supp. 96-2). Former Section R4-10-404 renumbered to R4-10-405; new Section R4-10-404 renumbered from Section R4-10-403 by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2). Amended by final rulemaking at 12 A.A.R. 807, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 23 A.A.R. 3028, effective December 31, 2017 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). R4-10-404 renumbered to R4-10-B401; new Section R4-10-404 made by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-405. Establishment Supervision

- A.** An establishment licensee shall designate an individual licensed under this Chapter as manager to directly supervise the establishment during all hours of operation. If the establishment licensee has a personal license issued under Article 2

of this Chapter, the establishment licensee may directly supervise the establishment.

- B.** The establishment licensee or manager shall ensure:

1. Every individual, whether an employee or independent contractor, who practices barbering, cosmetology, aesthetics, hairstyling, nail technology, or eyelash technology in the establishment has a current license or registration issued by the Board;
2. Each required license, registration, and the most recent Board inspector's record are printed and displayed in a manner visible to establishment clients; and
3. Each licensee and registrant complies with all applicable provisions of A.R.S. Title 32, Chapter 3 or 5, and this Chapter.

- C.** The Board shall hold the establishment licensee responsible for any violation of an applicable provision of A.R.S. Title 32, Chapter 3 or 5, or this Chapter.

Historical Note

New Section R4-10-405 renumbered from Section R4-10-404 by final rulemaking at 5 A.A.R. 1791, effective May 18, 1999 (Supp. 99-2). Amended by final rulemaking at 26 A.A.R. 3123, effective January 31, 2021 (Supp. 20-4). R4-10-405 renumbered to R4-10-B402; new Section R4-10-405 renumbered from R4-10-703 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

PART A. BARBERING**R4-10-A401. Barbering Establishment Mobile Units**

- A.** To operate a mobile unit as a barbering establishment, the owner of the mobile unit shall apply for a license under R4-10-A401.
- B.** The Board shall issue a license to operate a mobile unit as a barbering establishment only if:
1. The mobile unit is self-contained;
 2. The mobile unit meets all requirements for a barbering establishment specified under A.R.S. Title 32, Chapter 3, and this Chapter; and
 3. The owner of the mobile unit agrees to provide the Board with written or oral notice at least 15 days before the mobile unit is placed in a location or moved to a new location.

Historical Note

New Section R4-10-A401 made under Article 4, Part A renumbered from R4-10-704 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

PART B. COSMETOLOGY**R4-10-B401. Mobile Services**

- A.** If a cosmetology, aesthetics, hairstyling, nail, or eyelash establishment licensee provides mobile services as an extension of the establishment, the cosmetology, aesthetics, hairstyling, nail, or eyelash establishment licensee shall advertise the mobile service using the name of the establishment on the Board-issued license. The cosmetology, aesthetics, hairstyling, nail, or eyelash establishment licensee and manager shall ensure mobile services comply with Board statutes and rules.
1. A cosmetology, aesthetics, hairstyling, nail, or eyelash establishment licensee providing mobile cosmetology, aesthetics, hairstyling, nail technology, or eyelash technology services shall ensure licenses are posted as required under R4-10-111.

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2. A cosmetology, aesthetics, hairstyling, nail, or eyelash establishment licensee providing mobile services shall ensure client appointments are made through the cosmetology, aesthetics, hairstyling, nail, or eyelash establishment using an appointment book that lists the appointments and locations where services are performed.
3. Mobile services are subject to inspection by the Board at any time.
4. If a retrofitted motor vehicle is used to provide mobile services, the cosmetology, aesthetics, hairstyling, nail, or eyelash establishment licensee and manager shall ensure the vehicle has the same equipment as specified under R4-10-B402 and complies with safety and infection control requirements specified under R4-10-112.
5. If mobile services are provided in a location other than a retrofitted motor vehicle, the cosmetology, aesthetics, hairstyling, nail, or eyelash establishment licensee and manager shall ensure equipment is disinfected before use and stored as specified under R4-10-112.

B. If a retrofitted motor vehicle is used exclusively as a mobile facility dispatched from a cosmetology, aesthetics, hairstyling, nail, or eyelash establishment address, the establishment licensee and manager of the mobile facility shall:

1. Comply with all cosmetology, aesthetics, hairstyling, nail, or eyelash establishment requirements, including infection control and equipment requirements, specified in this Chapter;
2. Maintain a complete and current list of appointment locations at the cosmetology, aesthetics, hairstyling, nail, or eyelash establishment address and ensure the list is displayed as specified in the application for a license to operate a cosmetology, aesthetics, hairstyling, nail, or eyelash establishment and available to an inspector at all times when the retrofitted motor vehicle is open for business; and
3. Comply with Board statutes and rules.

Historical Note

New Section R4-10-B401 made under Article 4, Part B renumbered from R4-10-404 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-B402. Shampoo Assistants

- A.** A cosmetology or hairstyling establishment licensee may hire an individual who is not licensed by the Board as a shampoo assistant to shampoo and apply conditioner to an individual's hair, comb the hair to remove tangles, and remove rollers.
- B.** A cosmetology or hairstyling establishment licensee shall ensure a shampoo assistant does not:
 1. Apply hair color or permanent wave solution or neutralizer; or
 2. Remove rods, tint, relaxers, or chemical solutions from the hair.

Historical Note

New Section R4-10-B402 made under Article 4, Part B renumbered from R4-10-405 and amended by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

ARTICLE 5. REPEALED**R4-10-501. Renumbered****Historical Note**

New Section R4-10-501 recodified from A.A.C. R4-5-101 at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). Section R4-10-501 renumbered to R4-10-A101 by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-502. Repealed**Historical Note**

New Section R4-10-502 recodified from A.A.C. R4-5-102 at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). Repealed by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-503. Repealed**Historical Note**

New Section R4-10-503 recodified from A.A.C. R4-5-103 at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). Repealed by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-504. Repealed**Historical Note**

New Section R4-10-504 recodified from A.A.C. R4-5-104 at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). Repealed by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-505. Reserved**Historical Note**

Section reserved when Article 5 was recodified from 4 A.A.C. 5, on April 27, 2022 (Supp. 22-2).

R4-10-506. Repealed**Historical Note**

New Section R4-10-506 recodified from A.A.C. R4-5-106, with Section citations amended at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). Repealed by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-507. Repealed**Historical Note**

New Section R4-10-507 recodified from A.A.C. R4-5-107 at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). Repealed by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-508. Repealed**Historical Note**

New Section R4-10-508 recodified from A.A.C. R4-5-108, with a Section citation amended at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). Repealed by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

Table 1. Renumbered**Historical Note**

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New Article 5, Table 1, Time-frames (in-days) recodified from 4 A.A.C. 5, Table 1, Time-frames (in days) at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). Table 1 renumbered to Table A1 under Article 1, Part A and Table B1 under Article 1, Part B by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-509. Repealed**Historical Note**

New Section R4-10-509 recodified from A.A.C. R4-5-109, with Section citations amended at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). Repealed by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

ARTICLE 6. REPEALED**R4-10-601. Renumbered****Historical Note**

New Section R4-10-601 recodified from A.A.C. R4-5-201, at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). Section R4-10-601 renumbered to R4-10-A201 by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-602. Repealed**Historical Note**

New Section R4-10-602 recodified from A.A.C. R4-5-202, with a Section citation amended at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). Repealed by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-603. Renumbered**Historical Note**

New Section R4-10-603 recodified from A.A.C. R4-5-203, with a Section citation amended at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). R4-10-603 renumbered to R4-10-A202 by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

ARTICLE 7. REPEALED**R4-10-701. Repealed****Historical Note**

New Section R4-10-701 recodified from A.A.C. R4-5-301, with a Section and Article citation amended at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). Repealed by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-702. Repealed**Historical Note**

New Section R4-10-702 recodified from A.A.C. R4-5-302, with a Section citation amended at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). Repealed by final rulemak-

ing at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-703. Renumbered**Historical Note**

New Section R4-10-703 recodified from A.A.C. R4-5-303, with a Section citation amended at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). R4-10-703 renumbered to R4-10-405 by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-704. Renumbered**Historical Note**

New Section R4-10-704 recodified from A.A.C. R4-5-304, with a Section citation amended at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). R4-10-704 renumbered to R4-10-A401 by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-705. Repealed**Historical Note**

New Section R4-10-705 recodified from A.A.C. R4-5-305, at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). Repealed by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

ARTICLE 8. REPEALED**R4-10-801. Repealed****Historical Note**

New Section R4-10-801 recodified from A.A.C. R4-5-401, with a Section citation amended at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). Repealed by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-802. Renumbered**Historical Note**

New Section R4-10-802 recodified from A.A.C. R4-5-402, with Section citations amended at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). R4-10-802 renumbered to R4-10-304 by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-803. Repealed**Historical Note**

New Section R4-10-803 recodified from A.A.C. R4-5-403, at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). Repealed by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-804. Repealed**Historical Note**

New Section R4-10-804 recodified from A.A.C. R4-5-404, with Section citations amended at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). Repealed by final rulemak-

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ing at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-805. Renumbered**Historical Note**

New Section R4-10-805 recodified from A.A.C. R4-5-405, with Section citations amended at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). R4-10-805 renumbered to R4-10-A301 by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

Exhibit 1. Repealed**Historical Note**

New Exhibit 1, recodified from 4 A.A.C. 5, Exhibit 1, at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). Repealed by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

Exhibit 2. Repealed**Historical Note**

New Exhibit 2, recodified from 4 A.A.C. 5, Exhibit 2, at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). Repealed by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-806. Repealed**Historical Note**

New Section R4-10-806 recodified from A.A.C. R4-5-406, with a Section citation amended at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). Repealed by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-807. Renumbered**Historical Note**

New Section R4-10-807 recodified from A.A.C. R4-5-407, at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). R4-10-807 renumbered to R4-10-A302 by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-808. Repealed**Historical Note**

New Section R4-10-808 recodified from A.A.C. R4-5-408, with a Section citation amended at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). Repealed by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-809. Repealed**Historical Note**

New Section R4-10-809 recodified from A.A.C. R4-5-409, with Section citations amended at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). Repealed by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-810. Reserved**Historical Note**

Section reserved when Article 8 was recodified from 4 A.A.C. 8, on April 27, 2022 (Supp. 22-2).

R4-10-811. Renumbered**Historical Note**

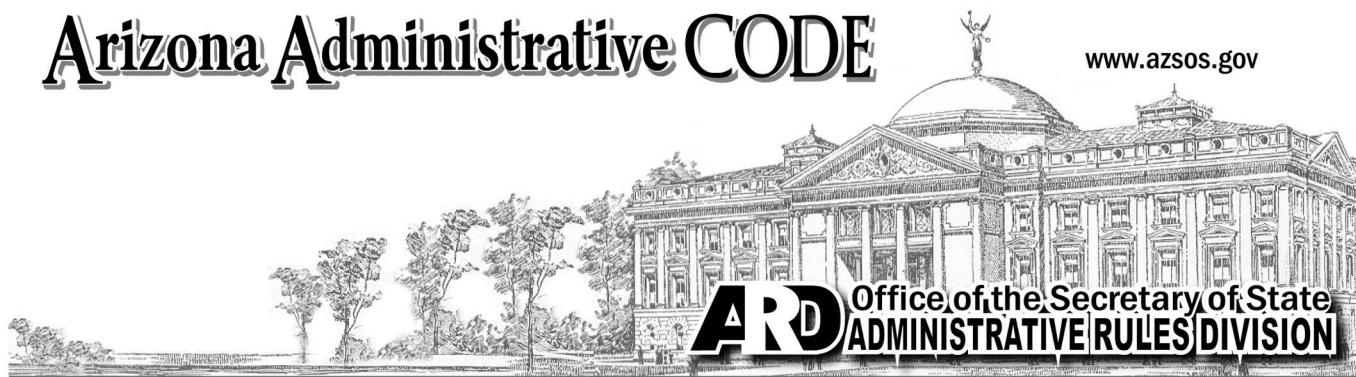
New Section R4-10-811 recodified from A.A.C. R4-5-411, with Section citations amended at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). R4-10-811 renumbered to R4-10-A303 by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

ARTICLE 9. REPEALED**R4-10-901. Repealed****Historical Note**

New Section R4-10-901 recodified from A.A.C. R4-5-501, at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). Repealed by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).

R4-10-902. Repealed**Historical Note**

New Section R4-10-902 recodified from A.A.C. R4-5-502, at 28 A.A.R. 1058 (May 20, 2022), with an immediate effective date of April 27, 2022 (Supp. 22-2). Repealed by final rulemaking at 30 A.A.R. 527 (March 29, 2024), effective May 6, 2024 (Supp. 24-1).



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CHAPTER 18. NATUROPATHIC PHYSICIANS MEDICAL BOARD

The table of contents on page one contains links to the referenced page numbers in this Chapter.

Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
January 1, 2024 through March 31, 2024

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The release of this Chapter in Supp. 24-1 replaces Supp. 22-3, 1-17 pages.

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

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

PERSONAL USE/COMMERCIAL USE

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division

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TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 18. NATUROPATHIC PHYSICIANS MEDICAL BOARD

Authority: A.R.S. § 32-1501 et seq.

Supp. 24-1

Editor's Note: Laws 2008, 2nd Regular Session, Ch. 16 provided for a name change of the Naturopathic Physicians Board of Medical Examiners to Naturopathic Physicians Medical Board (Supp. 12-2).

Editor's Note: The Office of the Secretary of State publishes all Code Chapters on white paper (Supp. 02-3).

Editor's Note: This Chapter contains rules which were adopted under exemptions from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to A.R.S. § 41-1005(25). Exemption from A.R.S. Title 41, Chapter 6 means that the Naturopathic Physicians Board of Medical Examiners did not submit these rules to the Governor's Regulatory Review Council for review; the Board did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Board was not required to hold public hearings on these rules; and the Attorney General did not certify these rules. Because this Chapter contains rules which are exempt from the regular rulemaking process, the Chapter is printed on blue paper.

Editor's Note: This Chapter has been reprinted due to an error in publishing text that was thought to be adopted and certified but in fact was rejected by the Attorney General on December 29, 1995 (Supp. 95-4). Text removed includes amendments made to R4-18-101 and adoption of Article 2, consisting of Sections R4-18-201 through R4-18-205. Removal of this text reflects the latest effective rules on file with the Office of the Secretary of State last modified Supp. 88-4 (reprinted Supp. 96-4).

Laws 1982, 6th S.S., Chs. 1 and 4 provided for a name change of the Naturopathic Board of Examiners to Naturopathic Physicians Board of Examiners.

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Former Article 1 consisting of Sections R4-18-01 through R4-18-07 repealed effective December 31, 1984.

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New Article 2, consisting of Sections R4-18-201 through R4-18-206, made by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3).

Article 2 consisting of Sections R4-18-201 through R4-18-205 has been deleted due to an error in publishing text that was thought

to be adopted and certified but in fact was rejected by the Attorney General on December 29, 1995 (Supp. 95-4). Removal of this text reflects the latest effective rules on file with the Office of the Secretary of State last modified Supp. 88-4 (reprinted Supp. 96-4).

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New Article 4, consisting of Sections R4-18-401 and R4-18-402, made by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3).

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ARTICLE 1. GENERAL PROVISIONS

R4-18-101. Definitions

In addition to the definitions in A.R.S. §§ 32-1501 through 32-1581, the following definitions apply to this Chapter unless otherwise specified:

1. "Administrative completeness review" means the Board's process for determining that an applicant has provided, or caused to be provided, all of the application packet information and documentation required by statute or rule for an application for a license or a certificate.
2. "Applicant" means a person requesting from the Board an initial, temporary, or renewal license or certificate.
3. "Approved Specialty College or Program" means a post-doctoral training program that awards a medical specialist certificate, and is certified by a Specialty Board of Examiners, The American Association of Naturopathic Physicians ("AANP") or another professional association or, another state's licensing agency, and which is recognized by the Board.
4. "Chief medical officer" means a physician who is responsible for a clinical, preceptorship, internship, or postdoctoral training program's compliance with state and federal laws, rules, and regulations.
5. "Continuing medical education" or "CME" means courses, seminars, lectures, programs, conferences, and workshops related to subjects listed in A.R.S. § 32-1525(B), that are offered or sanctioned by one of the organizations referenced in R4-18-205(B).
6. "Device" means the same as in A.R.S. § 32-1581(H)(1).
7. "Endorsement" means the procedure for granting a license in this state to an applicant who is currently licensed to practice naturopathic medicine by another state, district, or territory of the United States or by a foreign country that requires a written examination substantially equivalent to the written examination provided for in A.R.S. § 32-1525.
8. "Facility" means a health care institution as defined in A.R.S. § 36-401, office or clinic maintained by a health care institution or by an individual licensed under A.R.S. Title 32, Chapter 13, 14, 17, or 29, office or public health clinic maintained by a state or county, office or clinic operated by a qualifying community health center under A.R.S. § 36-2907.06, or an office or clinic operated by a corporation, association, partnership, or company authorized to do business in Arizona under A.R.S. Title 10.
9. "Informed consent" means a document, signed by a patient or the patient's legal guardian, which contains the information in R4-18-802(A)(1), (A)(2), and (A)(3).
10. "Institutional review board" means a group of persons that is approved according to guidelines of the United States Department of Health and Human Services, Office for Human Research Protection, which reviews investigational or experimental protocols and approves their use on animals or humans for the purposes of protecting the subjects of the investigational or experimental protocol from undue harm and assures that the research and its review is carried out according to guidelines of the United States Department of Health and Human Services, Office for Human Research Protection.
11. "Internship" means clinical and didactic training by a doctor of naturopathic medicine certified by the Board according to A.R.S. § 32-1561.
12. "License" means a document issued by the Board that authorizes the individual to whom it is issued to practice naturopathic medicine.
13. "Medical student" means naturopathic medical student defined in A.R.S. § 32-1501(24).
14. "Medication" means the same as drug defined in A.R.S. § 32-1501(15) or natural substance defined in A.R.S. § 32-1501(23).
15. "National board" means any of the following:
 - a. The Federation of State Medical Licensing Boards,
 - b. The National Board of Chiropractic Examiners,
 - c. The National Board of Medical Examiners,
 - d. The National Board of Osteopathic Examiners, or
 - e. The North American Board of Naturopathic Examiners.
16. "Procedure" means an activity directed at or performed on an individual for improving health, treating disease or injury, or making a diagnosis.
17. "Protocol" means an explicit detailed plan of an experimental medical procedure or test that is approved by an institutional review board.
18. "Resident physician in training" means a person who holds a degree of doctor of naturopathic medicine and is certified by the Board to diagnose and treat patients under supervision in an internship, preceptorship, or a post doctoral training program.
19. "Substantive review" means the Board's process for determining whether an applicant for licensure, certification, or approval meets the requirements of A.R.S. Title 32, Chapter 14 and this Chapter.
20. "Verified" means a notarized form dated, and signed by the applicant, affirming the information provided in the application, including any accompanying documents submitted by or on behalf of the applicant, is true and complete.

Historical Note

Adopted effective December 31, 1984 (Supp. 84-6).
 Amended effective December 29, 1995 (Supp. 95-4).
 Amended Section corrected Supp. 96-4 to reflect adopted Section on file with the Office of the Secretary of State effective December 31, 1984 (Supp. 84-6). Amended by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3). Amended by final rulemaking at 19 A.A.R. 1302, effective July 6, 2013 (Supp. 13-2).
 Amended by final rulemaking at 21 A.A.R. 2009, effective September 1, 2015 (Supp. 15-3).

R4-18-102. Board Meetings; Elections; Officers

- A. The Board shall hold a regular meeting in January and July of each year. The officers shall be elected at the January meeting of the Board by majority vote of the Board members present at that meeting. The Board chairman shall preside at all Board meetings. If the chairman is disqualified or unable to attend, the Board vice-chairman shall preside at the meeting. If the Board vice-chairman is disqualified or unable to attend, the Board secretary-treasurer shall preside at the meeting.
- B. If an officer's position becomes vacant, the Board shall elect a member of the Board to complete the term of office that is vacant.
- C. A Board member shall attend meetings scheduled by the Board. The Board may recommend to the Governor that a Board member who fails to attend three consecutive Board meetings be removed from the Board.

Historical Note

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Adopted effective December 31, 1984 (Supp. 84-6).
Amended by final rulemaking at 8 A.A.R. 3702, effective
August 9, 2002 (Supp. 02-3).

R4-18-103. Duties of Board Committees

A committee appointed by the Board chairman shall make a report to the Board based on the findings or investigations of the committee and may make recommendations for further action by the Board.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3).

R4-18-104. Repealed**Historical Note**

Adopted effective December 31, 1984 (Supp. 84-6).
Amended by adding a new subsection (H) effective June 18, 1987 (Supp. 87-2). Section repealed by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3).

R4-18-105. Reserved**R4-18-106. Rehearing or Review of Decision**

- A. Except as provided in subsection (G), any party who is aggrieved by a decision issued by the Board may file with the Board not later than 30 days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds for the rehearing or review. For purposes of this Section, a decision is considered served when personally delivered or five days after mailing by certified mail to the party at the party's last known residence or place of business.
- B. A motion for rehearing or review under this Section may be amended at any time before it is ruled upon by the Board. A response may be filed within 15 days after service of the motion or amended motion by any other party. The Board may require the filing of written briefs upon the issue raised in the motion and may provide for oral argument.
- C. A rehearing or review of a decision may be granted by the Board for any of the following reasons materially affecting the party's rights:
 1. Irregularity in the proceedings of the Board, administrative law judge, or any abuse of discretion that deprives the moving party of a fair hearing;
 2. Misconduct of the Board or an administrative law judge;
 3. Accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
 5. Excessive or insufficient penalties;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing; or
 7. That the findings of fact or decision is not justified by the evidence, or is contrary to law.
- D. The Board may affirm or modify its decision or grant a rehearing or review, to all or any of the parties on all or part of the issues for the reasons specified in subsection (C). An order modifying a decision or granting a rehearing or review shall specify with particularity the grounds on which the rehearing or review is granted, and the rehearing or review shall cover only those matters specified.
- E. Not later than 35 days after the date a decision is rendered, the Board may, on its own initiative order a rehearing or review of

its decision for any reason for which it might have granted a rehearing or review on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing or review, timely served, for a reason not stated in the motion. In either case, the order shall specify the grounds for rehearing and review.

- F. When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. The Board may extend this period for good cause.
- G. If the Board makes specific findings that the immediate effectiveness of the decision is necessary for the preservation of the public health and safety and determines that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Board's final decisions under A.R.S. Title 12, Chapter 7, Article 6.

Historical Note

Adopted effective December 31, 1984 (Supp. 84-6). Section repealed; new Section made by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to A.R.S. § 41-1005(25). Exemption from A.R.S. Title 41, Chapter 6 means the Board did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Board did not submit the rules to the Governor's Regulatory Review Council for review; and the Board was not required to hold public hearings on this Section (Supp. 99-3).

R4-18-107. Fees

- A. Application fees are as follows:
 1. Medical license, \$225
 2. Certificate to dispense, \$225
 3. Medical assistant certificate, \$100
 4. Clinical training certificate, \$0.00
 5. Preceptorship certificate, \$100
 6. Specialty certificate, \$225
- B. Arizona naturopathic jurisprudence examination, \$30
- C. Annual renewal fees are as follows:
 1. Medical license, \$165
 2. Certificate to Dispense, \$225
 3. Medical assistant certificate, \$150
 4. Clinical training certificate, \$0.00
 5. Preceptorship certificate, \$225
 6. Renewal of Specialty certificate, \$225
- D. Late renewal fees are as follows:
 1. Medical license \$83
 2. Certificate to dispense, \$113
 3. Medical assistant certificate, \$75
 4. Clinical training certificate, \$0.00
 5. Preceptorship certificate, \$113
 6. Specialty certificate, \$113
- E. Other fees are as follows:
 1. For a duplicate license or certificate, \$20
 2. For photocopying Board records, documents, letters, applications, or files, \$5 or \$0.25 per page, whichever is greater.

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3. For each audio tape or computer disk containing information requested, \$25
4. For written verification of a license or certificate, \$5
5. For the costs in locating a person who is licensed or certified, Actual cost incurred by the Board.
6. For each insufficient fund check, \$25.

Historical Note

Adopted effective December 31, 1984 (Supp. 84-6).
Amended as an emergency effective December 31, 1986, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 86-6). Emergency expired. Amended and adopted as a permanent rule effective June 18, 1987 (Supp. 87-2).
Amended paragraph (3) effective November 10, 1988 (Supp. 88-4). Section repealed; new Section adopted by exempt rulemaking at 5 A.A.R. 2874, effective July 28, 1999 (Supp. 99-3). Amended by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3).
Amended by exempt rulemaking at 18 A.A.R. 1499, effective June 6, 2012 (Supp. 12-2). Amended by exempt rulemaking at 19 A.A.R. 1986, effective September 16, 2013 (Supp. 13-3). Amended by final rulemaking at 21 A.A.R. 2009, effective September 1, 2015 (Supp. 15-3).
Amended by exempt rulemaking at 28 A.A.R. 2643 (October 7, 2022), effective November 13, 2022 (Supp. 22-3).

R4-18-108. Titles, Use of Abbreviations

- A. A physician issued a license by the Board may use any of the following titles or abbreviations:
 1. Doctor of Naturopathic Medicine,
 2. N.M.D.,
 3. Doctor of Naturopathy,
 4. N.D.,
 5. Naturopath,
 6. Naturopathic Physician, or
 7. Naturopathic Medical Doctor.
- B. A physician issued a license, or a graduate of a school approved by the Board, shall not use any of the following titles or abbreviations:
 1. Doctor of medicine (naturopathic),
 2. M.D.(N.), or
 3. M.D.(naturopathic).
- C. An unlicensed graduate of a Board approved school of naturopathic medicine who is certified by the Board to engage in preceptorship training shall use the designation “(Preceptee)” after any of the designations in subsection (A). The preceptee shall also ensure that any patient treated by the preceptee signs an informed consent treatment form stating clearly that the preceptee is undergoing training, is not licensed, and identifying the name of the supervising physician.
- D. An unlicensed graduate of a Board approved school of naturopathic medicine who is certified by the Board to engage in internship training shall use the designation “(Intern)” after any of the designations in subsection (A). The intern shall ensure that any patient treated by the intern signs an informed consent treatment form stating clearly that the intern is undergoing training, is not licensed and identifying the name of the supervising physician.
- E. A person who is permanently retired under A.R.S. § 32-1528 may use any of the designations listed in subsection (A) if that person also uses the designation “(Retired)” after each designation.

Historical Note

Adopted effective December 31, 1984 (Supp. 84-6).
Amended by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3).

R4-18-109. Repealed**Historical Note**

Adopted effective December 31, 1984 (Supp. 84-6). Section repealed by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3).

R4-18-110. Display of Licenses and Certificates; Notice of Change of Status; Student Identification

- A. Each person licensed by the Board shall display that license, or a Board issued duplicate in a conspicuous place in each location in which the person conducts regular and ongoing patient care activity.
- B. A person, business, or institution regulated by the Board shall notify the Board of any change in the information provided to the Board concerning a license or certificate application or its renewal, including changes in name, address, place of practice, or actions taken against the licensee, for any reason, in any court or by any governmental regulatory body.
- C. Each person certified by the Board to engage in clinical training shall wear an identification card issued by the approved naturopathic medical school conducting the training that clearly identifies the person as a student, at all times that the person is involved in clinical training. An approved school may keep all certificates to engage in clinical training issued by the Board at a central location of the primary training facility, if it is easily available for public viewing.
- D. Each person, business, or institution that is issued a certificate by the Board shall display that certificate or a Board issued duplicate, in a conspicuous place at each location in which the person, business, or institution conducts regular and ongoing business activity.
- E. All notice requirements under this rule shall be in writing and made within 30 days of change of status.

Historical Note

Adopted effective December 31, 1984 (Supp. 84-6).
Amended by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3).

R4-18-111. Notice of Civil and Criminal Actions

- A. A person licensed or certified by the Board shall, within 10 days of receipt, notify the Board of any notice, subpoena, summons, or receipt of complaint, whether civil or criminal, arising directly or indirectly out of the person's conduct of the person's professional activities.
- B. To provide notice to the Board a person licensed or certified by the Board shall provide either a photocopy or facsimile copy of the notice or other service or a letter advising the Board of the nature of the cause of action allegations made, and the date, time, and place where appearance is required.

Historical Note

Adopted effective December 31, 1984 (Supp. 84-6).
Amended by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3).

R4-18-112. Reserved**R4-18-113. Reserved****R4-18-114. Reserved****R4-18-115. Reserved**

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R4-18-116. Repealed**Historical Note**

Adopted effective December 31, 1984 (Supp. 84-6). Section repealed by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3).

R4-18-117. Repealed**Historical Note**

Adopted effective December 31, 1984 (Supp. 84-6). Section repealed by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3).

**ARTICLE 2. LICENSES; SPECIALIST CERTIFICATES;
CONTINUING MEDICAL EDUCATION; RENEWAL**

R4-18-201. Jurisprudence Examination

In addition to the requirements of R4-18-202 or R4-18-203, every applicant for licensure shall take and pass the Arizona Naturopathic Jurisprudence Examination, administered by the Board, with a minimum score of 75%. The examination shall consist of multiple-choice and true-false questions. If an applicant passes the jurisprudence examination to obtain a clinical training certificate under R4-18-501 and is under the continuous regulation of the Board after obtaining the clinical training certificate, the applicant is not required to take the examination again.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3).

R4-18-202. License by Examination

In addition to the requirements of R4-18-201, an applicant for licensure by examination shall meet the requirements of A.R.S. Title 32, Chapter 14 and provide the Board:

1. A completed application form, provided by the Board that is signed, dated, and verified; and shall include the following information;
 - a. Applicant's full name and any former names used by the applicant;
 - b. Applicant's place and date of birth;
 - c. Applicant's Social Security number;
 - d. Applicant's home, business, and e-mail addresses;
 - e. Applicant's home, business, and cell phone numbers;
 - f. A completed Arizona Statement of Citizenship and Alien Status for State Public Benefits, and copy of evidence;
 - g. The name of the approved naturopathic college applicant graduated from, date of graduation, and date of clinical training completion;
 - h. The date applicant took and passed the required NPLEX examinations of Part I; Biomedical examination, Part II; Clinical Science examination, Part II; Core Clinical Science Examination, and the Clinical Elective examinations in acupuncture, and minor surgery. The date applicant took and passed the examination in Arizona naturopathic jurisprudence that is administered by the Board. Applicant must have taken and passed all the required examinations within a five-year period immediately preceding the date of application submission to the Board;
 - i. A list of all license or certificates issued or denied by any agency. Applicant must cause to have a document submitted directly to the Board from each

agency listed, containing the applicant's name, date of issuance or denial, current status, and whether or not any disciplinary actions are pending or have ever been taken;

- j. Whether applicant has ever been arrested, charged with, convicted of, or entered into a plea of no contest to a felony or a misdemeanor;
- k. Whether applicant has ever had a naturopathic medical license or certification, or any other health profession license or certification denied, suspended, rejected or revoked by any agency;
- l. Whether applicant has ever been disciplined by any agency for any act of unprofessional conduct as defined in A.R.S. § 32-1501;
- m. Whether applicant, in lieu of disciplinary action, has entered into a consent agreement or stipulation with a licensing agency in any state, district or territory of the United States or another country;
- n. Whether applicant currently has an open complaint or is involved in any open investigation in any agency or court of law, in any state, district or territory of the United States or another country;
- o. Whether applicant has ever had the authority to prescribe, dispense, or administer a natural substance, drug, or device limited, restricted, modified, denied, surrendered or revoked by a federal or state agency or court of law, in any state, district or territory of the United States or country;
- p. Whether applicant has ever been found medically incompetent;
- q. Whether applicant has ever been a defendant in any malpractice matter that resulted in a settlement or judgment;
- r. Whether applicant has a medical condition that in any way impairs or limits applicant's ability to practice medicine, and;
- s. A detailed explanation and supporting documentation for each affirmative answer to questions regarding the applicant's background;
2. A copy of the applicant's complete NPLEX examination record, to be sent directly to the Board by the North American Board of Naturopathic Examiners ("NABNE") or its successor;
3. A complete transcript sent directly to the Board from the approved school of naturopathic medicine from which the applicant graduated. The transcript shall include the date of graduation and the date of completion of clinical training;
4. A complete and legible fingerprint card, including the DPS processing fee as specified on the application form;
5. A passport size photograph taken within 60 days prior to application submission that is signed on the back by the applicant, and;
6. The fees specified in R4-18-107.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3). Amended by final rulemaking at 21 A.A.R. 2009, effective September 1, 2015 (Supp. 15-3).

R4-18-203. License by Endorsement

In addition to the requirements of R4-18-201, an applicant for licensure by endorsement shall meet the requirements of A.R.S. Title 32, Chapter 14, and provide the Board:

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1. A completed application form, provided by the Board that is signed, dated, and verified, which shall include the following information;
 - a. Applicant's full name and any former names used by the applicant;
 - b. Place and date of birth;
 - c. Social Security number;
 - d. Home, business, and e-mail addresses;
 - e. Home, business, and cell phone numbers;
 - f. A completed Arizona Statement of Citizenship and Alien Status for State Public Benefits, and copy of evidence;
 - g. The name of the approved naturopathic college applicant graduated from, date of graduation, and date of clinical training completion;
 - h. The date applicant took and passed the examination in Arizona naturopathic jurisprudence that is administered by the Board, and the required NPLEX examinations of Part I; Biomedical examination, Part II; Clinical Science examination, Part II; Core Clinical Science Examination, the Clinical Elective examination in acupuncture, and the Clinical Elective examination in minor surgery;
 - i. A list of all license or certificates issued or denied by any agency in any state, district or territory of the United States or another country. Applicant must cause to have a document submitted directly to the Board from each agency listed, containing the applicant's name, date of issuance or denial, current status, and whether or not any disciplinary actions are pending or have ever been taken;
 - j. Whether applicant has ever been arrested, charged with, convicted of, or entered into a plea of no contest to a felony or a misdemeanor;
 - k. Whether applicant has ever had a naturopathic medical license or certification, or any other profession license or certification denied, suspended, rejected or revoked by any agency in any state, district or territory of the United States or another country;
 - l. Whether applicant has ever been disciplined by any agency in any state, district or territory of the United States or another country, for any act of unprofessional conduct as defined in A.R.S. § 32-1501;
 - m. Whether applicant, in lieu of disciplinary action, has entered into a consent agreement or stipulation with a licensing agency in any state, district or territory of the United States or another country;
 - n. Whether applicant currently has an open complaint or is involved in any open investigation in any agency or court of law, in any state, district or territory of the United States or another country;
 - o. Whether applicant has ever had the authority to prescribe, dispense, or administer a natural substance, drug, or device limited, restricted, modified, denied, surrendered or revoked by a federal or state agency or court of law; in any state, district or territory of the United States or another country;
 - p. Whether applicant has ever been found medically incompetent;
 - q. Whether applicant has ever been a defendant in any malpractice matter that resulted in a settlement or judgment;
 - r. Whether applicant has a medical condition that in any way impairs or limits applicant's ability to practice medicine, and;
 - s. A detailed explanation and supporting documentation for each affirmative answer to questions regarding the applicant's background;
2. A document submitted directly to the Board by the agency by whom the applicant is licensed as a naturopathic physician that is signed and dated by an official of the agency and that contains:
 - a. The applicant's name;
 - b. The date of issuance of the license;
 - c. The current status of the license;
 - d. A statement of whether the applicant has ever been denied a license by the agency, and;
 - e. A statement of whether any disciplinary action is pending or has ever been taken against the applicant;
3. A copy of the applicant's complete NPLEX examination record, to be sent directly to the Board by the North American Board of Naturopathic Examiners "NABNE") or its successor;
4. A complete transcript sent directly to the board from the approved school of naturopathic medicine from which the applicant graduated. The transcript shall include the date of graduation and the date of completion of clinical training.
5. Applicant must provide evidence of being actively engaged, for at least three years immediately preceding the application, in one or more of the following:
 - a. The active practice as a licensed doctor of naturopathic medicine;
 - b. Participation in an approved internship, preceptorship or clinical training program in naturopathic medicine, as defined in A.R.S. § 32-1501(4), (5), (7);
 - c. Participation in an approved postdoctoral training program in naturopathic medicine, as defined in A.R.S. § 32-1501(6);
 - d. Active in the resident study of naturopathic medicine at an approved school of naturopathic medicine, as defined in A.R.S. § 32-1501(8)(a) and (b);
6. A complete and legible fingerprint card, including the DPS processing fee, as specified on the application form;
7. A passport size photograph taken within 60 days prior to application submission, that is signed on the back by the applicant;
8. The fees specified in R4-18-107;
9. Applicants who were licensed in another state or a Canadian province before January 1, 2005, shall include evidence of completion of additional 60 hours of continuing medical education ("CME") in the subject of pharmacotherapeutics. The CME must be offered, sanctioned, or accredited by one of the organizations referenced in R4-18-205(B)(1), (2)(a), (b), (c) or (4)(a), (b), (c), and include an examination. In the event the applicant cannot provide satisfactory evidence of completion of the required pharmacotherapeutics, or the required examinations, pursuant to A.R.S. § 32-1524(E), and (G)(3), the applicant will have an additional 365 days from the date the board notifies the applicant of the deficiency, to supply satisfactory evidence of completion.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3). Amended by final

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rulemaking at 21 A.A.R. 2009, effective September 1, 2015 (Supp. 15-3). Duplicate word “has” removed under subsection (1)(m) (Supp. 22-3).

R4-18-204. Specialists Certificate

To obtain a specialist certificate, a physician shall meet the requirements of A.R.S. Title 32, Chapter 14 and provide the Board:

1. A completed application form, provided by the Board that is signed, dated, and verified, which shall include the following information;
 - a. Applicant's full name;
 - b. Current State of Arizona Naturopathic Physicians Medical License number;
 - c. Email address, phone number, and mailing address;
 - d. Name and address of the approved specialty college or program from which applicant completed post-doctoral specialty training;
 - e. The specialty applicant received training in, and a copy of the certificate of completion received in the specialty;
 - f. Who the specialty program was approved by;
 - g. Whether applicant has a medical condition that in any way impairs or limits applicant's ability to practice medicine;
 - h. Whether applicant has ever been disciplined by any agency in any state or territory of the United States, for any act of unprofessional conduct as defined in A.R.S. § 32-1501;
 - i. Whether applicant has ever had a naturopathic medical license or certification, or any other health profession license or certification denied, suspended, rejected or revoked by any agency in any state or territory of the United States, and;
 - j. A detailed explanation and supporting documentation for each affirmative answer to questions regarding the applicant's background;
2. The fees specified in R4-18-107 and;
3. A letter from the specialty board that conducted the specialty examination verifying that the licensee is certified as a specialists in the specialty for which application is made;
4. A certificate issued to a physician pursuant to A.R.S. § 32-1529(C.), shall be concurrently renewed, suspended or revoked, with that physician's license to practice naturopathic medicine.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3). Amended by final rulemaking at 21 A.A.R. 2009, effective September 1, 2015 (Supp. 15-3).

R4-18-205. Continuing Medical Education Requirements

- A. Every calendar year, a physician shall complete 30 credit hours of approved continuing medical education activities. Ten credit hours shall be in pharmacology as it relates to the diagnosis, treatment, or prevention of disease. Eight credit hours shall be from programs approved by one or more of the organizations listed in subsection (B)(2). One hour of credit is allowed for every 50 minutes of participation in an approved continuing medical education activity unless otherwise noted in R4-18-205(B).
- B. The following are approved continuing medical education activities:

1. Education certified as Category I by an organization accredited by the Accreditation Council on Continuing Medical Education;
 2. Continuing medical educational programs in the clinical application of naturopathic medical philosophy that are approved by;
 - a. The American Association of Naturopathic Physicians or any of its constituent organizations,
 - b. The Arizona Naturopathic Medical Association, or
 - c. Any naturopathic licensing authority in the United States or Canada.
 3. One credit hour may be claimed for each eight hour day of training in an internship training program, a preceptorship training program, or a postdoctoral training program approved by the Board. A maximum of eight hours per year may be claimed in this manner.
 4. One credit hour, not to exceed eight credit hours, may be claimed for each eight hour day of research in subjects listed in A.R.S. § 32-1525(B), if the research is conducted by or sponsored by a school of naturopathic medicine that is accredited or a candidate for accreditation by:
 - a. The Council on Naturopathic Medical Education,
 - b. The Council for Higher Education Accreditation, or
 - c. An accrediting agency recognized by the United States Department of Education.
 5. One credit hour may be claimed for each hour serving as an instructor of naturopathic medical students or other physicians in a program approved by one of the organizations listed in subsection (B)(2), or a school approved by the Board. A maximum of eight hours may be claimed in this manner.
 6. A maximum of four credit hours may be claimed for preparing or writing for presentation or publication, a medically related paper, report, or book that is presented or published addressing current developments, skills, procedures, or treatment in the practice of naturopathic medicine. Credit may be claimed only for materials presented or published. Credit may be claimed once as of the date of publication or presentation.
 7. A maximum of eight credit hours may be earned for the following activities that provide necessary understanding of current developments, skills, procedures, or treatment related to the practice of naturopathic medicine if the physician maintains a record for at least three years that includes the name of the activity, the date of the activity, and the amount of time to complete the activity:
 - a. Self-instruction that utilizes videotapes, audiotapes, films, filmstrips, slides, radio broadcasts, or computers;
 - b. Independent reading of scientific journals and books;
 - c. Preparation for specialty board certification or recertification examinations; or
 - d. Participation on a staff committee or quality of care or utilization review committee in a facility or government agency.
- C. The Board shall grant an extension of time to complete continuing medical education required in subsection (A) upon written application by a licensee if the licensee fails to meet the requirements due to illness, military service, medical or religious missionary activity, residence in a foreign country, or other extenuating circumstance. An extension, other than for military service, shall not exceed 90 days.
- D. An applicant for renewal of a license shall certify on the application for renewal, under penalty of perjury, that the applicant

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has met or will meet, before January 1, the continuing medical education requirements for the calendar year.

- E. Board staff shall annually select a minimum of ten percent of the active licensees for an audit of required continuing medical education. Failure to complete the required continuing medical education is considered unprofessional conduct.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3).

R4-18-206. Renewal of a License

To renew a license to practice naturopathic medicine, on or before January 1 of each year, a licensee shall submit a complete license application renewal form, that allows the Board to determine whether the applicant continues to meet the requirements of A.R.S. Title 32, Chapter 14. If an applicant makes a timely and complete application for renewal of the applicant's license, the physician may continue to practice until the application is approved or denied by the Board.

1. A completed application form, provided by the Board that is signed, dated, and verified, which shall include the following information;
 - a. Applicant's full name;
 - b. Applicant's State of Arizona Naturopathic Physicians Medical License number and initial issuance date of the license;
 - c. Applicant's home, business, and choice of e-mail addresses, and choice of mailing address;
 - d. Applicant's home, business, and cell phone numbers;
 - e. Applicant's attestation of completion of the Continuing Medical Education credit hours required to renew the medical license;
 - f. A statement indicating whether, during the last 12 months, applicant was arrested, charged with, convicted of, or entered into a plea of no contest to any criminal act;
 - g. A statement indicating whether, during the last 12 months, applicant had any licensing agency or board, in any state, district or territory of the United States or another country, initiate or take any action against any license or certificate that is or was held;
 - h. A statement indicating whether, during the last 12 months, applicant entered into a consent agreement or stipulation with any agency in lieu of disciplinary action in any state, district or territory of the United States or another country;
 - i. A statement of whether during the last 12 months applicant was named in a malpractice suit;
 - j. A statement of whether applicant has a complaint currently pending before any agency, or court of law; in any state, district or territory of the United States or another country;
 - k. A detailed explanation and supporting documentation for each affirmative answer to questions regarding the applicant's background; and
2. The fee specified in R4-18-107.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3). Amended by final rulemaking at 21 A.A.R. 2009, effective September 1, 2015 (Supp. 15-3).

R4-18-207. Reinstatement of an Expired License or Certifi-**cate**

- A. In order to reinstate an expired license, an applicant must meet the requirements in A.R.S. § 32-1526, and pay a renewal and penalty fee for each year the license has been expired. In addition, the applicant must demonstrate completion of 30 hours of continuing medical education for each year the license has been expired. The CME must cover clinical application of naturopathic medical philosophy, pharmacology, and be accredited by the Accreditation Council on Continuing Medical Education or approved by any of the programs listed in R4-18-201(B)(2).
- B. The applicant must provide the Board with:
1. A completed application form, provided by the Board that is signed, dated, and verified; which shall include the following information;
 - a. Applicant's full name and any former names used by the applicant;
 - b. Applicant's place and date of birth;
 - c. Applicant's Social Security number;
 - d. Applicant's home, business, and e-mail addresses;
 - e. Applicant's home, business, and cell phone numbers;
 - f. A completed Arizona Statement of Citizenship and Alien Status for State Public Benefits, and copy of evidence;
 - g. The name of the approved naturopathic college applicant graduated from, date of graduation, and date of clinical training completion;
 - h. A list of all license or certificates issued or denied by any agency in any state, district or territory of the United States or another country. Applicant must cause to have a document submitted directly to the Board from each agency listed, containing the applicant's name, date of issuance or denial, current status and whether or not any disciplinary actions are pending or have ever been taken;
 - i. Whether applicant has ever been arrested, charged with, convicted of, or entered into a plea of no contest to a felony or a misdemeanor;
 - j. Whether applicant has ever had a naturopathic medical license or certification, or any other health profession license or certification denied, suspended, rejected or revoked by any agency in any state, district or territory of the United States or another country;
 - k. Whether applicant has ever been disciplined by any agency in any state, district or territory of the United States or another country for any act of unprofessional conduct as defined in A.R.S. § 32-1501;
 - l. Whether in lieu of disciplinary action, has applicant ever entered into a consent agreement or stipulation with a licensing agency in any state, district or territory of the United States or another country;
 - m. Whether applicant currently has an open complaint or is involved in any open investigation in any agency or court of law, in any state, district or territory of the United States or another country;
 - n. Whether applicant has ever had the authority to prescribe, dispense, or administer a natural substance, drug, or device limited, restricted, modified, denied, surrendered or revoked by a federal or state agency or court of law in any state, district or territory of the United States or another country;

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- o. Whether applicant has ever been found medically incompetent;
- p. Whether applicant has ever been a defendant in any malpractice matter that resulted in a settlement or judgment;
- q. Whether applicant has a medical condition that in any way impairs or limits applicant's ability to practice medicine, and;
- r. A detailed explanation and supporting documentation for each affirmative answer to questions regarding the applicant's background;
- 2. A complete and legible fingerprint card, including the DPS processing fee as specified on the application form;
- 3. A passport size photograph taken within 60 days prior to application submission that is signed on the back by the applicant;
- C. An applicant for reinstatement of an expired certificate to dispense must complete the renewal application form and pay the renewal and late fees for each year the certificate has been expired;
- D. An applicant for reinstatement of a certificate to dispense must complete the initial application form for the certificate. Pursuant to A.R.S. § 32-1526(H), an applicant for reinstatement of an expired certificate shall pay all renewal and penalty fees;
- E. A applicant who held a specialty certificate that expired with the license, may request reinstatement of the certificate on the application for reinstatement of the medical license.
- j. Whether applicant has ever been arrested, charged with, convicted of, or entered into a plea of no contest to a felony or a misdemeanor;
- k. Whether applicant has ever had a naturopathic medical license or certification, or any other health profession license or certification denied, suspended, rejected or revoked by any agency in any state, district or territory of the United States or another country;
- l. Whether applicant has ever been disciplined by any agency in any state, district or territory of the United States or another country, for any act of unprofessional conduct as defined in A.R.S. § 32-1501;
- m. Whether in lieu of disciplinary action, has applicant ever entered into a consent agreement or stipulation with a licensing agency in any state, district or territory of the United States or another country;
- n. Whether applicant currently has an open complaint or is involved in any open investigation in any agency or court of law, in any state, district or territory of the United States or another country;
- o. Whether applicant has ever had the authority to prescribe, dispense, or administer a natural substance, drug, or device limited, restricted, modified, denied, surrendered or revoked by a federal or state agency or court of law in any state, district or territory of the United States or another country;
- p. Whether applicant has ever been found medically incompetent;
- q. Whether applicant has ever been a defendant in any malpractice matter that resulted in a settlement or judgment;
- r. Whether applicant has a medical condition that in any way impairs or limits applicant's ability to practice medicine, and;
- s. A detailed explanation and supporting documentation for each affirmative answer to questions regarding the applicant's background.
- 2. A complete and legible fingerprint card, including the DPS processing fee as specified on the form;
- 3. A passport size photograph taken within 60 days prior to application submission that is signed on the back by the applicant;
- 4. The fees specified in R4-18-107; and
- 5. Provide proof of completion of 30 hours of CME taken, within the last 12 months prior to application submission. The CME is in addition to the 30 hours required each year for license renewal, must cover clinical application of naturopathic medical philosophy, pharmacology, and be accredited by the Accreditation Council on Continuing Education, or approved by any of the programs listed in R4-18-201(B)(2).
- B. An applicant for reinstatement of a retired certificate to dispense must complete the renewal application form for the certificate, and pay the fee specified in R4-18-107.
- C. An applicant who held a specialty certificate that retired with the license, may request reinstatement of the certificate on the application for reinstatement of the medical license.

Historical Note

New Section made by final rulemaking at 21 A.A.R. 2009, effective September 1, 2015 (Supp. 15-3).

R4-18-208. Reinstatement of a Retired License

- A. A person may apply to reinstate a retired license to active practice, upon payment of the renewal fee. As a condition of reinstatement of a retired license, pursuant to A.R.S. § 32-1528, each applicant shall provide proof of completion of 30 hours of continuing medical education, and provide the Board with:
 - 1. A completed application form, provided by the Board that is signed, dated, and verified; which shall include the following information:
 - a. Applicant's full name and any former names used by the applicant;
 - b. Applicant's place and date of birth;
 - c. Applicant's Social Security number;
 - d. Applicant's home, business, and e-mail addresses;
 - e. Applicant's home, business, and cell phone numbers;
 - f. A completed Arizona Statement of Citizenship and Alien Status for State Public Benefits, and copy of evidence;
 - g. The name of the approved naturopathic college applicant graduated from, date of graduation, and date of clinical training completion;
 - h. The dates applicant retired the license;
 - i. A list of all licenses or certificates issued or denied by any agency in any state, district or territory of the United States or another country. Applicant must cause to have a document submitted directly to the Board from each agency listed, containing the applicant's name, date of issuance or denial, current status and whether or not any disciplinary actions are pending or have ever been taken;

Historical Note

New Section made by final rulemaking at 21 A.A.R. 2009, effective September 1, 2015 (Supp. 15-3).

R4-18-209. Reinstatement of a Suspended, Revoked, or Sur-

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rendered License or Certificate

- A.** A person may apply to the board for the termination of the suspension or reissuance of a revoked license. Pursuant to A.R.S. § 32-1551, the board shall make its determination on each application as it deems consistent with the public health, safety and just in the circumstances. The applicant must provide the Board with;
1. A completed application form, provided by the Board that is signed, dated, and verified; which shall include the following information;
 - a. Applicant's full name and any former names used by the applicant;
 - b. Applicant's place and date of birth;
 - c. Applicant's Social Security number;
 - d. Applicant's home, business, and e-mail addresses;
 - e. Applicant's home, business, and cell phone numbers;
 - f. A completed Arizona Statement of Citizenship and Alien Status for State Public Benefits, and copy of evidence;
 - g. The name of the approved naturopathic college applicant graduated from, date of graduation, and date of clinical training completion;
 - h. Documentation showing that the basis for the suspension or revocation has been removed, and that suspension termination or reinstatement of the license or certificate, does not constitute a threat to the public health or safety;
 - i. A list of all license or certificates issued or denied by any agency in any state, district or territory of the United States or another country. Applicant must cause to have a document submitted directly to the Board from each agency listed, containing the applicant's name, date of issuance or denial, current status and whether or not any disciplinary actions are pending or have ever been taken;
 - j. Whether applicant has ever been arrested, charged with, convicted of, or entered into a plea of no contest to a felony or a misdemeanor;
 - k. Whether applicant has ever had a naturopathic medical license or certification, or any other health profession license or certification denied, suspended, rejected or revoked by any agency in any state, district or territory of the United States or another country;
 - l. Whether applicant has ever been disciplined by any agency in any state, district or territory of the United States or another country, for any act of unprofessional conduct as defined in A.R.S. § 32-1501;
 - m. Whether in lieu of disciplinary action, has applicant ever entered into a consent agreement or stipulation with a licensing agency in any state, district or territory of the United States or another country;
 - n. Whether applicant currently has an open complaint or is involved in any open investigation in any agency or court of law, in any state, district or territory of the United States or another country;
 - o. Whether applicant has ever had the authority to prescribe, dispense, or administer a natural substance, drug, or device limited, restricted, modified, denied, surrendered or revoked by a federal or state agency or court of law in any state, district or territory of the United States or another country;
 - p. Whether applicant has ever been found medically incompetent;
 - q. Whether applicant has ever been a defendant in any malpractice matter that resulted in a settlement or judgment;
 - r. Whether applicant has a medical condition that in any way impairs or limits applicant's ability to practice medicine, and;
 - s. A detailed explanation and supporting documentation for each affirmative answer to questions regarding the applicant's background;
 2. A complete and legible fingerprint card, including the DPS processing fee as specified on the application form;
 3. A passport size photograph taken within 60 days prior to application submission that is signed on the back by the applicant, and;
 4. The fees specified in R4-18-107;
 5. Proof of completion of 30 hours of CME for each year the license has been suspended or revoked. The CME is in addition to the 30 hours required each year for license renewal, must cover clinical application of naturopathic medical philosophy and pharmacology, and, be accredited by the Accreditation Council on Continuing Education, or approved by any of the programs listed in R4-18-205(B)(2);
- B.** An applicant for reinstatement of a suspended or revoked certificate to dispense shall submit a complete renewal form, along with the fee specified in R4-18-107;
- C.** An applicant who held a specialty certificate that was suspended or revoked with the license, may request reinstatement of the certificate on the application for reinstatement of the medical license.
- D.** An applicant seeking licensure after the surrendered of a license or certificate must apply and meet the requirements as a new applicant.

Historical Note

New Section made by final rulemaking at 21 A.A.R. 2009, effective September 1, 2015 (Supp. 15-3).

ARTICLE 3. RESERVED**ARTICLE 4. APPROVAL OF SCHOOLS OF NATUROPATHIC MEDICINE****R4-18-401. Approval of a School of Naturopathic Medicine**

The Board shall approve a school of naturopathic medicine if, in addition to the requirements of A.R.S. § 32-1501(8):

1. It is accredited or a candidate for accreditation by the Council on Naturopathic Medical Education, or its successor agency, and
2. It has complied with the requirements of the Arizona State Board of Private Post Secondary Education in A.R.S. Title 32, Chapter 30 and A.A.C. 4-39-101 through 4-39-603.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3).

R4-18-402. Annual Renewal of an Approved School of Naturopathic Medicine

An approved school of naturopathic medicine shall be renewed by submitting on or before January 1 of each year, the information required by the Board that allows the Board to determine if the

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applicant continues to meet the requirements of A.R.S. § 32-1501(8) and of R4-18-401.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3).

ARTICLE 5. NATUROPATHIC CLINICAL TRAINING AND PRECEPTORSHIP TRAINING PROGRAM REQUIREMENTS

R4-18-501. Certificate to Engage in Clinical or Preceptorship Training

- A. To obtain a certificate to engage in clinical or preceptorship training, an applicant shall submit to the Board a complete application form provided by the Board, that allows the Board to determine if the applicant meets the requirements of A.R.S. § 32-1524. The application shall be verified, and include the fee listed in R4-18-107;
- B. In addition to the requirements in subsection (A) a naturopathic medical student who applies for a certificate to engage in clinical training shall comply with the requirements of A.R.S. § 32-1560, and, be attending an approved naturopathic medical school. Applicant must arrange to have submitted directly to the Board, a letter from the chief medical officer of the medical school verifying that the applicant will be entering clinical training, and the anticipated starting and completion dates. The Board may deny an application for any reason set forth in A.R.S. § 32-1501(31) and A.R.S. § 32-1522(A)(3) through (6);
- C. Applicant must take and pass the examination in Arizona naturopathic jurisprudence that is administered by the Board, with a minimum score of 75%, include with the application a passport size photograph taken within 60 days prior to application submission that is signed on the back by the applicant, provide a legible fingerprint card, including the DPS processing fee as specified on the application form;
- D. The application form for clinical training entry shall include:
 1. Applicant's full name and any former names used by applicant;
 2. Applicant's place and date of birth;
 3. Applicant's Social Security number;
 4. Applicant's home and email address;
 5. Applicant's home and cell phone numbers;
 6. The name and address of the approved naturopathic college applicant is attending; name and address of clinical training program, the date of clinical entry and the date of completion of clinical entry;
 7. The name of the Supervising Physician and the name of the Chief Medical Officer of the Clinical Training program;
 8. Whether applicant has ever been arrested, charged with, convicted of, or entered into a plea of no contest to a felony or a misdemeanor;
 9. Whether applicant has ever had a naturopathic medical license or certification, or any other health profession license or certification denied, suspended, rejected or revoked by any agency in any state, district or territory of the United States or another country;
 10. Whether applicant has ever been disciplined by any agency in any state, district or territory of the United States or another country, for any act of unprofessional conduct as defined in A.R.S. § 32-1501;
 11. Whether applicant, in lieu of disciplinary action, has entered into a consent agreement or stipulation with a licensing agency in any state, district or territory of the United States or another country;
- E. In addition to the requirements in subsection (A), an applicant for a certificate to engage in a preceptorship training program shall comply with the requirements of A.R.S. § 32-1561 and arrange to have submitted directly to the Board, an official transcript from the approved naturopathic medical school from which the applicant graduated;
- F. Applicant must take and pass the examination in Arizona naturopathic jurisprudence that is administered by the Board with a minimum score of 75%, include with the application, a passport size photograph taken within 60 days prior to application submission that is signed on the back by the applicant, provide a legible fingerprint card, including the DPS processing fee as specified on the application form;
- G. The application form for preceptorship training shall include:
 1. Applicant's full name and any former names used by applicant;
 2. Applicant's place and date of birth;
 3. Applicant's Social Security number;
 4. Applicant's home and email address;
 5. Applicant's home and cell phone numbers;
 6. The name, address, and medical license number of the Supervising Physician, designated Supervising Physician, if any, and Chief Medical Officer;
 7. Attestation signed by the Supervising Physician declaring they have read and understand A.R.S. § 32-1561 and R4-18-108, and agree to be the Supervising physician of record;
 8. Whether applicant has ever been arrested, charged with, convicted of, or entered into a plea of no contest to a felony or a misdemeanor;
 9. Whether applicant has ever had a naturopathic medical license or certification, or any other health profession license or certification denied, suspended, rejected or revoked by any state, district or territory or the United States or another country;
 10. Whether applicant has ever been disciplined by any agency in any state, district or territory of the United States or another country, for any act of unprofessional conduct as defined in A.R.S. § 32-1501;

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11. Whether applicant, in lieu of disciplinary action by any agency, in any state, district or territory of the United States or another country, has entered into a consent agreement or stipulation with a licensing agency;
12. Whether applicant currently has an open complaint or is involved in any open investigation in any agency or court of law, in any state, district or territory of the United States or another country;
13. Whether applicant has ever had the authority to prescribe, dispense, or administer a natural substance, drug, or device limited, restricted, modified, denied, surrendered or revoked by a federal or state agency or court of law, in any state, district or territory of the United States, or another country;
14. Whether applicant has ever been found medically incompetent;
15. Whether applicant has ever been a defendant in any malpractice matter that resulted in a settlement or judgment;
16. Whether applicant has a medical condition, that in any way, impairs or limits applicant's ability to practice medicine;
17. A detailed explanation and supporting documentation for each affirmative answer to questions regarding the applicant's background; and
18. A completed Arizona Statement of Citizenship and Alien Status for State Public Benefits, and copy of evidence.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3). Amended by final rulemaking at 21 A.A.R. 2009, effective September 1, 2015 (Supp. 15-3).

R4-18-502. Annual Renewal of a Certificate to Engage in Clinical or Preceptorship Training

A holder of a certificate to engage in clinical training shall renew the certification by submitting before the expiration date of the certificate a completed clinical training renewal form. A holder of a certificate to engage in preceptorship training shall renew the certification on or before July 1, by submitting a completed preceptorship renewal form.

1. Applicant must submit a completed application form provided by the Board for renewal of certification that allows the Board to determine whether the holder of the certificate continues to meet the requirements of A.R.S. Title 32 Chapter 14. The form must be signed, dated, and shall include:
 - a. Applicant's full name and any former names used by applicant;
 - b. Applicant's certificate number, and original issue date;
2. The fees specified in R4-18-107.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3). Amended by final rulemaking at 21 A.A.R. 2009, effective September 1, 2015 (Supp. 15-3).

R4-18-503. Application for a Certificate to Conduct a Clinical or Preceptorship Training Program

A chief medical officer applying on behalf of a school of naturopathic medicine for a certificate to conduct clinical training, or on behalf of a preceptorship training program, shall submit to the Board the fee indicated in R4-18-107 and an application form pro-

vided by the Board, signed and dated by the chief medical officer, that contains:

1. The chief medical officer's name, mailing address, and telephone number;
2. The name and address of the training program and of each facility where training will be conducted;
3. The name, professional degree, license number, and licensing agency for each physician who will be providing supervision in the training program; and
4. A mission statement outlining the goals of the training program.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3).

R4-18-504. Annual Renewal of Certificate to Conduct a Clinical or Preceptorship Training Program

A certificate to conduct clinical or preceptorship training shall be renewed before the anniversary date, by submitting the appropriate fee listed in R4-18-107 and a completed form.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3).

ARTICLE 6. NATUROPATHIC MEDICAL ASSISTANTS**R4-18-601. Definitions**

In addition to the definitions in A.R.S. § 32-1501 and R4-18-101, the following definitions apply to this Article:

1. "Approved medical assistant training program" means a course of study for medical assistants that is provided:
 - a. At an institution that is accredited by:
 - i. The Commission on Accreditation of Allied Health Education Programs,
 - ii. The Commission for the Accrediting Bureau of Health Education Schools, or
 - iii. An accrediting agency recognized by the United States Department of Education or the Armed Forces of the United States, or
 - b. By an organization recognized by the American Association of Naturopathic Physicians.
2. "Employ" means to compensate by money or other consideration for work performed.
3. "Medical history" means an account of an individual's past and present physical and mental health including the individual's illness, injury, or disease.
4. "Medication" means a drug as defined in A.R.S. § 32-1501 or a natural substance as defined in A.R.S. § 32-1581.
5. "Naturopathic practice" means a place where the practice of naturopathic medicine as defined in A.R.S. § 32-1501 takes place.
6. "Training" means classroom and clinical instruction completed by an individual as part of an approved medical assistant training program, or training designed and offered by a licensed naturopathic physician, that meets or exceeds the standards of one of the approved medical assistant training programs listed in subsection (1)(a) through (b).
7. "Treatment" means any of the acts included in the practice of naturopathic medicine as defined in A.R.S. § 32-1501.

Historical Note

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New Section made by final rulemaking at 11 A.A.R. 1547, effective June 4, 2005 (Supp. 05-2). Amended by final rulemaking at 30 A.A.R. 346 (February 23, 2024), effective April 1, 2024 (Supp. 24-1).

R4-18-602. Medical Assistant Qualification and Training Requirements

A licensed Naturopathic Physician who provides direct supervision to a medical assistant, shall ensure that the medical assistant satisfies one of the following training requirements before the medical assistant is employed:

1. Completes an approved medical assistant training program;
2. Completes a medical assistant training program designed and offered by a licensed Naturopathic Physician that meets the requirements outlined in A.R.S. § 32-1559(D)(1) through (4), and passes a medical assistant examination administered by either the American Association of Medical Assistants or the American Medical Technologists; or
3. Completes a medical services training program of The Armed Forces of the United States;
4. A licensed Naturopathic Physician must obtain approval of the medical assistant training program prior to providing the training, by submitting the required application to the Board.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 1547, effective June 4, 2005 (Supp. 05-2). Amended by final rulemaking at 30 A.A.R. 346 (February 23, 2024), effective April 1, 2024 (Supp. 24-1).

R4-18-603. Application for Medical Assistant Certification

An applicant for a medical assistant certificate shall submit an application packet to the Board that contains the following:

1. An application form provided by the Board, signed and dated by the applicant that contains:
 - a. The applicant's legal name, mailing address, telephone number, and Social Security number;
 - b. The applicant's date and place of birth;
 - c. The applicant's height, weight, and eye and hair color;
 - d. The name, address, and telephone number of the applicant's employer, if applicable;
 - e. The name of the licensed naturopathic physician who will supervise the applicant;
 - f. The name and address of the institution where the applicant completed an approved medical assistant training program; or
 - g. If the training was completed in a program provided by a licensed naturopathic physician, the following must be submitted:
 - i. A letter outlining the training provided and signed by the naturopathic physician who provided the training;
 - ii. Proof of passing the required medical assistant examination administered by either The American Association of Medical Assistants or The American Medical Technologists; or
 - iii. Proof of completion of a medical services training program of The Armed Forces of the United States.
2. A copy of a certificate of completion from an approved medical assistant training program or a letter of completion from an approved medical assistant training program

signed by the person in charge of the approved medical assistant training program;

3. A completed and legible fingerprint card; and
4. The fees required by the Board under A.R.S. § 32-1527.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 1547, effective June 4, 2005 (Supp. 05-2). Amended by final rulemaking at 30 A.A.R. 346 (February 23, 2024), effective April 1, 2024 (Supp. 24-1).

R4-18-604. Renewal of Medical Assistant Certificate

An applicant for a renewal certificate shall submit to the Board:

1. A renewal form, provided by the Board, that is signed and dated by the applicant and contains the applicant's:
 - a. Name,
 - b. Social Security number,
 - c. Residence and naturopathic practice addresses, and
 - d. Telephone number; and
2. The fee required by the Board under A.R.S. § 32-1527.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 1547, effective June 4, 2005 (Supp. 05-2).

R4-18-605. Authorized Procedures for Medical Assistants

A. A medical assistant may perform the following under the direct supervision of a physician:

1. Obtain a patient's medical history;
2. Obtain a patient's vital signs;
3. Assist a physician in performing a physical examination, surgical procedure, or treatment;
4. Perform a diagnostic test ordered by a physician including:
 - a. An electrocardiogram;
 - b. A peripheral vein puncture;
 - c. A capillary puncture;
 - d. Urine analysis;
 - e. A hematology test; or
 - f. Respiratory function testing;
5. Administer a medication:
 - a. By mouth; or
 - b. By subcutaneous or intra-muscular injection if the medical assistant received training on performing this type of administration from an approved medical assistant training program;
6. Monitor and remove an intravenous administration of a medication established by a supervising physician if the medical assistant received training on monitoring and removing an intravenous administration from an approved medical assistant training program.
7. Perform physiotherapy, which includes the following:
 - a. Whirlpool treatment,
 - b. Diathermy treatment,
 - c. Electronic stimulation treatment,
 - d. Ultrasound therapy,
 - e. Massage therapy,
 - f. Traction,
 - g. Transcutaneous nerve stimulation,
 - h. Colon hydrotherapy, or
 - i. Hot and cold pack treatment.

B. A medical assistant shall not:

1. Diagnose a medical condition;
2. Design or modify a treatment program;
3. Prescribe a medication or natural substance;
4. Provide a patient with a prognosis;

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5. Unless authorized by law, perform:
 - a. An ionizing radiographic procedure,
 - b. A surgical procedure,
 - c. A central venous catheterization,
 - d. An acupuncture needle insertion, or
 - e. Manipulative therapy;
 6. Administer or establish an intravenous medication;
 7. Perform any procedure that requires precise placement of a needle into a patient by single or multiple injections including:
 - a. Sclerotherapy,
 - b. Prolotherapy,
 - c. Mesotherapy, or
 - d. Neurotherapy; or
 8. Employ the medical assistant's supervising physician or have any financial interest in a naturopathic practice where the supervising physician is employed.
- C. While assisting a naturopathic physician or performing a procedure delegated to the medical assistant, the medical assistant shall wear a clearly visible tag that states the individual is a medical assistant.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 1547, effective June 4, 2005 (Supp. 05-2).

ARTICLE 7. TIME-FRAMES FOR BOARD DECISIONS**R4-18-701. Time-frames for Board Decisions**

- A. The overall time-frame described in A.R.S. § 41-1072(2) for each type of license, certification, or approval granted by the Board is listed in Table 1. The applicant and the Executive Director of the Board may agree in writing to extend a substantive review and overall time-frame by no more than 25 percent of the overall time-frame listed in Table 1.
- B. The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for each type of license, certification, and approval granted by the Board is listed in Table 1.
1. The administrative completeness review time-frame begins on the day the Board receives the application form and the appropriate fee.
 2. If the application packet is incomplete, the Board shall send to the applicant a written notice specifying the missing document or incomplete information.
3. The administrative completeness review time-frame and the overall time-frame are suspended from the date on the Board's notice until the date the Board office receives all missing information.
- C. The substantive review time-frame described in A.R.S. § 41-1072(3) for each type of license, certification, and approval granted by the Board is listed in Table 1.
1. The substantive review time-frame begins on the date of the Board's notice of administrative completeness.
 2. If the Board determines that additional information or documentation is required, the Board shall send to the applicant a written request for that additional information or documentation.
 3. The time-frame for the substantive review is suspended from the date the request for additional information or documentation is sent to the applicant, until the date on which all of the requested information is received.
 4. The Board shall notify the applicant of the dates of all Board meetings at which the application will be considered.
 5. The Board shall send a written notice of approval or denial to applicants within ten working days of the Board meeting at which the decision is made. An applicant may request a hearing on the decision within 30 days of the Board's action.
- D. The Board shall consider an application withdrawn if within 360 days from the date of application the applicant fails to:
1. Supply the missing information requested under subsection (B)(2) or (C)(2); or
 2. If applicable, take and obtain a minimum score of 75% on the Arizona Naturopathic Jurisprudence Examination.
- E. During the administrative review period, an applicant may withdraw an application by requesting withdrawal in writing. During the substantive review period, the Board shall decide whether to grant a request to withdraw.
- F. An applicant shall send written notice to the Board within 10 days from the date of any change of applicant's address.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3).

Table 1. Time-frames

| Type of Approval | Statutory Authority | Administrative Completeness Time-frame | Substantive Review Time-frame | Overall Time-frame |
|-------------------------------------------|-------------------------------------------------------------|----------------------------------------|-------------------------------|--------------------|
| License by Examination (R4-18-202) | A.R.S. §§ 32-1504(A), 32-1522, 32-1523, 32-1523.01, 32-1524 | 90 days | 90 days | 180 days |
| License by Endorsement (R4-18-203) | A.R.S. §§ 32-1504(A), 32-1523 | 60 days | 60 days | 120 days |
| Specialist Certificate (R4-18-204) | A.R.S. §§ 32-1504(B)(3), 32-1529 | 60 days | 60 days | 120 days |
| Annual Renewal of License (R4-18-206) | A.R.S. §§ 32-1504(A), 32-1526 | 30 days | 60 days | 90 days |
| Certificate to Dispense | A.R.S. §§ 32-1504(A), 32-1581 | 30 days | 60 days | 90 days |
| Annual Renewal of Certificate to Dispense | A.R.S. §§ 32-1504(A), 32-1581 | 30 days | 60 days | 90 days |

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|--------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|---------|---------|---------|
| Certificate to Engage in a Clinical, Preceptorship, Internship, or Postdoctoral Training Program (R4-18-501) | A.R.S. §§ 32-1504(A), 32-1560, 32-1561 | 30 days | 60 days | 90 days |
| Annual Renewal of Certificate to Engage in a Clinical, Preceptorship, Internship, or Postdoctoral Training Program (R4-18-502) | A.R.S. §§ 32-1504(A), 32-1560, 32-1561 | 30 days | 60 days | 90 days |
| Certificate to Conduct a Clinical, Preceptorship, Internship, or Postdoctoral Training Program (R4-18-503) | A.R.S. §§ 32-1501, 32-1504(A) | 30 days | 60 days | 90 days |
| Annual Renewal of Certificate to Conduct a Clinical, Preceptorship, Internship, or Postdoctoral Training Program (R4-18-504) | A.R.S. § 32-1504(A) | 30 days | 60 days | 90 days |
| Medical Assistant Certificate | A.R.S. §§ 32-1504(A), 32-1559 | 30 days | 60 days | 90 days |
| Annual Renewal of Medical Assistant Certificate | A.R.S. §§ 32-1504(A), 32-1559 | 30 days | 60 days | 90 days |

Historical Note

New Table made by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3).

ARTICLE 8. EXPERIMENTAL MEDICINE**R4-18-801. Experimental Medicine**

A procedure, medication, or device is experimental if:

1. An Institutional review board exists for a particular procedure, medication, or device;
2. The procedure, medication, or device is not generally considered to be within the accepted practice standards for the naturopathic profession; and
3. The procedure, medication, or device is not part of the curriculum at an approved school of naturopathic medicine or approved postdoctoral training.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3). Amended by final rulemaking at 19 A.A.R. 1302, effective July 6, 2013 (Supp. 13-2).

R4-18-802. Informed Consent and Duty to Follow Protocols

A. A physician, medical student engaged in an approved clinical training program, preceptee, or intern who conducts research involving an experimental procedure, medication, or device, shall ensure that all research subjects give informed consent to participate, which states:

1. Whether a physician, preceptee, or an intern is treating the patient;
2. That the patient or legal guardian of the patient understands:
 - a. The type of treatment the patient is to receive;
 - b. Each procedure that will be provided to the patient;
 - c. The risks and benefits of each procedure, medication, or device to be provided;
 - d. That the patient can withdraw at any time; and
 - e. That the patient is voluntarily participating; and
3. The physician, medical student engaged in the approved clinical training program, preceptee, or intern has established a protocol as required by subsection (B) that meets the requirements of the institutional review board that approved the protocol.

B. A physician, medical student engaged in an approved clinical training program, preceptee, or intern, who conducts research on humans involving an experimental procedure, medication,

or device shall have a protocol for that research approved by an institutional review board.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3702, effective August 9, 2002 (Supp. 02-3). Amended by final rulemaking at 19 A.A.R. 1302, effective July 6, 2013 (Supp. 13-2).

ARTICLE 9. CERTIFICATE TO DISPENSE**R4-18-901. Definitions**

The following definitions apply in this Article:

1. "Applicant" means:
 - a. An individual applying for a license and a certificate to dispense; or
 - b. A licensee requesting a certificate to dispense only.
2. "Auscultation" means the act of listening to sounds within the human body either directly or through the use of a stethoscope or other means.
3. "Certificate to dispense" means an approval granted by the Board to dispense a natural substance, drug, or device.
4. "Dispense" means the same as in A.R.S. § 32-1581(H).
5. "Drug" means the same as in A.R.S. § 32-1501(15).
6. "Hour" means 50 to 60 minutes of participation.
7. "Medical record" means the same as in A.R.S. § 12-2291.
8. "Nutrient" means the same as in A.R.S. § 32-1501(15)(a)(iii).
9. "Physical examination" means an evaluation of the health of an individual's body using inspection, palpation, percussion, and auscultation to determine cause of illness or disease.

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1302, effective July 6, 2013 (Supp. 13-2).

R4-18-902. Qualifications for a Certificate to Dispense

A. To qualify for a certificate to dispense, an applicant shall have completed before the submission date of the application, Board approved training in the safe administration of natural substances, drugs, or devices.

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- B.** The Board approves documentation of the following as evidence of completion of Board approved training in the safe administration of natural substances, drugs, or devices:
1. Graduation from an approved school of naturopathic medicine after January 1, 2005 as referenced in A.R.S. § 32-1525(B)(4); or
 2. Completion of a 60 hour or more pharmacological course on natural substances, drugs, or devices that is offered, approved, or recognized by one of the organizations in R4-18-205(B)(1) or (B)(2), or by passing of The North American Board of Naturopathic Examiners (NABNE) add on Parenteral Medicine Examination.
- C.** If an applicant intends to administer a natural substance or drug intravenously, the Board approved training completed by the applicant shall include administration of a natural substance or drug by intravenous means.

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1302, effective July 6, 2013 (Supp. 13-2). Amended by final rulemaking at 30 A.A.R. 348 (February 23, 2024), effective April 1, 2024 (Supp. 24-1).

R4-18-903. Application for a Certificate to Dispense; Renewal

- A.** An applicant for a certificate to dispense shall submit:
1. An application to the Board that contains:
 - a. The applicant's:
 - i. Full legal name;
 - ii. Naturopathic license number, if known; and
 - iii. Social Security number;
 - b. If a corporation, a statement of whether the corporation holds tax exempt status;
 - c. A statement of whether the applicant holds a drug enforcement number issued by the United States Drug Enforcement Administration, and if so, the drug enforcement number;
 - d. A statement of whether the applicant has ever had the authority to prescribe, dispense, or administer a natural substance, drug, or device limited, restricted, modified, denied, surrendered or revoked by a federal or state agency or court of law, and if so, an explanation that includes:
 - i. The name and address of the federal or state agency or court having jurisdiction over the matter, and
 - ii. The disposition of the matter;
 - e. A statement, signed by the applicant, that the applicant agrees to conform to all federal and state statutes, regulations, and rules; and
 - f. The date the application is submitted; and
 2. Unless exempted by A.R.S. § 32-1530, the fee required by the Board.
- B.** A certificate holder shall renew a certificate to dispense on or before July 1 of each year by submitting:
1. An application to the Board that contains:
 - a. The applicant's full legal name;
 - b. If a corporation, a statement of whether the corporation holds tax exempt status;
 - c. A statement of whether the applicant has had the authority to prescribe, dispense, or administer a natural substance, drug, device limited, restricted, modified, denied, surrendered or revoked by a federal or state agency or court of law, during the one year

period immediately preceding the renewal date and if so, an explanation that includes:

- i. The name and address of the federal or state agency or court having jurisdiction over the matter; and
 - ii. The disposition of the matter; and
- d.** A statement, signed and dated by the applicant, verifying the information on the application is true and correct and the applicant is the licensee named on the application; and
2. Unless exempted by A.R.S. § 32-1530, the fee required by the Board.

- C.** The Board shall grant or deny the certificate to dispense or renewal of certificate to dispense according to the time-frames in Article 7, Table 1 of this Chapter.

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1302, effective July 6, 2013 (Supp. 13-2). Amended by final rulemaking at 30 A.A.R. 348 (February 23, 2024), effective April 1, 2024 (Supp. 24-1).

R4-18-904. Dispensing; Intravenous Nutrients

- A.** To prevent toxicity due to the excessive intake of a natural substance, drug, or device, before dispensing the natural substance, drug, or device to an individual, a certified physician shall:
1. Conduct a physical examination of the individual,
 2. Conduct laboratory tests as necessary that determine the potential for toxicity of the individual, and
 3. Document the results of the physical examination and laboratory tests in the individual's medical record.
- B.** For the purposes of A.R.S. § 32-1504(A)(8), a substance is considered a nutrient suitable for intravenous administration if it complies with A.R.S. § 32-1501(15)(iii).

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1302, effective July 6, 2013 (Supp. 13-2). Amended by emergency rulemaking at 21 A.A.R. 51, effective December 18, 2014, for 180 days (Supp. 14-4). Emergency renewed at 21 A.A.R. 928, effective June 5, 2015, for 180 days (Supp. 15-2). Amended by final rulemaking at 21 A.A.R. 2009, effective September 1, 2015 (Supp. 15-3).

ARTICLE 10. DISPENSING OF A NATURAL SUBSTANCE, DRUG OR DEVICE**R4-18-1001. Certificate to Dispense Required**

- A.** A doctor of naturopathic medicine may dispense a natural substance, a drug, except a schedule II controlled substance that is an opioid, or a device to a patient for a condition that is being diagnosed or treated by the doctor. A doctor who holds a current medical license with the board shall obtain a certificate to dispense annually if the doctor:
1. Maintains a supply of Natural Substances as defined in A.R.S. § 32-1501(23), controlled substances as defined in A.R.S. § 32-1501(12), prescription-only drugs as defined in A.R.S. § 32-1501(17), or prescription-only devices as defined in A.R.S. § 32-1581(H)(i), excluding manufacturer's samples;
 2. Prescribes the items listed in subsection (A)(1) to a patient of the doctor for use outside the office;
 3. Obtains payment for the items listed in subsection (A)(1), including payment from a fulfillment center; or

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4. Administers substances approved for intravenous administration pursuant to A.R.S. § 32-1501(15)(a)(i)(ii)(iii).
- B.** To obtain a certificate to dispense, a doctor shall:
 1. Submit the application form referenced in R4-18-903;
 2. Submit a copy of the doctor's current Drug Enforcement Administration certificate of registration, for each location from which the doctor will dispense a controlled substance; and
 3. Submit the fee required under R4-18-107, unless the doctor is exempt from paying the fee pursuant to A.R.S. § 32-1530. A doctor applying for exemption is required to submit proof of exempt status with the application.
- C.** A doctor shall renew the certificate to dispense by July 1 of each year. If a doctor makes a timely and complete application to renew the certificate, the doctor may continue to dispense until the Board approves or denies the renewal application.
- D.** If a doctor fails to submit a timely and complete application to renew the certificate to dispense, the doctor shall immediately cease dispensing.
- E.** If a doctor fails to comply with subsection (C), the doctor shall not dispense any natural substance, controlled substance, prescription-only drug, or prescription-only device, including substances approved for intravenous administration, until the doctor complies fully with subsection (B) and receives notice the Board approves the application.

Historical note

New Section made by final rulemaking at 30 A.A.R. 348 (February 23, 2024), effective April 1, 2024 (Supp. 24-1).

R4-18-1002. Packaging and Inventory

- A.** A doctor shall dispense all controlled substances and prescription-only drugs in appropriate containers that are in compliance with state and federal laws.
- B.** A doctor shall ensure the natural substance, drug or device dispensed is in compliance with labeling requirements outlined in A.R.S. § 32-1581(2). For the purpose of compliance with A.R.S. § 32-1581(2), if the natural substance or device dispensed does not require a prescription, the information required may be incorporated into an accompanying instruction sheet. For a natural substance that contains multiple ingredients, the strength of each ingredient is not required to be documented, only the brand name of the supplement is required for documentation. All ingredients and amounts administered by intravenous or intramuscular administration are required to be fully documented in the patient chart.
- C.** A doctor shall:
 1. Secure all controlled substances in a locked cabinet or room;
 2. Control access to the locked cabinet or room by a written procedure that include, at a minimum:
 - a. Designation of the persons who have access to the locked room, and
 - b. Procedures for recording requests for access to the locked cabinet or room;
 3. Make a written procedure required under subsection (C)(2) available on demand by the Board or its authorized representative for inspection and copying;
 4. Store prescription-only drugs so they are not accessible to patients; and
 5. Store controlled substances and prescription-only drugs not requiring refrigeration in an area where the temperature does not exceed 85 degrees Fahrenheit.
- D.** A doctor shall maintain an ongoing dispensing log for all controlled substances and prescription-only drugs dispensed by the physician. The dispensing log shall include the following:
 1. A separate inventory sheet for each controlled substance and prescription-only drug;
 2. The date the drug is dispensed;
 3. The patient's name;
 4. The name of the controlled substance or prescription-only drug, strength, dosage, form, and name of manufacturer;
 5. The number of dosage units dispensed;
 6. A running total of each controlled substance or prescription-only drug dispensed; and
 7. The written signature of the doctor next to each entry.
- E.** A doctor may use a computer to maintain the dispensing log required under subsection (D) if the dispensing log is password protected and quickly accessible through either on-screen viewing or printing a copy.
- F.** This Section does not apply to a prepackaged manufacturer sample of a controlled substance or prescription-only drug unless otherwise provided by federal law.
- G.** The doctor must report the dispensing of controlled substances in compliance with the Arizona Controlled Substance Prescription Monitoring Program.

Historical note

New Section made by final rulemaking at 30 A.A.R. 348 (February 23, 2024), effective April 1, 2024 (Supp. 24-1).

R4-18-1003. Recordkeeping and Reporting Shortages

- A.** A doctor who dispenses a controlled substance or prescription-only drug shall ensure an original prescription order for the controlled substance or prescription-only device is dated, consecutively numbered in the order in which it is originally dispensed, and filed separately from patient medical records. The doctor shall ensure original prescription orders are maintained in three separate files, as follows:
 1. Schedule II controlled substances;
 2. Schedule III, IV and V controlled substances; and
 3. Prescription-only drugs.
- B.** A doctor shall ensure purchase orders and invoices are maintained for all controlled substances and prescription-only drugs dispensed, whether for profit or not for profit, for three years from the date of the purchase order or invoice. Purchase orders and invoices shall be maintained in three separate files as follows:
 1. Schedule II controlled substances only;
 2. Schedule III, IV and V controlled substances; and
 3. All other prescription-only drugs.
- C.** A doctor who discovers a theft or loss of a prescription only drug from the doctors office shall:
 1. Immediately notify the local law enforcement agency,
 2. Provide the local law enforcement agency with a written report, and
 3. Send a copy of the report provided under subsection (C)(2) to the Drug Enforcement Administration and Board within seven days of the discovery.

Historical note

New Section made by final rulemaking at 30 A.A.R. 348 (February 23, 2024), effective April 1, 2024 (Supp. 24-1).

R4-18-1004. Inspections

- A.** A doctor shall cooperate with and allow access to the doctor's office and records for inspection of dispensing practices by the Board or its authorized representative.

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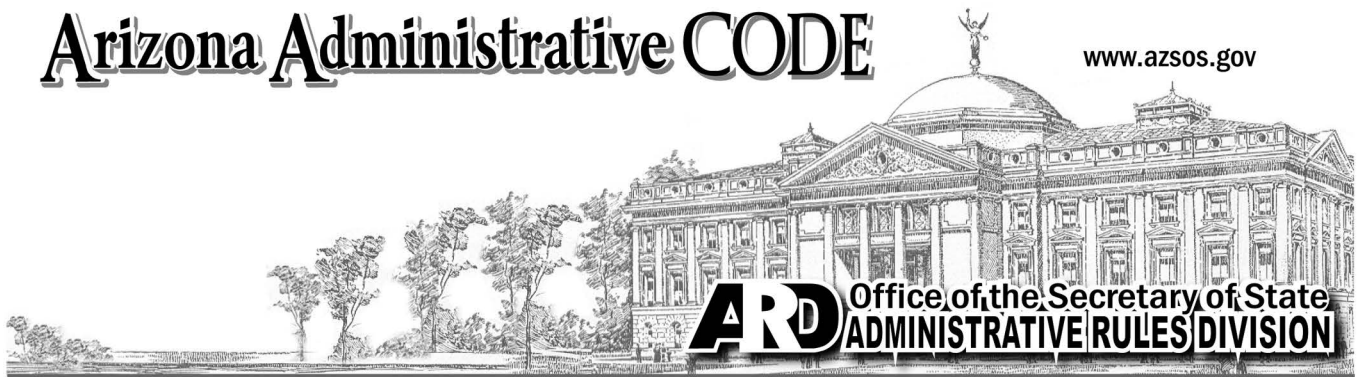
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- B.** The Board shall revoke a doctor's certificate to dispense if the doctor's license is suspended, revoked or surrendered.
- C.** The certificate automatically expires if;
1. The doctor fails to renew the medical license in a timely manner; or
 2. The doctor fails to renew the certificate in a timely manner.
- D.** A doctor who holds a certificate and is not currently under investigation, may request the certificate be cancelled.

Historical note

New Section made by final rulemaking at 30 A.A.R. 348 (February 23, 2024), effective April 1, 2024 (Supp. 24-1).

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The table of contents on page one contains links to the referenced page numbers in this Chapter.

Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
January 1, 2024 through March 31, 2024

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Questions about these rules? Contact:

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The release of this Chapter in Supp. 24-1 replaces Supp. 23-3, 1-86 pages.

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

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

PERSONAL USE/COMMERCIAL USE

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division

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TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

Authority: A.R.S. § 32-1904 et seq.

Supp. 24-1

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Article 5, consisting of Sections R4-23-501 through R4-23-505, expired effective August 30, 2013 (Supp. 14-1).

Article 5, consisting of Sections R4-23-501 and R4-23-502, recodified to Article 8 at 9 A.A.R. 4011, effective August 18, 2003 (Supp. 03-3).

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TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

ARTICLE 1. ADMINISTRATION

R4-23-101. General

- A. This Chapter applies to all actions and proceedings of the Board and shall be deemed part of the record in any Board action or proceeding without formal introduction of, or reference to the rules. A party to a Board action is deemed to have knowledge of the rules.
- B. The Board, within its jurisdiction, may, in the interest of justice, excuse the failure of any person to comply with the rules.
- C. The Board, within its jurisdiction, may grant an extension of time within which to comply with any rule when it deems the extension to be in the interest of justice.

Historical Note

Former Rules 1.1000, 1.1200, and 1.1300; Amended effective August 23, 1978 (Supp. 78-4). Amended by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1); Historical Note updated (Supp. 06-2). Amended by final rulemaking at 30 A.A.R. 155 (January 26, 2024), effective March 4, 2024 (Supp. 24-1).

R4-23-102. Meetings

- A. The Board shall hold not less than four meetings per fiscal year to conduct general business and interview permit and license applicants.
- B. A special meeting of the Board may be held at any time subject to the call of the President or a majority of the Board members and in compliance with the notification requirements of A.R.S. § 38-431.02.

Historical Note

Former Rules 1.2100, 1.2200, 1.2300, and 1.2400. Amended by final rulemaking at 7 A.A.R. 2143, effective May 1, 2001 (Supp. 01-2).

R4-23-103. Repealed**Historical Note**

Former Rules 1.3100, 1.3200, 1.3300, and 1.3400; Amended subsection (C) effective August 9, 1983 (Supp. 83-4). Section repealed by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1); Historical Note updated (Supp. 06-2).

R4-23-104. Repealed**Historical Note**

Former Rules 1.4011, 1.4110, 1.4120, 1.4200, 1.4210, 1.4220, 1.4300, 1.4400, 1.5500, 1.5600, 1.5700, and 1.4500; Amended effective August 23, 1978 (Supp. 78-5); Amended by deleting subsection (B) and renumbering subsections (C) through (J) as subsections (B) through (I) effective August 9, 1983 (Supp. 83-4). Amended effective February 8, 1991 (Supp. 91-1). Section repealed by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1); Historical Note updated (Supp. 06-2).

R4-23-105. Repealed**Historical Note**

Former Rules 1.5100, 1.5200, 1.5300, and 1.5400; Amended subsection (B) effective August 9, 1983 (Supp. 83-4). Section repealed by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1); Historical Note updated (Supp. 06-2).

R4-23-106. Repealed**Historical Note**

Former Rules 1.5800 and 1.5900. Section repealed by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1); Historical Note updated (Supp. 06-2).

R4-23-107. Repealed**Historical Note**

Former Rules 1.5910, 1.5920, 1.5921, and 1.5922. Section repealed by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1); Historical Note updated (Supp. 06-2).

R4-23-108. Repealed**Historical Note**

Former Rule 1.5930. Section repealed by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1); Historical Note updated (Supp. 06-2).

R4-23-109. Repealed**Historical Note**

Former Rules 1.7100, 1.7200, and 1.7300. Amended effective July 14, 1977 (Supp. 77-4). Amended effective February 8, 1991 (Supp. 91-1). Section repealed by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1); Historical Note updated (Supp. 06-2).

R4-23-110. Definitions

In addition to definitions in A.R.S. § 32-1901, the following definitions apply to this Chapter:

“Active ingredient” means any component that furnishes pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease or that affects the structure or any function of the body of man or other animals. The term includes those components that may undergo chemical change in the manufacture of the drug, that are present in the finished drug product in a modified form, and that furnish the specified activity or effect.

“AHCCCS” means the Arizona Health Care Cost Containment System.

“Annual family income” means the combined yearly gross earned income and unearned income of all adult individuals within a family unit.

“Approved course in pharmacy law” means a continuing education activity that addresses practice issues related to state or federal pharmacy statutes, rules, or regulations.

“Approved Provider” means an individual, institution, organization, association, corporation, or agency that is approved by the Accreditation Council for Pharmacy Education (ACPE) in accordance with ACPE’s policy and procedures or by the Board as meeting criteria indicative of the ability to provide quality continuing education.

“Assisted living facility” means a residential care institution as defined in A.R.S. § 36-401.

“Authentication of product history” means identifying the purchasing source, the ultimate fate, and any intermediate handling of any component of a radiopharmaceutical or other drug.

“Automated dispensing system” means a mechanical system in a long-term care facility that performs operations or activities, other than compounding or administration, relative to the storage, packaging, counting, labeling, and dispensing

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

of medications, and which collects, controls, and maintains all transaction information.

“Automated storage and distribution system” means a mechanical system that performs operations or activities other than counting, compounding, or administration, relative to the storage, packaging, or distributing of drugs or devices and that collects, controls, and maintains all transaction information.

“Batch” means a specific quantity of drug that has uniform character and quality, within specified limits, and is produced according to a single manufacturing order during the same cycle of manufacture.

“Beyond-use date” means:

A date determined by a pharmacist and placed on a prescription label at the time of dispensing to indicate a time beyond which the contents of the prescription are not recommended to be used; or

A date determined by a pharmacist and placed on a compounded pharmaceutical product’s label at the time of preparation as specified in R4-23-410(B)(3)(d), R4-23-410(I)(6)(e), or R4-23-410(J)(1)(d) to indicate a time beyond which the compounded pharmaceutical product is not recommended to be used.

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

“Care-giver” means a person who cares for someone who is sick or disabled or an adult who cares for an infant or child and includes a patient’s husband, wife, son, daughter, mother, father, sister, brother, legal guardian, nurse, or medical practitioner.

“Change of ownership,” as used in A.R.S. § 32-1901.01(A), means a change of at least 30 percent in voting stock or vested interest that has direct operational oversight.

“Community pharmacy” means any place under the direct supervision of a pharmacist where the practice of pharmacy occurs or where prescription orders are compounded and dispensed other than a hospital pharmacy or a limited service pharmacy.

“Component” means any ingredient used in compounding or manufacturing drugs in dosage form, including an ingredient that may not appear in the finished product.

“Compounding and dispensing counter” means a pharmacy counter working area defined in this Section where a pharmacist, intern, pharmacy technician, or pharmacy technician trainee under the supervision of a pharmacist compounds, mixes, combines, counts, pours, or prepares and packages a prescription medication to dispense an individual prescription order or prepackages a drug for future dispensing.

“Computer system” means an automated data-processing system that uses a programmable electronic device to store, retrieve, and process data.

“Computer system audit” means an accounting method, involving multiple single-drug usage reports and audits, used to determine a computer system’s ability to store, retrieve, and process original and refill prescription dispensing information.

“Contact hour” means 50 minutes of participation in a continuing education activity sponsored by an Approved Provider.

“Container” means:

A receptacle, as described in the official compendium or the federal act, that is used in manufacturing or compounding a drug or in distributing, supplying, or dispensing the finished dosage form of a drug; or

A metal receptacle designed to contain liquefied or vaporized compressed medical gas and used in manufacturing, transfilling, distributing, supplying, or dispensing a compressed medical gas.

“Continuing education” means a structured learning process required of a licensee to maintain licensure that includes study in the general areas of socio-economic and legal aspects of health care; the properties and actions of drugs and dosage forms; etiology, characteristics and therapeutics of disease status; or pharmacy practice.

“Continuing education activity” means continuing education obtained through an institute, seminar, lecture, conference, workshop, mediated instruction, programmed learning course, or postgraduate study in an accredited college or school of pharmacy.

“Continuing education unit” or “CEU” means 10 contact hours of participation in a continuing education activity sponsored by an Approved Provider.

“Continuous quality assurance program” or “CQA program” means a planned process designed by a pharmacy permittee to identify, evaluate, and prevent medication errors.

“Correctional facility” has the same meaning as in A.R.S. §§ 13-2501 and 31-341.

“CRT” means a cathode ray tube or other mechanism used to view information produced or stored by a computer system.

“CSPMP” means the Controlled Substances Prescription Monitoring Program established under A.R.S. Title 36, Chapter 28.

“Current good compounding practices” means the minimum standards for methods used in, and facilities or controls used for, compounding a drug to ensure that the drug has the identity and strength and meets the quality and purity characteristics it is represented to possess.

“Current good manufacturing practice” means the minimum standard for methods used in, and facilities or controls used for manufacturing, processing, packing, or holding a drug to ensure that the drug meets the requirements of the federal act as to safety, and has the identity and strength and meets the quality and purity characteristics it is represented to possess.

“Cytotoxic” means a pharmaceutical that is capable of killing living cells.

“Day” means a calendar day unless otherwise specified.

“DEA” means the Drug Enforcement Administration as defined in A.R.S. § 32-1901.

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“Declared disaster areas” means areas designated by the governor or by a county, city, or town under A.R.S. § 32-1910 as those areas that have been adversely affected by a natural disaster or terrorist attack and require extraordinary measures to provide adequate, safe, and effective health care for the affected population.

“Delinquent license” means a pharmacist, intern, or pharmacy technician license the Board suspends for failure to renew or pay all required fees on or before the date the renewal is due.

“Dietary supplement or food supplement,” as used in A.R.S. § 32-1904(B), means a product (other than tobacco) that:

Is intended to supplement the diet that contains one or more of the following dietary ingredients: a vitamin, mineral, herb or other botanical, amino acid, dietary substance for use by humans to supplement the diet by increasing the total daily intake, or concentrate, metabolite, constituent, extract, or combinations of these ingredients;

Is intended for ingestion in pill, capsule, tablet, or liquid form;

Is not represented for use as a conventional food or as the sole item of a meal or diet; and

Is labeled as a “dietary supplement” or “food supplement.”

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

“Dispensing pharmacist” means a pharmacist who, in the process of dispensing a prescription medication after the complete preparation of the prescription medication and before delivery of the prescription medication to a patient or patient’s agent, verifies, checks, and initials the prescription medication label, as required in R4-23-402(A).

“Drug sample” means a unit of a prescription drug that a manufacturer provides free of charge to promote the sale of the drug.

“Durable medical equipment” or “DME” means technologically sophisticated medical equipment that may be used by a patient or consumer in a home or residence. DME may be prescription-only devices as defined in A.R.S. § 32-1901. DME includes:

Air-fluidized beds,

Apnea monitors,

Blood glucose monitors and diabetic testing strips,

Continuous Positive Airway Pressure (CPAP) machines,

Electronic and computerized wheelchairs and seating systems,

Feeding pumps,

Home phototherapy devices,

Hospital beds,

Infusion pumps,

Medical oxygen and oxygen delivery systems excluding compressed medical gases,

Nebulizers,

Respiratory disease management devices,

Sequential compression devices,

Transcutaneous electrical nerve stimulation (TENS) unit, and

Ventilators.

“Earned income” means monetary payments received by an individual as a result of work performed or rental property owned or leased by the individual, including:

Wages,

Commissions and fees,

Salaries and tips,

Profit from self-employment,

Profit from rent received from a tenant or boarder, and

Any other monetary payments received by an individual for work performed or rental of property.

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

“Eligible patient” means a patient who a pharmacist determines is eligible to receive an immunization using professional judgment after consulting with the patient regarding the patient’s current health condition, recent health condition, and allergies.

“Emergency drug supply unit” means those drugs that may be required to meet the immediate and emergency therapeutic needs of long-term care facility residents and hospice inpatient facility patients, and which are not available from any other authorized source in sufficient time to prevent risk of harm to residents or patients.

“Extreme emergency” means the occurrence of a fire, water leak, electrical failure, public disaster, or other catastrophe constituting an imminent threat of physical harm to pharmacy personnel or patrons.

“Family unit” means:

A group of individuals residing together who are related by birth, marriage, or adoption; or

An individual who:

Does not reside with another individual; or

Resides only with another individual or group of individuals to whom the individual is unrelated by birth, marriage, or adoption.

“FDA” means the Food and Drug Administration, a federal agency within the United States Department of Health and Human Services, established to set safety and quality standards for foods, drugs, cosmetics, and other consumer products.

“Health care decision maker” has the same meaning as in A.R.S. § 12-2291.

“Health care institution” has the same meaning as in A.R.S. § 36-401.

“Hospice inpatient facility” means a health care institution licensed under A.R.S. § 36-401 and Article 8 that provides hospice services to a patient requiring inpatient services.

“Immediate notice” means a required notice sent by mail, fax, or electronic mail to the Board Office within 24 hours.

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“Immunizations training program” means an immunization training program for pharmacists and interns that meets the requirements of R4-23-411(E).

“Inactive ingredient” means any component other than an “active ingredient” present in a drug.

“Internal test assessment” means performing quality assurance or other procedures necessary to ensure the integrity of a test.

“ISO Class 5 environment” means an atmospheric environment that complies with the ISO/TC209 International Cleanroom Standards, specifically ANSI/EST/ISO-14644-1:1999: Cleanrooms and associated controlled environments--Part 1: Classification of air cleanliness, first edition dated May 1, 1999, (and no future amendments or editions), incorporated by reference and on file in the Board office.

“ISO Class 7 environment” means an atmospheric environment that complies with the ISO/TC209 International Cleanroom Standards, specifically ANSI/EST/ISO-14644-1:1999: Cleanrooms and associated controlled environments--Part 1: Classification of air cleanliness, first edition dated May 1, 1999, (and no future amendments or editions), incorporated by reference and on file in the Board office.

“Licensed health care professional” means an individual who is licensed and regulated under A.R.S. Title 32, Chapter 7, 11, 13, 14, 15, 16, 17, 18, 25, 29, or 35.

“Limited-service correctional pharmacy” means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that:

 Holds a current Board permit under A.R.S. § 32-1931;

 Is located in a correctional facility; and

 Uses pharmacists, interns, and support personnel to compound, produce, dispense, and distribute drugs.

“Limited-service long-term care pharmacy” means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that holds a current Board-issued permit and dispenses prescription medication or prescription-only devices to patients in long-term care facilities.

“Limited-service mail-order pharmacy” means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that holds a current Board permit under A.R.S. § 32-1931 and dispenses a majority of its prescription medication or prescription-only devices by mailing or delivering the prescription medication or prescription-only device to an individual by the United States mail, a common or contract carrier, or a delivery service.

“Limited-service nuclear pharmacy” means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that holds a current Board permit under A.R.S. § 32-1931 and provides radiopharmaceutical services.

“Limited-service pharmacy permittee” means a person who holds a current limited-service pharmacy permit in compliance with A.R.S. §§ 32-1929, 32-1930, 32-1931, and A.A.C. R4-23-606.

“Limited-service sterile pharmaceutical products pharmacy” means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that holds a current Board permit under A.R.S. § 32-1931 and dispenses a majority of its prescription medication or prescription-only devices as sterile pharmaceutical products.

“Long-term care consultant pharmacist” means a pharmacist providing consulting services to a long-term care facility.

“Long-term care facility” or “LTCF” means a nursing care institution as defined in A.R.S. § 36-401.

“Lot” means a batch or any portion of a batch of a drug, or if a drug produced by a continuous process, an amount of drug produced in a unit of time or quantity in a manner that assures its uniformity. In either case, a lot is identified by a distinctive lot number and has uniform character and quality with specified limits.

“Lot number” or “control number” means any distinctive combination of letters or numbers, or both, from which the complete history of the compounding or manufacturing, control, packaging, and distribution of a batch or lot of a drug can be determined.

“Low-income subsidy” means Medicare-provided assistance that may partially or fully cover the costs of drugs and is based on the income of an individual and, if applicable, the individual’s spouse.

“Materials approval unit” means any organizational element having the authority and responsibility to approve or reject components, in-process materials, packaging components, and final products.

“Mechanical counting device for a drug in solid, oral dosage form” means a mechanical device that counts drugs in solid, oral dosage forms for dispensing and includes an electronic balance when used to count drugs.

“Mechanical storage and counting device for a drug in solid, oral dosage form” means a mechanical device that stores and counts and may package or label drugs in solid, oral dosage forms for dispensing.

“Mediated instruction” means information transmitted via intermediate mechanisms such as audio or video tape or telephone transmission.

“Medical practitioner-patient relationship” means that before prescribing, dispensing, or administering a prescription-only drug, prescription-only device, or controlled substance to a person, a medical practitioner, as defined in A.R.S. § 32-1901, shall first conduct a physical examination of that person or have previously conducted a physical examination. This subdivision does not apply to:

 A medical practitioner who provides temporary patient supervision on behalf of the patient’s regular treating medical practitioner;

 Emergency medical situations as defined in A.R.S. § 41-1831;

 Prescriptions written to prepare a patient for a medical examination; or

 Prescriptions written, prescription-only drugs, prescription-only devices, or controlled substances issued for use by a county or tribal public health department for immunization programs, emergency treatment, in response to an infectious disease investigation, public health emergency, infectious disease outbreak or act of bioterrorism. For purposes of this subsection, “bioterrorism” has the same meaning as in A.R.S. § 36-781.

“Medicare” means a federal health insurance program established under Title XVIII of the Social Security Act.

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“Medication error” means any unintended variation from a prescription or medication order. Medication error does not include any variation that is corrected before the medication is dispensed to the patient or patient’s care-giver, or any variation allowed by law.

“Mobile pharmacy” means a pharmacy that is self-propelled or movable by another vehicle that is self-propelled.

“MPJE” means Multistate Pharmacy Jurisprudence Examination, a Board-approved national pharmacy law examination written and administered in cooperation with NABP.

“NABP” means National Association of Boards of Pharmacy.

“NABPLEX” means National Association of Boards of Pharmacy Licensure Examination.

“NAPLEX” means North American Pharmacist Licensure Examination.

“Order” means either of the following:

A prescription order as defined in A.R.S. § 32-1901; or

A medication order as defined in A.A.C. R4-23-651.

“Other designated personnel” means a non-pharmacist individual who is permitted in the pharmacy area, for a limited time, under the direct supervision of a pharmacist, to perform non-pharmacy related duties, such as trash removal, floor maintenance, and telephone or computer repair.

“Outpatient” means an individual who is not a residential patient in a health care institution.

“Outpatient setting” means a location that provides medical treatment to an outpatient.

“Patient profile” means a readily retrievable, centrally located information record that contains patient demographics, allergies, and medication profile.

“Pharmaceutical patient care services” means the provision of drug selection, drug utilization review, drug administration, drug therapy monitoring, and other drug-related patient care services intended to achieve outcomes related to curing or preventing a disease, eliminating or reducing a patient’s symptoms, or arresting or slowing a disease process, by identifying and resolving or preventing potential and actual drug-related problems.

“Pharmaceutical product” means a medicinal drug.

“Pharmacy counter working area” means a clear and continuous working area that contains no major obstacles such as a desktop computer, computer monitor, computer keyboard, external computer drive device, printer, fax machine, pharmacy balance, typewriter, or pill-counting machine, but may contain individual documents or prescription labels, pens, prescription blanks, refill log, pill-counting tray, spatula, stapler, or other similar items necessary for the prescription-filling process.

“Pharmacy law continuing education” means a continuing education activity that addresses practice issues related to state or federal pharmacy statutes, rules, or regulations, offered by an Approved Provider.

“Pharmacy permittee” means a person who holds a current pharmacy permit that complies with A.R.S. §§ 32-1929, 32-1930, 32-1931, 32-1934, and R4-23-606 and R4-23-652.

“Physician” means a medical practitioner licensed under A.R.S. Title 32, Chapter 13 or 17.

“Physician-in-charge” means a physician who is responsible to the Board for all aspects of a prescription medication donation program required in A.R.S. § 32-1909 and operated in the physician’s office or in a health care institution.

“Poverty level” means the annual family income for a family unit of a particular size, as specified in the poverty guidelines updated annually in the *Federal Register* by the U.S. Department of Health and Human Services.

“Precursor chemical” means a precursor chemical I as defined in A.R.S. § 13-3401(26) and a precursor chemical II as defined in A.R.S. § 13-3401(27).

“Prepackaged drug” means a drug that is packaged in a frequently prescribed quantity, labeled in compliance with A.R.S. §§ 32-1967 and 32-1968, stored, and subsequently dispensed by a pharmacist or intern under the supervision of a pharmacist, who verifies at the time of dispensing that the drug container is properly labeled, in compliance with A.R.S. § 32-1968, for the patient.

“Prep area” means a specified area either within an ISO class 7 environment or adjacent to but outside an ISO class 7 environment that:

Allows the assembling of necessary drugs, supplies, and equipment for compounding sterile pharmaceutical products, but does not allow the use of paper products such as boxes or bulk drug storage;

Allows personnel to don personnel protective clothing, such as gown, gloves, head cover, and booties before entering the clean compounding area; and

Is a room or a specified area within a room, such as an area specified by a line on the floor.

“Primary care provider” means the medical practitioner who is treating an individual for a disease or medical condition.

“Proprietor” means the owner of a business permitted by the Board under A.R.S. §§ 32-1929, 32-1930, 32-1931, and 32-1934.

“Provider pharmacy” means a pharmacy that contracts with a long-term care facility to supply prescription medication or other services for residents of a long-term care facility.

“Radiopharmaceutical” means any drug that emits ionizing radiation and includes:

Any nonradioactive reagent kit, nuclide generator, or ancillary drug intended to be used in the preparation of a radiopharmaceutical, but does not include drugs such as carbon-containing compounds or potassium-containing salts, that contain trace quantities of naturally occurring radionuclides; and

Any biological product that is labeled with a radionuclide or intended to be labeled with a radionuclide.

“Radiopharmaceutical quality assurance” means performing and interpreting appropriate chemical, biological, and physical tests on radiopharmaceuticals to determine the suitability of the radiopharmaceutical for use in humans and animals. Radiopharmaceutical quality assurance includes internal test assessment, authentication of product history, and appropriate record retention.

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“Radiopharmaceutical services” means procuring, storing, handling, compounding, preparing, labeling, quality assurance testing, dispensing, distributing, transferring, recordkeeping, and disposing of radiochemicals, radiopharmaceuticals, and ancillary drugs. Radiopharmaceutical services include quality assurance procedures, radiological health and safety procedures, consulting activities associated with the use of radiopharmaceuticals, and any other activities required for the provision of pharmaceutical care.

“Red C stamp” means a device used with red ink to imprint an invoice with a red letter C at least one inch high, to make an invoice of a Schedule III through IV controlled substance, as defined in A.R.S. § 36-2501, readily retrievable, as required by state and federal rules.

“Refill” means other than the original dispensing of the prescription order, dispensing a prescription order in the same quantity originally ordered or in multiples of the originally ordered quantity when specifically authorized by the prescriber, if the refill is authorized by the prescriber:

In the original prescription order;

By an electronically transmitted refill order that the pharmacist promptly documents and files; or

By an oral refill order that the pharmacist promptly documents and files.

“Regulated chemical” means the same as in A.R.S. § 13-3401(30).

“Remodel” means to alter structurally the pharmacy area or location.

“Remote drug storage area” means an area that is outside the premises of the pharmacy, used for the storage of drugs, locked to deny access by unauthorized persons, and secured against the use of force.

“Resident” means:

An individual admitted to and living in a long-term care facility or an assisted living facility,

An individual who has a place of habitation in Arizona and lives in Arizona as other than a tourist, or

A person that owns or operates a place of business in Arizona.

“Responsible person” means the owner, manager, or other employee who is responsible to the Board for a permitted establishment’s compliance with the laws and administrative rules of this state and of the federal government pertaining to distribution of drugs, devices, precursor chemicals, and regulated chemicals. Nothing in this definition relieves other individuals from the responsibility to comply with state and federal laws and administrative rules.

“Score transfer” means the process that enables an applicant to take the NAPLEX in a jurisdiction and be eligible for licensure by examination in other jurisdictions.

“Security features” means attributes incorporated into the paper of a prescription order, referenced in A.R.S. § 32-1968(A)(4), that are approved by the Board or its staff and include one or more of the following designed to prevent duplication or aid the authentication of a paper document: laid lines, enhanced laid lines, thermochromic ink, artificial watermark, fluorescent ink, chemical void, persistent void,

penetrating numbers, high-resolution border, high-resolution latent images, micro-printing, prismatic printing, embossed images, abrasion ink, holograms, and foil stamping.

“Shared order filling” means the following:

Preparing, packaging, compounding, or labeling an order, or any combination of these functions, that are performed by:

A person with a current Arizona Board license, located at an Arizona pharmacy, on behalf of and at the request of another resident or nonresident pharmacy; or

A person, located at a nonresident pharmacy, on behalf of and at the request of an Arizona pharmacy; and

Returning the filled order to the requesting pharmacy for delivery to the patient or patient’s care-giver or, at the request of this pharmacy, directly delivering the filled order to the patient.

“Shared order processing” means the following:

Interpreting the order, performing order entry verification, drug utilization review, drug compatibility and drug allergy review, final order verification, and when necessary, therapeutic intervention, or any combination of these order processing functions, that are performed by:

A pharmacist or intern, under pharmacist supervision, with a current Arizona Board license, located at an Arizona pharmacy, on behalf of and at the request of another resident or nonresident pharmacy; or

A pharmacist or intern, under pharmacist supervision, located at a nonresident pharmacy, on behalf of and at the request of an Arizona pharmacy; and

After order processing is completed, returning the processed order to the requesting pharmacy for order filling and delivery to the patient or patient’s care-giver or, at the request of this pharmacy, returning the processed order to another pharmacy for order filling and delivery to the patient or patient’s care-giver.

“Shared services” means shared order filling or shared order processing, or both.

“Sight-readable” means that an authorized individual is able to examine a record and read its information from a CRT, microfiche, microfilm, printout, or other method acceptable to the Board or its designee.

“Single-drug audit” means an accounting method that determines the numerical and percentage difference between a drug’s beginning inventory plus purchases and ending inventory plus sales.

“Single-drug usage report” means a computer system printout of original and refill prescription order usage information for a single drug.

“Standard-risk sterile pharmaceutical product” means a sterile pharmaceutical product compounded from sterile commercial drugs using sterile commercial devices or a sterile pharmaceutical optic or ophthalmic product compounded from non-sterile ingredients.

“State of emergency” means a governmental declaration issued under A.R.S. § 32-1910 as a result of a natural disaster

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or terrorist attack that results in individuals being unable to refill existing prescriptions.

“Sterile pharmaceutical product” means a medicinal drug free from living biological organisms.

“Strength” means:

The concentration of the drug substance (for example, weight/weight, weight/volume, or unit dose/volume basis); or

The potency, that is, the therapeutic activity of a drug substance as indicated by bioavailability tests or by controlled clinical data (expressed, for example, in terms of unity by reference to a standard).

“Substantial-risk sterile pharmaceutical product” means a sterile pharmaceutical product compounded as a parenteral or injectable dosage form from non-sterile ingredients.

“Supervision” means a pharmacist is present, assumes legal responsibility, and has direct oversight of activities relating to acquiring, preparing, distributing, administering, and selling prescription medications by interns, pharmacy technicians, or pharmacy technician trainees and when used in connection with the intern training requirements means that, in a pharmacy where intern training occurs, an intern preceptor assumes the primary responsibility of teaching the intern during the entire period of the training.

“Supplying” means selling, transferring, or delivering to a patient or a patient’s agent one or more doses of:

A nonprescription drug in the manufacturer’s original container for subsequent use by the patient, or

A compressed medical gas in the manufacturer’s or compressed medical gas distributor’s original container for subsequent use by the patient.

“Support personnel” means an individual, working under the supervision of a pharmacist, trained to perform clerical duties associated with the practice of pharmacy, including cashiering, bookkeeping, pricing, stocking, delivering, answering non-professional telephone inquiries, and documenting third-party reimbursement. Support personnel shall not perform the tasks of a pharmacist, intern, pharmacy technician, or pharmacy technician trainee.

“Temporary pharmacy facility” means a facility established as a result of a declared state of emergency to temporarily provide pharmacy services within or adjacent to declared disaster areas.

“Tourist” means an individual who is living in Arizona but maintains a place of habitation outside of Arizona and lives outside of Arizona for more than six months during a calendar year.

“Transfill” means a manufacturing process by which one or more compressed medical gases are transferred from a bulk container to a properly labeled container for subsequent distribution or supply.

“Unearned income” means monetary payment received by an individual that is not compensation for work performed or rental of property owned or leased by the individual, including:

Unemployment insurance,

Workers’ compensation,

Disability payments,

Payments from the Social Security Administration,

Payments from public assistance,

Periodic insurance or annuity payments,

Retirement or pension payments,

Strike benefits from union funds,

Training stipends,

Child support payments,

Alimony payments,

Military family allotments,

Regular support payments from a relative or other individual not residing in the household,

Investment income,

Royalty payments,

Periodic payments from estates or trusts, and

Any other monetary payments received by an individual that are not:

As a result of work performed or rental of property owned by the individual,

Gifts,

Lump-sum capital gains payments,

Lump-sum inheritance payments,

Lump-sum insurance payments, or

Payments made to compensate for personal injury.

“Verified signature” or “signature verifying” means in relation to a Board license or permit application or report, form, or agreement, the hand-written or electronic signature of an individual who, by placing a hand-written or electronic signature on a hard-copy or electronic license or permit application or report, form, or agreement agrees with and verifies that the statements and information within or attached to the license or permit application or report, form, or agreement are true in every respect and that inaccurate reporting can result in denial or loss of a license or permit or report, form, or agreement.

“Veteran” means an individual who has served in the United States Armed Forces.

“Virtual manufacturer” means an entity that contracts for the manufacture of a drug or device for which the entity:

Owns the New Drug Application or Abbreviated New Drug Application number, as defined by the FDA, for a drug;

Owns the Unique Device Identification number, as defined by the FDA, for a prescription device;

Is not involved in the physical manufacture of the drug or device; and

Contracts with an Arizona-permitted manufacturing entity for the physical manufacture of the drug or device; or

If the contracted manufacturing entity is in a location not included in the definition at A.R.S. 32-1901 of other

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jurisdiction, the virtual manufacturer ensures the facility is inspected every time the virtual manufacturer submits an initial or renewal application and determined to comply with current good manufacturing practices as defined by the federal act and the official compendium.

Virtual manufacturer includes an entity that may be identified as an own-label distributor, which contracts with a manufacturer to produce a drug or device and with another entity to package and label the drug or device, which is then sold under the distributor's name or another name.

"Virtual wholesaler" means an entity that engages in the wholesale distribution of a drug or device in, into, or out of Arizona but does not take physical possession of the drug or device. A virtual wholesaler distributes a drug or device only from a Board-permitted facility to:

A Board-permitted pharmacy, drug manufacturer, full-service drug wholesaler, or non-prescription drug wholesaler; or

A medical practitioner licensed under A.R.S. Title 32; and

Virtual wholesaler includes an entity that may be identified as a broker that buys and sells goods for others or a person that facilitates distribution of a drug, chemical, or device regulated by the Board.

"Wholesale distribution" means distribution of a drug to a person other than a consumer or patient, but does not include:

Selling, purchasing, or trading a drug or offering to sell, purchase, or trade a drug for emergency medical reasons. For purposes of this Section, "emergency medical reasons" includes transferring a prescription drug by a community or hospital pharmacy to another community or hospital pharmacy to alleviate a temporary shortage;

Selling, purchasing, or trading a drug, offering to sell, purchase, or trade a drug, or dispensing a drug as specified in a prescription;

Distributing a drug sample by a manufacturers' or distributors' representative; or

Selling, purchasing, or trading blood or blood components intended for transfusion.

"Wholesale distributor" means any person engaged in wholesale distribution of drugs, including: manufacturers; repackers; own-label distributors; private-label distributors; jobbers; brokers; warehouses, including manufacturers' and distributors' warehouses, chain drug warehouses, and wholesale drug warehouses; independent wholesale drug traders; and retail pharmacies that conduct wholesale distributions in the amount of at least 5% of gross sales.

Historical Note

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Amended effective November 1, 1993 (Supp. 93-4).
Amended effective April 1, 1995; filed with the Secretary of State January 31, 1995 (Supp. 95-1). Amended effective April 5, 1996 (Supp. 96-2). Amended effective July 8, 1997; amended effective August 5, 1997 (Supp. 97-3). Amended effective January 12, 1998 (Supp. 98-1). Amended effective July 7, 1998 (Supp. 98-3). Amended by final rulemaking at 5 A.A.R. 862, effective March 3,

1999 (Supp. 99-1). Amended by final rulemaking at 5 A.A.R. 4441, effective November 2, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 4589, effective November 14, 2000 (Supp. 00-4). Amended by final rulemaking at 7 A.A.R. 646, effective January 11, 2001 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 409 and 8 A.A.R. 646, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 416, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 1256, effective March 7, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 8 A.A.R. 4898 and 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4). Amended by final rulemaking at 9 A.A.R. 1064, effective May 4, 2003 (Supp. 03-1). Amended by final rulemaking at 9 A.A.R. 5030, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 10 A.A.R. 3391, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 10 A.A.R. 3967, effective November 13, 2004 (Supp. 04-3). Amended by final rulemaking at 10 A.A.R. 4356, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 11 A.A.R. 2258, effective August 6, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 12 A.A.R. 3981, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 520, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 13 A.A.R. 440, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 13 A.A.R. 616, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 13 A.A.R. 3477, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 14 A.A.R. 3405, effective October 4, 2008; amended by final rulemaking at 14 A.A.R. 3410, effective October 4, 2008 (Supp. 08-3). Amended by final rulemaking at 14 A.A.R. 4400, effective January 3, 2009; amended by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4). Amended by final rulemaking at 18 A.A.R. 2603, effective December 2, 2012 (Supp. 12-4). Amended by final rulemaking at 18 A.A.R. 2609, effective December 2, 2012 (Supp. 12-4). Amended by final rulemaking at 19 A.A.R. 2894, effective November 10, 2013 (Supp. 13-3). Amended by final rulemaking at 20 A.A.R. 1364, effective August 2, 2014 (Supp. 14-2). Amended by exempt rulemaking under Laws 2016, Ch. 284, § 3 at 22 A.A.R. 2606, effective August 31, 2016 (Supp. 16-3). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2). Amended by final rulemaking at 26 A.A.R. 223, effective March 14, 2020 (Supp. 20-1).

R4-23-111. Notice of Hearing

- A. Except as provided in A.R.S. § 32-1928(B), the Board shall revoke, suspend, place on probation, or fine a licensee or permittee only after:
 1. Notice is served under this Section, and
 2. A hearing is conducted under R4-23-122.
- B. The Board shall give notice of hearing to a party at least 30 days before the date set for the hearing in the manner described in R4-23-115(E) and (F). The notice shall include:

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1. A statement of the date, time, place, and nature of the hearing;
2. A statement of the legal authority and jurisdiction for the hearing;
3. A reference to the particular section or sections of statute and rule involved; and
4. A statement of the violation or issue asserted by the Board.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-112. Ex Parte Communications

A party shall not communicate, either directly or indirectly, with a Board member about any substantive issue in a pending matter unless:

1. All parties are present;
2. It is during a scheduled proceeding, where an absent party fails to appear after proper notice; or
3. It is by written motion with copies to all parties.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-113. Motions

- A. Purpose. A party requesting a ruling from the Board shall file a motion. Motions may be made for rulings such as:
 1. Continuing or expediting a hearing under R4-23-116;
 2. Vacating a hearing under R4-23-117;
 3. Scheduling a prehearing conference under R4-23-118;
 4. Quashing a subpoena under R4-23-119;
 5. Requesting telephonic testimony under R4-23-120; and
 6. Reconsidering a previous order under R4-23-121.
- B. Form. Unless made during a prehearing conference or hearing, motions shall be made in writing and shall conform to the requirements of R4-23-115. All motions, whether written or oral, shall state the factual and legal grounds supporting the motion, and the requested action.
- C. Time limits. Absent good cause, or unless otherwise provided by law or these rules, written motions shall be filed with the Board office at least 15 days before the hearing. A party demonstrates good cause by showing that the grounds for the motion could not have been known in time, using reasonable diligence and:
 1. A ruling on the motion will further administrative convenience, expedition or economy; or
 2. A ruling on the motion will avoid undue prejudice to any party.
- D. Response to motion. A party shall file a written response stating any objection to the motion within five days of service, or as directed by the Board.
- E. Oral argument. A party may request oral argument when filing a motion or response. If necessary to develop a complete record, the Board shall grant oral argument.
- F. Rulings. Rulings on motions, other than those made during a prehearing conference or the hearing, shall be in writing and served on all parties.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-114. Computing Time

In computing any time period, the Board shall exclude the day from which the designated time period begins to run. The Board shall

include the last day of the period unless it falls on a Saturday, Sunday, or legal holiday. When the time period is 10 days or less, the Board shall exclude Saturdays, Sundays, and legal holidays.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-115. Filing Documents

- A. Docket. The Board shall open a docket for each hearing. All documents filed in a matter with the Board shall be date stamped on the day received by the Board office and entered in the docket.
- B. Definition. "Documents" include papers such as complaints, answers, motions, responses, notices, and briefs.
- C. Form. A party shall state on the document the name and address of each party served and how service was made under subsection (E). A document shall contain the Board caption and the Board's docket number.
- D. Signature. A document filed with the Board shall be signed by the party or the party's attorney. A signature constitutes a certification that the signer has read the document, has a good faith basis for submission of the document, and that it is not filed for the purpose of delay or harassment.
- E. Filing and service. A copy of a document filed with the Board shall be served on all parties. Filing with the Board office and service shall be completed by personal delivery; first-class, certified, or express mail; or facsimile.
- F. Date of filing and service. A document is filed with the Board on the date it is received by the Board office, as established by the Board office's date stamp on the face of the document. A copy of a document is served on a party as follows:
 1. On the date it is personally served,
 2. Five days after it is mailed by first-class or express mail,
 3. On the date of the return receipt if it is mailed by certified mail, or
 4. On the date indicated on the facsimile transmission.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-116. Continuing or Expediting a Hearing; Reconvening a Hearing

- A. Continuing or expediting a hearing. When ruling on a motion to continue or expedite, the Board shall consider such factors as:
 1. The time remaining between the filing of the motion and the hearing date;
 2. The position of other parties;
 3. The reasons for expediting the hearing or for the unavailability of the party, representative, or counsel on the date of the scheduled hearing;
 4. Whether testimony of an unavailable witness can be taken telephonically or by deposition; and
 5. The status of settlement negotiations.
- B. Reconvening a hearing. The Board may recess a hearing and reconvene at a future date by a verbal ruling.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-117. Vacating a Hearing

The Board shall vacate a calendared hearing and return the matter to the Board office for further action, if:

1. The parties agree to vacate the hearing;

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2. The Board dismisses the matter;
3. The non-Board party withdraws the appeal; or
4. Facts demonstrate to the Board that it is appropriate to vacate the hearing for the purpose of informal disposition, or if the action will further administrative convenience, expedition, and economy and does not conflict with law or cause undue prejudice to any party.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-118. Prehearing Conference

- A. Procedure. The Board may hold a prehearing conference. The conference may be held telephonically. The Board may issue a prehearing order outlining the issues to be discussed.
- B. Record. The Board may record any agreements reached during a prehearing conference by electronic or mechanical means, or memorialize them in an order.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-119. Subpoenas

- A. Form. A party wanting the Board to issue a subpoena shall submit a written request to the Board and include:
 1. The caption and docket number of the matter;
 2. A list or description of any documents sought;
 3. The full name and home or business address of the custodian of the documents sought or all persons to be subpoenaed;
 4. The date, time, and place to appear or to produce documents according to the subpoena; and
 5. The name, address, and telephone number of the party, or the party's attorney, requesting the subpoena.
- B. The Board may require a brief statement of the relevance of testimony or documents requested.
- C. Service of subpoena. The Board shall serve a subpoena in a manner allowed by law.
- D. Objection to subpoena. If a party or the person served with a subpoena objects to the subpoena or any portion of the subpoena, the party or person may file an objection with the Board within five days after service of the subpoena or at the start of the hearing if the subpoena is served fewer than five days before the hearing.
- E. Quashing or modifying subpoenas. The Board shall quash or modify a subpoena if:
 1. It is unreasonable or oppressive, or
 2. The desired testimony or evidence may be obtained by an alternative method.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 30 A.A.R. 155 (January 26, 2024), effective March 4, 2024 (Supp. 24-1).

R4-23-120. Telephonic Testimony

The Board may grant a motion for telephonic testimony if:

1. Personal attendance by a party or witness at the hearing will present an undue hardship for the party or witness;
2. Telephonic testimony will not cause undue prejudice to any party; and
3. The proponent of the telephonic testimony pays for any cost of obtaining the testimony telephonically.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-121. Rights and Responsibilities of Parties

- A. Generally. A party may present testimony and documentary evidence and argument with respect to the contested issue and may examine and cross-examine witnesses.
- B. Preparation. A party shall have all witnesses, documents, and exhibits available on the date of the hearing.
- C. Exhibits. A party shall provide a copy of each exhibit to all other parties at the time the exhibit is offered to the Board, unless the exhibit was previously provided to all other parties.
- D. Responding to orders. A party shall comply with an order issued by the Board concerning the conduct of a hearing. Unless an objection is made orally during a pre-hearing conference or hearing, a party shall file a motion requesting the Board to reconsider the order.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-122. Conduct of Hearing

- A. Public access. Unless otherwise provided by law, all hearings are open to the public and may be conducted in an informal manner as prescribed in A.R.S. § 41-1092 et seq.
- B. Opening. The Board shall begin the hearing by reading the caption, stating the nature and scope of the hearing, and identifying the parties, counsel, and witnesses for the record.
- C. Stipulations. The Board shall enter into the record any stipulation, settlement agreement, or consent order entered into by any of the parties before or during the hearing.
- D. Opening statements. The party with the burden of proof may make an opening statement at the beginning of a hearing. All other parties may make statements in a sequence determined by the Board.
- E. Order of presentation. After opening statements, the party with the burden of proof shall begin the presentation of evidence, unless the parties agree otherwise or the Board determines that requiring another party to proceed first would be more expeditious or appropriate, and would not prejudice any other party. Copies of documentary evidence may be received in the discretion of the Board. Upon request, parties shall be given an opportunity to compare the copy with the original.
- F. Examination. A party shall conduct direct and cross examination of witnesses in the order and manner determined by the Board to expedite and ensure a fair hearing. The Board shall make rulings necessary to prevent argumentative, repetitive, or irrelevant questioning and to expedite the examination to the extent consistent with the disclosure of all relevant testimony and information. The Board may take notice of judicially cognizable facts. In addition, the Board may take notice of generally recognized technical or scientific facts within the Board's or its staff's specialized knowledge. A party shall be notified either before or during the hearing or by reference in preliminary reports of the material the Board notices. The Board may use the Board's or its staff's experience, technical competence, and specialized knowledge in the evaluation of the evidence.
- G. Closing argument. When all evidence has been received, parties shall have the opportunity to present closing oral argument, in a sequence determined by the Board. The Board may permit or require closing oral argument to be supplemented by written memoranda. The Board may permit or require written memoranda to be submitted simultaneously or sequentially, within time periods the Board may prescribe.

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- H.** Conclusion of hearing. Unless otherwise provided by the Board, the hearing is concluded upon the submission of all evidence, the making of final argument, and the issuing of a final decision or order of the Board.
- I.** Decisions and orders. Unless otherwise provided by law, any final decisions or order adverse to a party in a hearing shall be in writing or stated in the record. Any final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Unless otherwise provided by law, each party shall be notified either personally or by mail to the party's last known address of record of any decision or order. Upon request, a copy of the decision or order shall be delivered or mailed to each party and to each party's attorney of record.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-123. Failure of Party to Appear for Hearing

If a party fails to appear at a hearing, the Board may proceed with the presentation of the evidence of the appearing party, or vacate the hearing and return the matter to the Board office for any further action.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-124. Witnesses; Exclusion from Hearing

All witnesses at the hearing shall testify under oath or affirmation. At the request of a party, or at the discretion of the Board, the Board may exclude witnesses who are not parties from the hearing room so that they cannot hear the testimony of other witnesses.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-125. Proof

- A.** Standard of proof. Unless otherwise provided by law, the standard of proof is a preponderance of the evidence.
- B.** Burden of proof. Unless otherwise provided by law:
1. The party asserting a claim, right, or entitlement has the burden of proof;
 2. A party asserting an affirmative defense has the burden of establishing the affirmative defense; and
 3. The proponent of a motion shall establish the grounds to support the motion.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-126. Disruptions

A person shall not interfere with access to or from the hearing room, or interfere, or threaten interference with the hearing. If a person interferes, threatens interference, or disrupts the hearing, the Board may order the disruptive person to leave or be removed.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-127. Hearing Record

- A.** Maintenance. The Board shall maintain the official administrative record of a matter.

- B.** Transfer of record. Any party requesting a copy of the administrative record or any portion of the administrative record shall make a request to the Board office and shall pay the reasonable costs of duplication.
- C.** Release of exhibits. Exhibits shall be released:
1. Upon the order of a court of competent jurisdiction; or
 2. Upon motion of the party who submitted the exhibits if the time for judicial appeal has expired and no appeal is pending.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-128. Rehearing or Review and Appeal of Decision

- A.** The Board shall provide for a rehearing and review of its decisions under A.R.S. Title 41, Chapter 6, Article 10, and this Section. For purposes of these rules, the terms "contested case" and "party" are defined in A.R.S. § 41-1001.
- B.** A party to a contested case shall exhaust the party's administrative remedies by filing a motion for rehearing or review within 30 days after the service of the Board decision that is subject to rehearing or review in order to be eligible for judicial review under A.R.S. Title 12, Chapter 7, Article 6. The Board shall notify a party in its decision, that is subject to rehearing or review, that the party may file a motion for rehearing or review, and that failure to file a motion for rehearing or review within 30 days after service of the decision has the effect of prohibiting the party from seeking judicial review of the Board's decision.
- C.** A party may amend a motion for rehearing or review at any time before the Board rules on the motion.
- D.** The Board may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
1. Irregularity in the proceedings of the Board, or any order or abuse of discretion, that deprived the moving party of a fair hearing;
 2. Misconduct of the Board, its staff, its hearing officer, or the prevailing party;
 3. Accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
 5. Excessive or insufficient penalty;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings;
 7. That the Board's decision is a result of passion or prejudice; or
 8. That the findings of fact or decision is not justified by the evidence or is contrary to law.
- E.** The Board may affirm or modify a decision or grant a rehearing to all or any of the parties on all or part of the issues for any of the reasons in subsection (D). An order modifying a decision or granting a rehearing shall specify with particularity the grounds for the order.
- F.** If a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. The Board may extend this period for a maximum of 20 days, for good cause as described in subsection (I).
- G.** Not later than 10 days after the date of a decision, after giving parties notice and an opportunity to be heard, the Board may grant a rehearing or review on its own initiative for any reason

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for which it might have granted relief on the motion of a party. The Board may grant a motion for rehearing or review, timely served, for a reason not stated in the motion.

- H. If a rehearing is granted, the Board shall hold the rehearing within 60 days after the order granting the rehearing is issued.
- I. The Board may extend all time limits listed in this Section upon a showing of good cause. A party demonstrates good cause by showing that the grounds for the party's motion or other action could not have been known in time, using reasonable diligence, and a ruling on the motion will:
 1. Further administrative convenience, expedition, or economy; or
 2. Avoid undue prejudice to any party.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

R4-23-129. Notice of Judicial Appeal; Transmitting the Transcript

- A. Notification to the Board office. Within 10 days of filing a complaint for judicial review of a final administrative decision of the Board, the party shall file a copy of the complaint with the Board office. The Board office shall then transmit the administrative record to the Superior Court.
- B. Transcript. A party requesting a transcript shall arrange for transcription at the party's expense. The Board office shall make a copy of the audio taped record available to the transcriber. The party arranging for transcription shall deliver the transcript, certified by the transcriber under oath to be a true and accurate transcription of the audio taped record, to the Board office, together with one unbound copy.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1132, effective May 1, 2004 (Supp. 04-1).

ARTICLE 2. PHARMACIST LICENSURE**R4-23-201. General**

- A. License required. Before practicing as a pharmacist in Arizona, a person shall possess a valid pharmacist license issued by the Board.
- B. Methods of licensure. Licensure as a pharmacist shall be by:
 1. Examination using a Board-approved testing method; or
 2. Reciprocity, as provided under A.R.S. § 32-1922(B).
- C. The Board may reinstate the license of a pharmacist who is practicing pharmacy in another jurisdiction and has an Arizona license that lapsed at least five years ago if the pharmacist:
 1. Passes the MPJE or other Board-approved jurisprudence examination, and
 2. Pays all fees and penalties specified under A.R.S. § 32-1925(C).
- D. The Board may reinstate the license of a pharmacist who has not practiced pharmacy within the last 12 months before seeking reinstatement and whose Arizona license lapsed at least five years ago if the pharmacist:
 1. Completes the requirements in subsection (C), and
 2. Appears before the Board to furnish satisfactory proof of fitness to be licensed as a pharmacist.
- E. Verification of license. A pharmacy permittee or pharmacist-in-charge shall not allow a person to practice as a pharmacist until the pharmacy permittee or pharmacist-in-charge verifies the person is currently licensed by the Board as a pharmacist.

Historical Note

Former Rules 2.1100, 2.1310, 2.1320, and 2.1400. Amended effective August 23, 1978 (Supp. 78-4). Amended by deleting subsection (E) effective April 20, 1982 (Supp. 82-2). Amended subsections (C) and (D) effective August 12, 1988 (Supp. 88-3). Amended effective February 8, 1991 (Supp. 91-1). Amended effective January 12, 1998 (Supp. 98-1). Amended by final rulemaking at 10 A.A.R. 4356, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 19 A.A.R. 2911, effective November 10, 2013 (Supp. 13-3). Amended by final rulemaking at 30 A.A.R. 155 (January 26, 2024), effective March 4, 2024 (Supp. 24-1).

R4-23-202. Licensure by Examination

- A. Eligibility. To be eligible for licensure as a pharmacist by examination, a person shall:
 1. Have a degree in pharmacy from an approved school or college of pharmacy; or
 2. Qualify under the requirements of A.R.S. § 32-1922(D).
- B. Application.
 1. An applicant for licensure by examination shall:
 - a. Submit a completed application on a form furnished by the Board, and
 - b. Submit with the application form:
 - i. The documents specified in the application form, and
 - ii. The application fee specified in R4-23-205.
 2. The Board office shall deem an application form received on the date the Board office electronically or manually date-stamps the form.
 3. An applicant for licensure by examination shall register for the NAPLEX and jurisprudence examination through NABP's registration process. When NABP determines the applicant is eligible to test, NABP will issue an authorization to test.
 4. The Board shall deem an application for licensure by examination invalid 12 months after the date the application is received. An applicant whose application form is invalid and who wishes to continue licensure procedures, shall submit a new application form and fee as specified under subsection (B)(1).
- C. Passing grade; notification; re-examination.
 1. To pass the required examinations, an applicant shall receive a passing grade on both the NAPLEX and jurisprudence examination.
 2. The Board office shall retrieve an applicant's NAPLEX and jurisprudence examination scores from the NABP database no later than two weeks after the applicant's examination date.
 3. An applicant who fails the NAPLEX or jurisprudence examination may register with the NABP to retake the examination within the 12-month period defined in subsection (B)(4). An applicant who fails the NAPLEX or jurisprudence examination three times shall petition the Executive Director as specified in R4-23-401 for approval before retaking the examination. If the applicant fails the NAPLEX or jurisprudence examination four times, the applicant shall petition the Board as specified in R4-23-401 for Board consideration before taking the examination for a last time.
 4. For the purpose of licensure by examination, the Board office shall deem a passing score on the NAPLEX or jurisprudence examination invalid 24 months after the applicant's examination date. An applicant who fails to

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complete the licensure process within the 24-month period, and who wishes to continue licensure procedures, shall retake the examination or examinations.

D. NAPLEX score transfer.

1. The Board office shall deem a score transfer received on the date the NABP transmits the applicant's official score transfer report to the Board office.
2. An applicant who receives a passing score on the NAPLEX taken in another jurisdiction shall, within 12 months after the date the Board office receives the applicant's official NABP score transfer report, make application for licensure according to subsection (B). After 12 months, an applicant may reapply for licensure in this state under the provisions of subsection (B) or R4-23-203(B).

E. Licensure.

1. The Board office shall issue a certificate of licensure and a wall license to a successful applicant.
2. A licensee shall maintain the certificate of licensure in the practice site for inspection by the Board or its designee or review by the public.

F. Time frames for licensure by examination.

1. The Board office shall complete an administrative completeness review within 60 days after the date the application form is received.
 - a. The Board office shall issue a written notice of administrative completeness to the applicant if no deficiencies are found in the application form.
 - b. If the application form is incomplete, the Board office shall provide the applicant with a written notice that includes a comprehensive list of the missing information. The 60-day time frame for the Board office to finish the administrative completeness review is suspended from the date the notice of incompleteness is served until the applicant provides the Board office with all missing information.
 - c. If the Board office does not provide the applicant with written notice regarding administrative completeness, the application form shall be deemed complete 60 days after receipt by the Board office.
2. An applicant with an incomplete application form shall submit all of the missing information within 90 business days after service of the notice of incompleteness. If an applicant cannot submit all missing information within 90 business days after service of the notice of incompleteness, the applicant may send a written notice of a 30-day extension to the Board office postmarked or delivered no later than 90 business days after service of the notice of incompleteness.
3. If an applicant fails to submit a complete application form within the time allowed under subsection (F)(2), the Board office shall close the applicant's file. An applicant whose file is closed and who later wishes to obtain a license shall apply again according to subsection (B).
4. The Board office shall complete a substantive review of the applicant's qualifications in no more than 120 days after the date on which the administrative completeness review of an application form is complete.
 - a. The Board office shall deem the application invalid 12 months after the date the application for licensure by examination is received.
 - b. If the Board office finds deficiencies during the substantive review of the applicant's qualifications, the

Board office shall issue a written request to the applicant for additional documentation.

- c. The 120-day time frame for a substantive review is suspended from the date of a written request for additional documentation until the date all documentation is received. The applicant shall submit the additional documentation according to subsection (F)(2).
- d. If the applicant and the Board office agree in writing, the 120-day substantive review time frame may be extended once for no more than 45 days.
5. For the purpose of A.R.S. § 41-1072 et seq., the Board establishes the following time frames for licensure by examination.
 - a. Administrative completeness review time frame: 60 days.
 - b. Substantive review time frame: 120 days.
 - c. Overall time frame: 180 days.

G. License renewal.

1. To renew a license, a pharmacist shall submit a completed license renewal application on a form furnished by the Board with the biennial renewal fee specified in R4-23-205.
2. If the biennial renewal fee is not paid by November 1 of the renewal year specified in A.R.S. § 32-1925, the pharmacist license is suspended and the licensee shall not practice as a pharmacist. The suspended licensee shall pay a reinstatement penalty as provided in A.R.S. § 32-1925 and R4-23-205 to vacate the suspension.
3. A licensee shall maintain the renewal certificate of licensure in the practice site for inspection by the Board or its designee or review by the public.
4. Time frames for license renewals. The Board office shall follow the time frames established in subsection (F) when processing a renewal application.

Historical Note

Former Rules 2.2100, 2.2200, 2.2300, 2.2400, 2.2500, 2.2600, 2.2700, 2.2800, 2.2910, 2.2920, 2.2930, 2.3000, 2.3010, 2.3100; Amended effective August 23, 1978 (Supp. 78-5). Amended effective June 10, 1981 (Supp. 81-3). Former Section R4-23-202 repealed, new Section R4-23-202 adopted effective July 24, 1985 (Supp. 85-4). Amended effective March 13, 1991 (Supp. 91-1). Amended effective January 12, 1998 (Supp. 98-1). Amended by final rulemaking at 8 A.A.R. 409 and 8 A.A.R. 646, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 10 A.A.R. 4356, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 12 A.A.R. 4689, effective February 3, 2007 (Supp. 06-4). Amended by final rulemaking at 14 A.A.R. 3605, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 19 A.A.R. 2911, effective November 10, 2013 (Supp. 13-3). Amended by final rulemaking at 25 A.A.R. 1012 and 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2). Amended by final rulemaking at 30 A.A.R. 155 (January 26, 2024), effective March 4, 2024 (Supp. 24-1).

R4-23-203. Licensure by Reciprocity

- A.** Eligibility. A person is eligible for licensure by reciprocity if the person is licensed as a pharmacist in another jurisdiction and qualified under A.R.S. § 32-1922(B).
- B.** Application. An applicant for licensure by reciprocity shall comply with R4-23-202(B).

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- C. Passing grade; notification; re-examination. An applicant for licensure by reciprocity shall comply with R4-23-202(C) regarding the jurisprudence examination.
- D. Licensure. The provisions of R4-23-202(E) apply for an applicant for licensure by reciprocity.
- E. Time frames for licensure by reciprocity. The Board office shall follow the time frames established in R4-23-202(F).
- F. License renewal. The procedure specified in R4-23-202(G) applies.
- B. Acceptance of continuing education units CEUs. The Board shall:
 1. Accept CEUs for continuing education activities sponsored only by an Approved Provider;
 2. Accept CEUs accrued only during the two-year period immediately before licensure renewal;
 3. Not allow CEUs accrued in a biennial renewal period to be carried forward to the succeeding biennial renewal period;
 4. Allow a pharmacist who leads, instructs, or lectures to a group of health professionals on pharmacy-related topics in a continuing education activity sponsored by an Approved Provider to receive CEUs for a presentation by following the same attendance procedures as any other attendee of the continuing education activity; and
 5. Not accept as CEUs the performance of normal teaching duties within a learning institution by a pharmacist whose primary responsibility is the education of health professionals.

Historical Note

Former Rules 2.4100, 2.4200, 2.4310, 2.4320, 2.4330, 2.4340, 2.4350, 2.4360, 2.4400, 2.4510, 2.4520, 2.4522, 2.4523, 2.4530, 2.4540, 2.4550, 2.4560, 2.4610, 2.4620, and 2.4700; Amended effective August 23, 1978 (Supp. 78-4). Amended subsections (H), (L), (O) through (Q) effective June 10, 1981 (Supp. 81-3). Former Section R4-23-203 repealed, new Section R4-23-203 adopted effective July 24, 1985 (Supp. 85-4). Amended effective March 13, 1991 (Supp. 91-1). Amended effective January 12, 1998 (Supp. 98-1). Amended effective January 12, 1998 (Supp. 98-1). Amended by final rulemaking at 8 A.A.R. 409 and 8 A.A.R. 646, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 10 A.A.R. 4356, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 14 A.A.R. 3605, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 19 A.A.R. 2911, effective November 10, 2013 (Supp. 13-3). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2). Amended by final rulemaking at 30 A.A.R. 155 (January 26, 2024), effective March 4, 2024 (Supp. 24-1).

R4-23-204. Continuing Education Requirements

- A. Under A.R.S. § 32-1936, continuing professional pharmacy education is mandatory for all licensees.
 1. General continuing education requirement. In accordance with A.R.S. § 32-1925(F), the Board shall not renew a license unless the licensee has, during the two years preceding the application for renewal, participated in 30 contact hours (3.0 CEUs) of continuing education activity sponsored by an Approved Provider as defined in R4-23-110.
 2. Special continuing education requirement. The Board shall not renew a license unless:
 - a. A licensee certified under R4-23-411 to administer immunizations, vaccines, and emergency medications has participated in at least two contact hours of continuing education activity related to administering immunizations, vaccines, and emergency medications;
 - b. A licensee authorized to dispense controlled substances has participated in at least three contact hours of opioid-related, substance use disorder-related, or addiction-related continuing education activity; and
 - c. A licensee who dispenses self-administered hormonal contraceptives under a standing prescription order has participated in at least three contact hours of continuing education activity related to self-administered hormonal contraceptives.
 3. A pharmacist is exempt from the continuing education requirement in subsections (A)(1) and (2) between the time of initial licensure and first renewal.

- C. Continuing education records and reporting CEUs. A pharmacist shall:
 1. Maintain continuing education records that:
 - a. Verify the continuing education activities the pharmacist participated in during the preceding five years; and
 - b. Consist of a statement of credit or a certificate issued by an Approved Provider at the conclusion of a continuing education activity;
 2. At the time of licensure renewal, attest to the number of CEUs the pharmacist participated in during the renewal period on the biennial renewal form; and
 3. When requested by the Board office, submit proof of continuing education participation within 20 days of the request.
- D. The Board may revoke, suspend, or place on probation the license of a pharmacist who fails to comply with continuing education participation, recording, or reporting requirements of this Section.
- E. A pharmacist who is aggrieved by any decision of the Board or its administrative staff concerning continuing education units may request a hearing before the Board.

Historical Note

Adopted effective September 1, 1981 (Supp. 81-5). Amended effective March 13, 1991 (Supp. 91-1). Amended by final rulemaking at 8 A.A.R. 409 and 8 A.A.R. 646, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 26 A.A.R. 223, effective March 14, 2020 (Supp. 20-1). Amended by final rulemaking at 29 A.A.R. 1655 (July 28, 2023), with an immediate effective date of July 5, 2023 (Supp. 23-3).

R4-23-205. Fees and Charges

- A. The Board establishes and shall collect the full biennial fee for all initial and renewal license and permit applications listed in subsections (B) and (C).
- B. Licensure fees:
 1. Pharmacist:
 - a. Initial licensure: \$180.
 - b. Licensure renewal: \$180.
 2. Intern. Initial licensure: \$50.
 3. Pharmacy technician:
 - a. Initial licensure: \$72.
 - b. Licensure renewal: \$72.
 4. Temporary license valid for 30 days:

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- a. Pharmacist: \$120.
 - b. Intern: \$50.
 - c. Pharmacy technician: \$50.
- C. Vendor permit fees (Resident and nonresident):
 - 1. Pharmacy: \$480 biennially (Including hospital, and limited service).
 - 2. Drug wholesaler or manufacturer:
 - a. Manufacturer: \$1000 biennially.
 - b. Full-service drug wholesaler: \$1000 biennially.
 - c. Nonprescription drug wholesaler: \$500 biennially.
 - 3. Drug packager or repackager: \$1000 biennially.
 - 4. Compressed medical gas distributor: \$200 biennially.
 - 5. Durable medical equipment and compressed medical gas supplier: \$100 biennially.
 - 6. Third-party logistics provider: \$1000 biennially.
 - 7. Automated prescription-dispensing kiosk: \$480 biennially.
- D. Pharmacy technician trainee 36-month, non-renewable, registration: \$25.
- E. Reciprocity fee: \$150.
- F. Application fee: \$50.
- G. Certificate fees:
 - 1. Certificate of free sale: \$200 per certificate.
 - 2. Certificate of good manufacturing practice: \$200 per certificate.
- H. Charges for services:
 - 1. Wall license.
 - a. Pharmacist: \$20.
 - b. Intern: \$10.
 - c. Pharmacy technician: \$10.
 - 2. Duplicate of any Board-issued certificate: \$10.
 - 3. License, permit, or certificate verification: \$15.
- I. Fees are not refunded under any circumstances except for the Board's failure to comply with its established licensure or permit time frames under R4-23-202 or R4-23-602.
- J. Penalty. A renewal application submitted after the expiration date is subject to a penalty as provided in A.R.S. §§ 32-1925 and 32-1931.
 - 1. Licensee: A penalty equal to half the licensee's biennial licensure renewal fee under subsection (B) and not to exceed \$350.
 - 2. Permittee: A penalty equal to half the permittee's biennial permit fee under subsection (C) and not to exceed \$350.

Historical Note

Adopted effective July 24, 1985 (Supp. 84-5). Amended subsection (A) paragraph (1) effective May 20, 1988 (Supp. 88-2). Amended effective August 12, 1988 (Supp. 88-3). Amended effective February 8, 1991 (Supp. 91-1). Amended effective April 1, 1995; filed with the Secretary of State January 31, 1995 (Supp. 95-1). Amended effective January 12, 1998 (Supp. 98-1). Amended by final rulemaking at 6 A.A.R. 4589, effective November 14, 2000 (Supp. 00-4). Amended by final rulemaking at 8 A.A.R. 409 and 8 A.A.R. 646, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 416, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 15 A.A.R. 173, effective March 7, 2009 (Supp. 09-1). Amended by final rulemaking at 20 A.A.R. 1364, effective August 2, 2014 (Supp. 14-2). Amended by exempt rulemaking under Laws 2016, Ch. 284, § 3 at 22 A.A.R. 2606, effective

August 31, 2016 (Supp. 16-3). Amended by final exempt rulemaking at 23 A.A.R. 2058, effective August 9, 2017; amended by final exempt rulemaking with amendments to subsection (D), at 23 A.A.R. 2383 (Supp. 17-3).

Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2). Amended by final rulemaking at 25 A.A.R. 1012, and 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2). Amended by final rulemaking at 26 A.A.R. 223, effective March 14, 2020 (Supp. 20-1). Amended by final rulemaking at 30 A.A.R. 155 (January 26, 2024), effective March 4, 2024 (Supp. 24-1).

ARTICLE 3. INTERN TRAINING; INTERN PRECEPTORS**R4-23-301. Intern Licensure**

- A. Licensure as an intern is for the purpose of complementing an individual's academic or experiential education in preparation for licensure as a pharmacist. An applicant may request a waiver of intern licensure requirements by submitting a written request as specified in R4-23-401 and appearing in person at a Board meeting.
- B. The prerequisite for licensure as an intern is one of the following:
 - 1. Current enrollment, in good standing, in an approved college or school of pharmacy;
 - 2. Graduation from a college or school of pharmacy along with:
 - a. Proof the applicant is certified by the Foreign Pharmacy Graduate Examination Committee (FPGEC), if applicable; or
 - b. Application for licensure as a pharmacist by examination or reciprocity; or
 - 3. By order of the Board if the Board determines the applicant needs intern training.
- C. If an intern licensee stops attending pharmacy school classes without graduating, the licensee shall immediately stop practicing as an intern and surrender the intern license to the Board or the Board's designee no later than 30 days after the date of the last attended class, unless the licensee petitions the Board as specified in R4-23-401 and receives Board approval to continue working as an intern. A student re-entering a pharmacy program who wishes to continue internship training shall reapply for intern licensure.
- D. Experiential training. The preceptor supervising an intern shall ensure the training received by the intern includes the activities and services encompassed by the term "practice of pharmacy" as defined in A.R.S. § 32-1901.
- E. Out-of-state experiential training. The Board shall credit an intern for experiential training received outside this state if the Board determines the experiential training requirements of the jurisdiction in which the training was received are equal to the minimum requirements for experiential training in this state. An applicant seeking credit for experiential training received outside this state shall furnish a certified copy of the training records from:
 - 1. The Board of Pharmacy or the intern licensing agency of the jurisdiction where the training was received; or
 - 2. In a jurisdiction without an intern licensing agency, the director of the applicant's approved college or school of pharmacy's experiential training program.
- F. Verification of license. A pharmacy permittee or pharmacist-in-charge shall not allow an individual to practice as an intern until the pharmacy permittee or pharmacist-in-charge verifies the individual is currently licensed by the Board as an intern.

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G. Intern application.

1. An applicant for licensure as an intern shall:
 - a. Submit a completed application on a form furnished by the Board, and
 - b. Submit with the application form:
 - i. The documents specified in the application form, and
 - ii. The initial licensure fee specified in R4-23-205.
2. The Board office shall deem an application form received on the date the Board office electronically or manually date-stamps the form.

H. Licensure.

1. If an applicant is found to be ineligible for intern licensure under statute and rule, the Board office shall issue a written notice of denial to the applicant.
2. If an applicant is found to be eligible for intern licensure under statute and rule, the Board office shall issue a certificate of licensure and a wall license. An applicant who is assigned a license number and has been granted "open" status on the Board's license verification site may begin practice as an intern before receiving the certificate of licensure.
3. An applicant who is assigned a license number and has a "pending" status on the Board's license verification site shall not practice as an intern until the Board office issues a certificate of licensure as specified in subsection (H)(2).
4. A licensee shall maintain the certificate of licensure in the practice site for inspection by the Board or its designee or review by the public.

I. Time frames for intern licensure. The Board office shall follow the time frames established in R4-23-202(F).**J. License renewal.**

1. An intern whose license expires before the intern completes the education or training required for licensure as a pharmacist but fewer than six years after issuance of the initial intern license may renew the intern license for a period equal to the difference between the expiration date of the initial intern license and six years from the issue date of the initial intern license by paying a prorated renewal fee based on the intern initial license fee specified in R4-23-205.
2. If an intern fails to graduate from an approved college or school of pharmacy within six years from the date the Board issues the initial intern license, the intern is not eligible for relicensure as an intern unless the intern obtains Board approval as specified in A.R.S. § 32-1923(E) and R4-23-401. To remain in good standing, an intern who receives Board approval for relicensure shall pay a prorated renewal fee for the number of months of licensure approved by the Board based on the intern initial license fee specified in R4-23-205 before the license expires.
3. If an intern receives Board approval for relicensure and does not pay the renewal fee specified in subsection (J)(2) before the license expires, the intern license is suspended and the suspended licensee shall not practice as an intern until the suspended licensee pays a penalty as provided in A.R.S. § 32-1925 and R4-23-205 to vacate the suspension.

K. Notification of training. An intern who is employed as an intern outside the experiential training program of an approved college or school of pharmacy shall notify the Board within 10 days of starting or terminating training or changing training site.**L. Change of address.** An intern shall notify the Board within 10 days after the intern's employment or mailing address changes.**Historical Note**

Former Rules 3.1000, 3.1100, 3.1200, 3.2000, 3.2100, and 3.2200; Amended effective August 23, 1978 (Supp. 78-4). Amended effective April 20, 1982 (Supp. 82-2). Amended subsections (A), (F) and (G) effective August 12, 1988 (Supp. 88-3). Amended by final rulemaking at 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 416, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 10 A.A.R. 4356, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 11 A.A.R. 3565, effective November 12, 2005 (Supp. 05-3). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 14 A.A.R. 3670, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 19 A.A.R. 2911, effective November 10, 2013 (Supp. 13-3). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2). Amended by final rulemaking at 30 A.A.R. 155 (January 26, 2024), effective March 4, 2024 (Supp. 24-1).

R4-23-302. Training Site; Intern Preceptors; Training Time

- A.** To receive credit for intern training hours, an intern shall train in a site that:
 1. Holds a valid Arizona pharmacy permit; or
 2. Is an alternative training site. For purposes of this Section, the term alternative training site is a non-pharmacy training site established and monitored by an approved college or school of pharmacy or other non-pharmacy site where pharmacy-related activities are performed and where an intern gains experience as specified in R4-23-301(D).
- B.** Intern preceptor. To be an intern preceptor, a pharmacist shall:
 1. Hold a current unrestricted pharmacist license;
 2. Have at least one year of experience as an actively practicing pharmacist; and
 3. If found guilty of violating any federal or state law relating to the practice of pharmacy, drug or device distribution, or recordkeeping or unprofessional conduct, enter into an agreement satisfactory to the Board that places restrictions on the pharmacist's license.
- C.** Preceptor responsibilities. A preceptor is responsible for the actions of an intern during the training period. A preceptor shall give an intern the opportunity for skill development and provide the intern with timely and realistic feedback regarding the intern's progress.
- D.** Training hours. An intern preceptor shall ensure the intern receives hours of experiential training consistent with the requirements of the ACPE.

Historical Note

Former Rules 3.3000, 3.3100, 3.3200, 3.3300, 3.3310, 3.3320, 3.3330, 3.3340, 3.3400, 3.4000, 3.4100, 3.4200, 3.4300, and 3.4400; Amended effective August 9, 1983 (Supp. 83-4). Amended by final rulemaking at 8 A.A.R. 416, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 14 A.A.R. 3605, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2). Amended by final rulemaking at 30 A.A.R.

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155 (January 26, 2024), effective March 4, 2024 (Supp. 24-1).

R4-23-303. Repealed**Historical Note**

Former Rules 3.5000 and 3.5200; Amended effective August 23, 1978 (Supp. 78-4). Amended effective August 9, 1983 (Supp. 83-4). Amended by final rulemaking at 8 A.A.R. 416, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 18 A.A.R. 2619, effective December 2, 2012 (Supp. 12-4). Repealed by final rulemaking at 30 A.A.R. 155 (January 26, 2024), effective March 4, 2024 (Supp. 24-1).

R4-23-304. Repealed**Historical Note**

Former Rules 3.6100, 3.6200, 3.6300, and 3.6400; Amended effective August 23, 1978 (Supp. 78-4). Amended by final rulemaking at 8 A.A.R. 416, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 10 A.A.R. 4356, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 18 A.A.R. 2619, effective December 2, 2012 (Supp. 12-4). Amended by final rulemaking at 19 A.A.R. 2911, effective November 10, 2013 (Supp. 13-3). Repealed by final rulemaking at 30 A.A.R. 155 (January 26, 2024), effective March 4, 2024 (Supp. 24-1).

R4-23-305. Repealed**Historical Note**

Former Rule 3.7000; Amended effective August 23, 1978 (Supp. 78-4). Amended by final rulemaking at 8 A.A.R. 416, effective January 10, 2002 (Supp. 02-1). Repealed by final rulemaking at 30 A.A.R. 155 (January 26, 2024), effective March 4, 2024 (Supp. 24-1).

ARTICLE 4. PROFESSIONAL PRACTICES**R4-23-401. Time-frames for Board Approvals and Special Requests**

- A.** To request a Board approval required by this Chapter or a special request to deviate from or waive compliance with a requirement of this Chapter, a person shall send a letter by regular mail, e-mail, or facsimile to the Board office, detailing the nature of the approval or special request, including the applicable Arizona Revised Statute or administrative code citation. This Section does not apply to a request from a person regarding the probation, suspension, or revocation of a license or permit.
- B.** The Board office shall complete an administrative completeness review within 15 days from the date of receipt of a written request and immediately open a request file for the applicant.
1. The Board office shall issue a written notice of administrative completeness to the applicant if no deficiencies are found in the request.
 2. If the request is incomplete, the Board office shall provide the applicant with a written notice that includes a comprehensive list of the missing information. The 15-day time-frame for the Board office to finish the administrative completeness review is suspended from the date the notice of incompleteness is served until the applicant provides the Board office with all missing information.
 3. If the Board office does not provide the applicant with notice regarding administrative completeness, the request

is deemed complete 15 days after receipt by the Board office.

- C.** An applicant with an incomplete request shall submit all of the missing information within 30 days of service of the notice of incompleteness.
1. If an applicant cannot submit all missing information within 30 days of service of the notice of incompleteness, the applicant may send a written request for an extension to the Board office post-marked or delivered no later than 30 days from service of the notice of incompleteness.
 2. The written request for an extension shall document the reasons the applicant cannot meet the 30-day deadline.
 3. The Board office shall review the request for an extension of the 30-day deadline and grant the request if the Board office determines that an extension of the deadline will enable the applicant to assemble and submit the missing information. An extension shall be for no more than 30 days. The Board office shall notify the applicant in writing of its decision to grant or deny the request for an extension. An applicant who requires an additional extension shall submit an additional written request according to subsections (C)(1) and (C)(2).
- D.** If an applicant fails to submit a complete request within the time allowed, the Board office shall close the applicant's request file. An applicant whose request file is closed and who later wishes to obtain an approval or special request shall apply again according to subsection (A).
- E.** From the date on which the administrative completeness review of a request is finished, the Board shall complete a substantive review of the applicant's request in no more than 120 days.
1. The Board shall:
 - a. Approve the request,
 - b. Deny the request, or
 - c. If the Board determines deficiencies exist, request that the applicant produce additional documentation.
 2. If the Board approves or denies, the Board office shall issue a written approval or denial.
 3. If the Board finds deficiencies during the substantive review of a request, the Board office shall issue a written request to the applicant for additional documentation.
 4. The 120-day time-frame for a substantive review of a request for approval or special request is suspended from the date of a written request for additional documentation until the date of the next Board meeting after all documentation is received. The applicant shall submit the additional documentation according to subsection (C).
 5. If the applicant and the Board office mutually agree in writing, the 120-day substantive review time-frame may be extended once for no more than 30 days.
- F.** If the applicant fails to submit the additional information requested within the time allowed, the Board office shall close the applicant's request file. An applicant whose request file is closed and who later wishes to obtain an approval or special request shall apply again according to subsection (A).
- G.** For the purpose of A.R.S. § 41-1072 et seq., the Board establishes the following time-frames for a Board approval required by this Chapter or a special request to deviate from or waive compliance with a requirement of this Chapter:
1. Administrative completeness review time-frame: 15 days;
 2. Substantive review time-frame: 120 days; and
 3. Overall time-frame: 135 days.

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Historical Note

Former Rule 4.1000; Former Section R4-23-401 repealed, new Section R4-23-401 adopted effective August 9, 1983 (Supp. 83-4). Amended effective May 16, 1990 (Supp. 90-2). Repealed effective August 24, 1992 (Supp. 92-3). New Section made by final rulemaking at 9 A.A.R. 3184, effective August 30, 2003 (Supp. 03-3).

R4-23-402. Pharmacist, Graduate Intern, and Pharmacy Intern

A. A pharmacist or a graduate intern or pharmacy intern under the supervision of a pharmacist shall perform the following professional practices in dispensing a prescription medication from a prescription order:

1. Receive, reduce to written form, and manually initial oral prescription orders;
2. Obtain and record the name of the individual who communicates an oral prescription order;
3. Obtain, or assume responsibility to obtain, from the patient, patient's agent, or medical practitioner and record, or assume responsibility to record, in the patient's profile, the following information:
 - a. Name, address, telephone number, date of birth (or age), and gender;
 - b. Individual history including known diseases and medical conditions, known drug allergies or drug reactions, and if available a comprehensive list of medications currently taken and medical devices currently used;
4. Record, or assume responsibility to record, in the patient's profile, a pharmacist's, graduate intern's, or pharmacy intern's comments relevant to the patient's drug therapy, including other information specific to the patient or drug;
5. Verify the legality and pharmaceutical feasibility of dispensing a drug based upon:
 - a. The patient's allergies,
 - b. Incompatibilities with medications the patient currently takes,
 - c. The patient's use of unusual quantities of dangerous drugs or narcotics,
 - d. A medical practitioner's signature, and
 - e. The frequency of refills;
6. Verify that a dosage is within proper limits;
7. Interpret the prescription order, which includes exercising professional judgment in determining whether to dispense a particular prescription;
8. Compound, mix, combine, or otherwise prepare and package the prescription medication needed to dispense individual prescription orders;
9. Prepackage or supervise the prepackaging of drugs by a pharmacy technician or pharmacy technician trainee under R4-23-1104. For drugs prepackaged by a pharmacy technician or pharmacy technician trainee, a pharmacist shall:
 - a. Verify the drug to be prepackaged;
 - b. Verify that the label meets the official compendium's standards;
 - c. Check the completed prepackaging procedure and product; and
 - d. Manually initial the completed label; or
 - e. For automated packaging systems, manually initial the completed label or a written log or initial a computer-stored log;

10. Check prescription order data entry to ensure that the data input:

- a. Is for the correct patient by verifying the patient's name, address, telephone number, gender, and date of birth or age;
- b. Is for the correct drug by verifying the drug name, strength, and dosage form;
- c. Communicates the prescriber's directions precisely by verifying dose, dosage form, route of administration, dosing frequency, and quantity; and
- d. Is for the correct medical practitioner by verifying the medical practitioner's name, address, and telephone number;

11. Except as provided in subsection (A)(12), make a final accuracy check of the completed prescription label including verification of medication, accuracy of patient's name, consistency with prescription order, and drug utilization review and initial in handwriting or by another method approved by the Board or its designee the finished label;

12. If a technology-assisted verification of product program is used, make a final accuracy check of the completed prescription label including accuracy of patient's name, consistency with prescription order, and drug utilization review and initial in handwriting or by another method approved by the Board or its designee the finished label. If a technology-assisted verification of product program is used, verification of product is not required.

13. Record, or assume responsibility to record, a prescription serial number and date dispensed on the original prescription order;

14. Obtain, or assume responsibility to obtain, permission to refill a prescription order and record, or assume responsibility to record on the original prescription order:

- a. Date dispensed,
- b. Quantity dispensed, and
- c. Name of medical practitioner or medical practitioner's agent who communicates permission to refill the prescription order;

15. Reduce to written or printed form, or assume responsibility to reduce to written or printed form, a new prescription order received by:

- a. Fax,
- b. E-mail, or
- c. Other means of communication;

16. Verify, or assume responsibility to verify, that a completed prescription medication is sold only to the correct patient, patient's care-giver, or authorized agent;

17. Record on the original prescription order the name or initials of the pharmacist, graduate intern, or pharmacy intern who originally dispenses the prescription order; and

18. Record on the original prescription order the name or initials of the pharmacist, graduate intern, or pharmacy intern who dispenses each refill.

B. Only a pharmacist, graduate intern, or pharmacy intern shall provide oral consultation about a prescription medication to a patient or patient's care-giver in an outpatient setting, including a patient discharged from a hospital. The oral consultation is required whenever the following occurs:

1. The prescription medication has not been previously dispensed to the patient in the same strength or dosage form or with the same directions;

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2. The pharmacist, through the exercise of professional judgment, determines that oral consultation is warranted; or
 3. The patient or patient's care-giver requests oral consultation.
- C.** Oral consultation shall include:
1. Reviewing the name and strength of a prescription medication or name of a prescription-only device and the labeled indication of use for the prescription medication or prescription-only device;
 2. Reviewing the prescription's directions for use;
 3. Reviewing the route of administration; and
 4. Providing oral information regarding special instructions and written information regarding side effects, procedure for missed doses, or storage requirements.
- D.** When, in the professional judgment of the pharmacist or graduate intern or pharmacy intern under the supervision of a pharmacist, or when circumstance precludes it, oral consultation may be omitted if the pharmacist, graduate intern, or pharmacy intern:
1. Personally provides written information to the patient or patient's care-giver that summarizes the information that would normally be orally communicated;
 2. Documents, or assumes responsibility to document, both the circumstance and reason for not providing oral consultation by a method approved by the Board or its designee; and
 3. Offers the patient or patient's care-giver the opportunity to communicate with a pharmacist, graduate intern, or pharmacy intern at a later time and provides a method for the patient or patient's care-giver to contact a pharmacist, graduate intern, or pharmacy intern at the pharmacy.
- E.** The pharmacist or graduate intern or pharmacy intern under the supervision of a pharmacist, through the exercise of professional judgment, may provide oral consultation that includes:
1. Common severe adverse effects, interactions, or therapeutic contraindications, and the action required if they occur;
 2. Techniques of self-monitoring drug therapy;
 3. The duration of the drug therapy; and
 4. Prescription refill information.
- F.** Nothing in subsection (B) requires a pharmacist, graduate intern, or pharmacy intern to provide oral consultation if a patient or patient's care-giver refuses the consultation.
- G.** Using a method approved by the Board or its designee, a pharmacist, graduate intern, or pharmacy intern shall document, or assume responsibility to document, that oral consultation is or is not provided.
- H.** Oral consultation documentation. When oral consultation is required as specified in subsection (B), a pharmacist, graduate intern, or pharmacy intern shall:
1. Document, or assume responsibility to document, that oral consultation is provided; or
 2. When a patient refuses oral consultation or a person other than the patient or patient's care-giver picks up a prescription and oral consultation is not provided, document, or assume responsibility to document, that oral consultation is not provided; or
 3. When a pharmacist, graduate intern, or pharmacy intern determines to omit oral consultation under subsection (D) and oral consultation is not provided, document, or assume responsibility to document, both the circumstance and reason that oral consultation is not provided; and
 4. Document, or assume responsibility to document, the name, initials, or identification code of the pharmacist, graduate intern, or pharmacy intern who did or did not provide oral consultation.
- I.** When a prescription is delivered to the patient or patient's care-giver outside the immediate area of a pharmacy and a pharmacist is not present, the prescription shall be accompanied by written or printed patient medication information that, in addition to the requirements in subsection (C), includes:
1. Approved use for the prescription medication;
 2. Possible adverse reactions;
 3. Drug-drug, food-drug, or disease-drug interactions;
 4. Missed dose information; and
 5. Telephone number of the dispensing pharmacy or another method approved by the Board or its designee that allows a patient or patient's care-giver to consult with a pharmacist.
- J.** A prescription medication or prescription-only device, delivered to a patient at a location where a licensed health care professional is responsible for administering the prescription medication to the patient, is exempt from the requirement of subsection (C).
- K.** A pharmacist, graduate intern, or pharmacy intern shall wear a badge indicating name and title while on duty.
- L.** Nothing in this Section prevents a hospital pharmacist from accepting a prescription order according to rules pertaining specifically to hospital pharmacies.

Historical Note

Former Rule 4.1100; Amended effective August 10, 1978 (Supp. 78-4). Amended effective August 9, 1983 (Supp. 83-4). Amended effective May 16, 1990 (Supp. 90-2). Amended effective July 7, 1998 (Supp. 98-3). Amended by final rulemaking at 6 A.A.R. 4656, effective November 14, 2000 (Supp. 00-4). Amended by final rulemaking at 9 A.A.R. 5030, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 11 A.A.R. 2258, effective August 6, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 274, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 12 A.A.R. 4691, effective February 3, 2007 (Supp. 06-4). Amended by final rulemaking at 23 A.A.R. 3257, effective January 8, 2018 (Supp. 17-4).

R4-23-403. Repealed**Historical Note**

Former Rule 4.1200; Amended effective August 10, 1978 (Supp. 78-4). Amended effective March 28, 1980 (Supp. 80-2). Amended effective August 9, 1983 (Supp. 83-4). Section repealed, new Section adopted effective May 16, 1990 (Supp. 90-2). Amended effective November 1, 1993 (Supp. 93-4). Amended by final rulemaking at 5 A.A.R. 4441, effective November 2, 1999 (Supp. 99-4). Section repealed by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1).

R4-23-404. Unethical Practices

- A.** Rebates prohibited. A pharmacist or pharmacy permittee shall not offer, deliver, receive, or accept any unearned rebate, refund, commission, preference, patronage dividend, discount, or other unearned consideration, whether in the form of money or otherwise, as compensation or inducement to refer a patient, client, or customer to any person, except for a rebate or pre-

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mium paid completely and directly to a patient. A pharmacist or pharmacy permittee shall not:

1. Make payment to a medical practitioner in money or other consideration for a prescription order prescribed by the medical practitioner; or
 2. Make payment to a long-term care or assisted living facility or other health care institution in money, discount, rental, or other consideration in an amount above the prevailing rate for:
 - a. Prescription medication or devices dispensed or sold for a patient or resident of the facility or institution; or
 - b. Drug selection or drug utilization review services, drug therapy management services, or other pharmacy consultation services provided for a patient or resident of the facility or institution.
- B.** Prescription order-blank advertising prohibited. A pharmacist or pharmacy permittee shall not:
1. Directly or indirectly furnish to a medical practitioner a prescription order-blank that refers to a specific pharmacist or pharmacy in any manner; or
 2. Actively or passively participate in any arrangement or agreement where a prescription order-blank is prepared, written, or issued in a manner that refers to a specific pharmacist or pharmacy.
- C.** Fraudulent claim for service. A pharmacist or pharmacy permittee shall not claim the performance of a service that the pharmacist or pharmacy permittee knows or should know was not performed, such as, claiming to dispense a prescription medication that is not dispensed.
- D.** Fraudulent claim for a fee. A pharmacist or pharmacy permittee:
1. Shall not claim a fee for a service that is not performed or earned;
 2. May divide a prescription order into two or more portions of prescription medication at the request of a patient, or for some other ethical reason, and charge a dispensing fee for the additional service; and
 3. Shall not divide a prescription order merely to obtain an additional fee.
- E.** Prohibiting a prescription-only drug or device from being dispensed over the counter. A pharmacist shall ensure that:
1. A prescription-only drug or device is dispensed only after receipt of a valid prescription order from a licensed medical practitioner;
 2. The dispensed prescription-only drug or device is properly prepared, packaged, and labeled according to this Chapter; and
 3. The prescription order is filed according to this Chapter.
- F.** Drugs dispensed in the course of the conduct of a business of dispensing drugs through diagnosis by mail or the internet.
1. A pharmacist shall not dispense a drug from a prescription order if the pharmacist has knowledge, or reasonably should know under the circumstances, that the prescription order was issued on the basis of an internet-based questionnaire or an internet-based consultation without a medical practitioner-patient relationship as defined in R4-23-110.
 2. A pharmacist who dispenses a prescription-only drug, prescription-only device, or controlled substance in violation of this Section is engaging in unethical conduct in violation of A.R.S. § 32-1901.01.

Historical Note

Former Rules 4.2110, 4.2120, 4.2130, 4.2210, 4.2230, 4.2400, 4.2500, 4.2600, 4.4100, 4.4200, 4.4310, 4.4320, 4.4400, and 4.4500; Amended effective August 10, 1978 (Supp. 78-4); Amended subsection (I) effective August 9, 1983 (Supp. 83-4). Amended by deleting subsections (H) through (M) effective November 18, 1983 (Supp. 83-6). Amended by final rulemaking at 8 A.A.R. 1256, effective March 7, 2002 (Supp. 02-1). Amended by final rulemaking at 14 A.A.R. 3405, effective October 4, 2008 (Supp. 08-3).

R4-23-405. Change of Responsibility

A pharmacist designated as the pharmacist-in-charge for a pharmacy, manufacturer, or other establishment shall give immediate notice, as defined in R4-23-110, when:

1. The pharmacist's responsibility as a pharmacist-in-charge is terminated; or
2. The pharmacist knows of a pending termination of the pharmacist's responsibility as the pharmacist-in-charge.

Historical Note

Former Rules 4.5100 and 4.5200; Amended effective August 9, 1983 (Supp. 83-4). Amended effective February 8, 1991 (Supp. 91-1). Amended effective November 1, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 1256, effective March 7, 2002 (Supp. 02-1).

R4-23-406. Repealed**Historical Note**

Adopted as an emergency effective January 10, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Amended as an emergency effective April 2, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days. Adopted effective April 10, 1979 (Supp. 79-1). Former Section R4-23-406 repealed, new Section R4-23-406 adopted effective August 9, 1983 (Supp. 83-4). Amended effective April 1, 1995; filed with the Secretary of State January 31, 1995 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 1256, effective March 7, 2002 (Supp. 02-1). Section repealed by final rulemaking at 10 A.A.R. 230, effective March 6, 2004 (Supp. 04-1).

R4-23-407. Prescription Requirements

A. Prescription orders. A pharmacist shall ensure that:

1. A prescription order the pharmacist uses to dispense a drug or device includes the following information:
 - a. Date of issuance;
 - b. Name and address of the patient for whom or the owner of the animal for which the drug or device is dispensed;
 - c. Drug name, strength, and dosage form or device name;
 - d. Name of the manufacturer or distributor of the drug or device if the prescription order is written generically or a substitution is made;
 - e. Prescribing medical practitioner's directions for use;
 - f. Date of dispensing;
 - g. Quantity prescribed and if different, quantity dispensed;
 - h. For a prescription order for a controlled substance, the medical practitioner's address and DEA number;
 - i. For a written prescription order, the medical practitioner's signature;

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- j. For an electronically transmitted prescription order, the medical practitioner's digital or electronic signature;
 - k. For an oral prescription order, the medical practitioner's name and telephone number; and
 - l. Name or initials of the dispensing pharmacist;
- 2. A prescription order is kept by the pharmacist or pharmacy permittee as a record of the dispensing of a drug or device for seven years from the date the drug or device is dispensed;
- 3. The dispensing of a drug or device complies with the packaging requirements of the official compendium and state and federal law; and
- 4. If the drug dispensed is a schedule II controlled substance that is an opioid, the drug is placed in a container that has a red cap and a warning label stating "CAUTION: OPIOID, Risk of Overdose and Addiction" or other similarly clear language indicating the possibility of overdose and addiction. Under delegation from the Board, the Executive Director may waive the red-cap requirement if implementing the requirement is not feasible because of the specific dosage form or packaging type.
- B.** Prescription refills. A pharmacist shall ensure that the following information is recorded on the back of a prescription order when it is refilled:
 - 1. Date refilled,
 - 2. Quantity dispensed,
 - 3. Name or approved abbreviation of the manufacturer or distributor if the prescription order is written generically or a substitution is made, and
 - 4. The name or initials of the dispensing pharmacist.
- C.** Prescription order adaptation. Except for a prescription order for a controlled substance, a pharmacist, using professional judgment, may make the following adaptations to a prescription order if the pharmacist documents the adaptation in the patient's record:
 - 1. Change the prescribed quantity if the prescribed quantity is not a package size commercially available from the manufacturer;
 - 2. Change the prescribed dosage form or directions for use if the change achieves the intent of the prescribing medical practitioner;
 - 3. Complete missing information on the prescription order if there is sufficient evidence to support the change; and
 - 4. Extend the quantity of a maintenance drug for the limited quantity necessary to achieve medication refill synchronization for the patient.
- D.** A pharmacist may furnish a copy of a prescription order to the patient for whom it is prescribed or to the authorized representative of the patient if the copy is clearly marked "COPY FOR REFERENCE PURPOSES ONLY" or other similar statement. A copy of a prescription order is not a valid prescription order and a pharmacist shall not dispense a drug or device from the information on a copy.
- E.** Transfer of prescription order information. For a transfer of prescription order information to be valid, a pharmacy permittee or pharmacist-in-charge shall ensure that:
 - 1. Both the original and the transferred prescription order are maintained for seven years after the last dispensing date;
 - 2. The original prescription order information for a Schedule III, IV, or V controlled substance is transferred only as specified in 21 CFR 1306.25;
 - 3. The original prescription order information for a non-controlled substance drug is transferred without limitation only up to the number of originally authorized refills;
 - 4. For a transfer within Arizona:
 - a. The transfer of original prescription order information for a non-controlled substance drug meets the following conditions:
 - i. The transfer of information is communicated electronically, verbally, or by fax directly between:
 - (1) Two licensed pharmacists,
 - (2) A licensed pharmacist and a licensed intern, or
 - (3) Two licensed interns;
 - ii. The following information is recorded by the transferring pharmacist or intern:
 - (1) The word "void" is written on the face of the invalidated original prescription unless it is an electronic or oral transfer and the transferred prescription order information is invalidated in the transferring pharmacy's computer system; and
 - (2) The name and identification code, number, or address and telephone number of the pharmacy to which the prescription is transferred, the name of the receiving pharmacist or intern, the date of transfer, and the name of the transferring pharmacist or intern is written on the back of the prescription or entered into the transferring pharmacy's computer system; and
 - iii. The following information is recorded by the receiving pharmacist or intern on the transferred prescription order:
 - (1) The word "transfer;"
 - (2) Date of issuance of the original prescription order;
 - (3) Original number of refills authorized on the original prescription order;
 - (4) Date of original dispensing;
 - (5) Number of valid refills remaining and the date of the last refill;
 - (6) Name and identification code, number, or address, telephone number, and original prescription number of the pharmacy from which the prescription is transferred;
 - (7) Name of the transferring pharmacist or intern; and
 - (8) Name of the receiving pharmacist or intern;
 - b. The transfer of original prescription order information for a Schedule III, IV, or V controlled substance meets the following conditions:
 - i. The transfer of information is communicated directly between two licensed pharmacists or interns electronically or verbally;
 - ii. The following information is recorded by the transferring pharmacist or intern:
 - (1) The word "void" is written on the face of the invalidated original prescription order unless it is an electronic or oral transfer and the transferred prescription order information is invalidated in the

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- transferring pharmacy's computer system;
and
- (2) The name, address, and DEA number of the pharmacy to which the prescription is transferred, the name of the receiving pharmacist, the date of transfer, and the name of the transferring pharmacist is written on the back of the prescription order or entered into the transferring pharmacy's computer system; and
- iii. The following information is recorded by the receiving pharmacist on the transferred prescription order:
 - (1) The word "transfer;"
 - (2) Date of issuance of original prescription order;
 - (3) Original number of refills authorized on the original prescription order;
 - (4) Date of original dispensing;
 - (5) Number of valid refills remaining and the date of the last refill;
 - (6) Name, address, DEA number, and original prescription number of the pharmacy from which the prescription is transferred;
 - (7) Name of the transferring pharmacist; and
 - (8) Name of the receiving pharmacist;
- 5. For a transfer from out-of-state:
 - a. The transfer of original prescription order information for a non-controlled substance drug meets the conditions in subsections (E)(4)(a)(i) and (E)(4)(a)(iii); and
 - b. The transfer of original prescription order information for a Schedule III, IV, or V controlled substance meets the conditions in subsections (E)(4)(b)(i) and (E)(4)(b)(iii); and
- 6. For an electronic transfer, the electronic transfer of original prescription order information meets the following conditions:
 - a. The electronic transfer is between pharmacies owned by the same company using a common or shared database;
 - b. The electronic transfer of original prescription order information for a non-controlled substance drug is performed by a pharmacist or intern, pharmacy technician trainee, or pharmacy technician under the supervision of a pharmacist;
 - c. The electronic transfer of original prescription order information for a controlled substance is performed between two licensed pharmacists;
 - d. The electronic transfer of original prescription order information for a non-controlled substance drug meets the following conditions:
 - i. The transferring pharmacy's computer system:
 - (1) Invalidates the transferred original prescription order information;
 - (2) Records the identification code, number, or address of the pharmacy to which the prescription order information is transferred;
 - (3) Records the name or identification code of the receiving pharmacist;
 - (4) Records the date of transfer; and
 - (5) Records the name or identification code of the transferring pharmacist; and
 - ii. The electronic prescription order information received by the computer system of the receiving pharmacy includes the information required in subsection (E)(4)(b)(iii); and
 - e. The electronic transfer of original prescription order information for a controlled substance meets the following conditions:
 - i. The transferring pharmacy's computer system:
 - (1) Invalidates the transferred original prescription order information;
 - (2) Records the identification code, number, or address, and DEA number of the pharmacy to which the prescription order information is transferred;
 - (3) Records the name or identification code of the receiving pharmacist;
 - (4) Records the date of transfer; and
 - (5) Records the name or identification code of the transferring pharmacist; and
 - ii. The electronic prescription order information received by the computer system of the receiving pharmacy includes the information required in subsection (E)(4)(b)(iii); and
 - f. In addition to electronic documentation of a transferred prescription order in the computer system, an original prescription order containing the requirements of this Section is filed in compliance with A.R.S. § 32-1964.
- F. Transmission of a prescription order from a medical practitioner to a pharmacy by fax.
 - 1. A medical practitioner or medical practitioner's agent may transmit a prescription order for a Schedule III, IV, or V controlled substance, prescription-only drug, or non-prescription drug to a pharmacy by fax under the following conditions:
 - a. The prescription order is faxed only to the pharmacy of the patient's choice;
 - b. The faxed prescription order:
 - i. Contains all the information required for a prescription order in A.R.S. §§ 32-1968 and 36-2525; and
 - ii. Is only faxed from the medical practitioner's practice location, except that a nurse in a hospital, long-term care facility, or inpatient hospice may send a fax of a prescription order for a patient of the facility; and
 - c. The faxed prescription order shall contain the following additional information:
 - ii. The receiving pharmacy's computer system;
 - (1) Records that a prescription transfer occurred;
 - (2) Records the date of issuance of the original prescription order;
 - (3) Records the original number of refills authorized on the original prescription order;
 - (4) Records the date of original dispensing;
 - (5) Records the number of valid refills remaining and the date of the last refill;
 - (6) Records the identification code, number, or address and original prescription number of the pharmacy from which the prescription is transferred;
 - (7) Records the name or identification code of the receiving pharmacist or intern, pharmacy technician trainee, or pharmacy technician; and
 - (8) Records the date of transfer;

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- i. The date the prescription order is faxed;
 - ii. The fax number of the prescribing medical practitioner or the facility from which the prescription order is faxed, and the telephone number of the facility; and
 - iii. The name of the person who transmits the fax, if other than the medical practitioner.
 2. A medical practitioner or medical practitioner's agent may fax a prescription order for a Schedule II controlled substance for information purposes only, unless the faxed prescription order meets the requirements of A.R.S. § 36-2525(F) and (G).
 3. A pharmacy may receive a faxed prescription order for a Schedule II controlled substance for information purposes only, except a faxed prescription order for a Schedule II controlled substance that meets the requirements of A.R.S. § 36-2525(F) and (G) may serve as the original written prescription order.
 4. To meet the seven-year record retention requirement of A.R.S. § 32-1964, a pharmacy shall receive a faxed prescription order on plain paper or may make a photocopy of the faxed prescription order.
 5. A medical practitioner or the medical practitioner's agent may fax refill authorizations to a pharmacy if the faxed authorization includes the medical practitioner's telephone and fax numbers, the medical practitioner's signature or medical practitioner's agent's name, and date of authorization.
- G.** Electronic transmission of a prescription order from a medical practitioner to a pharmacy.
1. Unless otherwise prohibited by law, a medical practitioner or medical practitioner's agent may transmit a prescription order by electronic means, directly or through an intermediary, including an E-prescribing network, to the dispensing pharmacy as specified in A.R.S. § 32-1968.
 2. For electronic transmission of a Schedule II, III, IV, or V controlled substance prescription order, the medical practitioner and pharmacy shall ensure the transmission complies with any security or other requirements of federal law.
 3. The medical practitioner and pharmacy shall ensure all electronic transmissions comply with all the security requirements of state or federal law related to the privacy of protected health information.
 4. In addition to the information required to be included on a prescription order as specified in A.R.S. § 32-1968, a medical practitioner shall ensure an electronically transmitted prescription order includes:
 - a. The date of transmission; and
 - b. If the individual transmitting the prescription is not the medical practitioner, the name of the medical practitioner's authorized agent who transmits the prescription order.
 5. A pharmacy receiving an electronically transmitted prescription order shall maintain the prescription order as specified in A.R.S. § 32-1964 or R4-23-408(H)(2).
 6. A medical practitioner or medical practitioner's agent shall transmit an electronic prescription order only to the pharmacy of the patient's choice.
- H.** Exceptions under A.R.S. § 36-2525 regarding electronic prescribing requirements:
1. Medical practitioner exceptions. A medical practitioner who is authorized to prescribe a controlled substance may

furnish a written prescription order in accordance with R4-23-407 rather than an electronically transmitted prescription order if the prescription order is written:

- a. In this state to be filled in a jurisdiction outside this state;
 - b. For a medication that requires compounding two or more ingredients;
 - c. For a medication that is not in the E-prescribing database;
 - d. For an individual who is detained by or in custody of an Arizona or federal law enforcement agency; or
 - e. Under A.R.S. § 36-2525(N) or (O); and
2. Pharmacist exceptions. A pharmacist may dispense a controlled substance from a written rather than electronically transmitted prescription order if the prescription order:
- a. Is written by a medical practitioner who is not licensed in this state but rather, is licensed in a jurisdiction outside this state. The pharmacist is not required to verify whether the medical practitioner is licensed;
 - b. Is written for a medication that requires compounding two or more ingredients;
 - c. Is written for a medication that is not in the E-prescribing database;
 - d. Is written for an individual who is detained by or in custody of an Arizona or federal law enforcement agency; or
 - e. Is received under A.R.S. § 36-2525(D).

Historical Note

Adopted effective November 18, 1983 (Supp. 83-6).
 Amended by final rulemaking at 8 A.A.R. 1256, effective March 7, 2002 (Supp. 02-1). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 13 A.A.R. 440, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 14 A.A.R. 3605, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).
 Amended by final rulemaking at 26 A.A.R. 223, effective March 14, 2020; and amended by final rulemaking at 26 A.A.R. 544, with an immediate effective date of March 3, 2020 (Supp. 20-1).

R4-23-407.1. Dispensing an Opioid Antagonist**A.** As used in this Section:

1. "Community member" means any person in position to assist an individual at risk of experiencing an opioid-related overdose. This includes emergency first responders, peace officers or other law enforcement personnel, fire department personnel, school district employees, and personnel of a facility or center that provides services to individuals at risk of experiencing an opioid-related overdose.
2. "Opioid antagonist" means any drug approved by the U.S. Food and Drug Administration that binds to opioid receptors, effectively blocking or inhibiting the receptor and preventing the body from responding to the opioid. Naloxone hydrochloride is an opioid antagonist.
3. "Opioid-related overdose" means an acute condition caused by excessive opioids. An opioid-related overdose can be identified by a triad of symptoms: decreased level of consciousness, pinpoint pupils, and respiratory depression. Other symptoms may include seizures, muscle

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spasms, and coma or death. An opioid-related overdose requires medical assistance.

- B.** When dispensing an opioid antagonist under A.R.S. § 32-1979, a pharmacist or pharmacy intern shall provide the following education to the individual to whom the opioid antagonist is dispensed:
1. How to prevent an opioid-related overdose;
 2. How to recognize an opioid-related overdose;
 3. How to administer an opioid antagonist safely to an individual experiencing an opioid-related overdose;
 4. Precautions regarding:
 - a. Potential side effects, and
 - b. Possible adverse events associated with administration of the opioid antagonist; and
 5. Importance of seeking emergency medical assistance for the individual experiencing an opioid-related overdose before or after administering the opioid antagonist.
- C.** Before dispensing an opioid antagonist under A.R.S. § 32-1979(A), a licensed pharmacist shall complete an opioid prevention and treatment training program that includes the following information:
1. How to recognize the symptoms of an opioid-related overdose,
 2. How to respond to a suspected opioid-related overdose,
 3. How to administer all preparations of an opioid antagonist, and
 4. The information needed by an individual to whom an opioid antagonist is dispensed.
- D.** A pharmacist who has completed an opioid prevention and treatment training program described in subsection (C):
1. May administer an opioid antagonist to an individual the pharmacist believes is experiencing an opioid-related overdose, and
 2. Is exempt from civil liability under the terms of A.R.S. § 36-2267(B).
- E.** Dispensing an opioid antagonist under A.R.S. § 32-1979 by invoice to a community member is not wholesale distribution as defined at A.R.S. § 32-1981.
- F.** When dispensing an opioid antagonist on a standing order, as defined under A.R.S. § 32-1968, a pharmacist or pharmacy intern shall comply with R4-23-407 except subsection (A)(1)(b), R4-23-408, and R4-23-409.

Historical Note

New Section made by emergency rulemaking at 23 A.A.R. 31, effective December 15, 2016 for 180 days (Supp. 16-4). New Section made by final rulemaking before emergency expired at 23 A.A.R. 967, effective June 3, 2017 (Supp. 17-2). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).

R4-23-407.2. Dispensing a Self-administered Hormonal Contraceptive

- A.** Standard procedures. The first time a pharmacist dispenses a self-administered hormonal contraceptive under a standing prescription order, as authorized under A.R.S. § 32-1979.01, to a patient, the pharmacist shall:
1. Determine the patient is at least 18 years old;
 2. Obtain from the patient a completed self-screening risk assessment based on nationally recognized guidelines;
 3. Provide the patient with written information prepared by the manufacturer of the hormonal contraceptive; and
 4. Provide the following information orally to the patient:
 - a. How hormonal contraception works;

- b. When and how to take the self-administered hormonal contraceptive;
- c. Risks associated with taking a self-administered hormonal contraceptive; and
- d. When to seek medical assistance while taking a self-administered hormonal contraceptive.

- B.** A pharmacist who dispenses a self-administered hormonal contraceptive under a standing prescription order shall have a patient complete the self-screening risk assessment based on nationally recognized guidelines, required under subsection (A)(2), annually.
- C.** A pharmacist who dispenses a self-administered hormonal contraceptive under a standing prescription order shall maintain evidence of the patient's age at the time of initial dispensing and the completed nationally recognized self-screening risk assessment for at least seven years. The pharmacist shall ensure this information is readily retrievable and available to the Board on request.
- D.** When dispensing a self-administered hormonal contraceptive under a standing prescription order, a pharmacist shall comply with R4-23-407 except subsection (A)(1)(b), R4-23-408, and R4-23-409.
- E.** During each biennial renewal period, a pharmacist who dispenses self-administered hormonal contraceptives under a standing prescription order shall complete the three contact hours of continuing education specified under R4-23-204(A)(2)(c).

Historical Note

New Section made by final rulemaking 29 A.A.R. 1655 (July 28, 2023) with an immediate effective date of July 5, 2023 (Supp. 23-3).

R4-23-408. Computer Records

- A.** Systems manual. A pharmacy permittee or pharmacist-in-charge shall:
1. Develop, implement, and comply with policies and procedures for the following operational aspects of a computer system:
 - a. Examples of all output documentation provided by the computer system that contains original or refill prescription order or patient profile information;
 - b. Steps a pharmacy employee follows when the computer system is not operational due to scheduled or unscheduled system interruption;
 - c. Regular and routine backup file procedure and file maintenance, including secure storage of backup files;
 - d. Audit procedures, personnel code assignments, and personnel responsibilities; and
 - e. Quality assurance mechanism for data entry validation;
 2. Review biennially and, if necessary, revise the policies and procedures required under this Section;
 3. Document the review required under subsection (A)(2);
 4. Assemble the policies and procedures as a written manual or by another method approved by the Board or its designee; and
 5. Make the policies and procedures available within the pharmacy for reference by pharmacy personnel and inspection by the Board or its designee.
- B.** Computer system data storage and retrieval. A pharmacy permittee or pharmacist-in-charge shall ensure the computer system is capable of:

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1. Producing sight-readable information on all original and refill prescription orders and patient profiles;
 2. Providing online retrieval (via CRT display or hard-copy printout) of original prescription order information required in A.R.S. § 32-1968(C), R4-23-402(A), and R4-23-407(A);
 3. Providing online retrieval (via CRT display or hard-copy printout) of patient profile information required in R4-23-402(A);
 4. Providing documentation identifying the pharmacist responsible for dispensing each original or refill prescription order, except a pharmacy permittee with a computer system that is in use before the effective date of this Section that cannot provide documentation identifying the dispensing pharmacist may continue to use the computer system by providing manual documentation identifying the dispensing pharmacist;
 5. Producing a printout of all prescription order information, including a single-drug usage report that contains:
 - a. The name of the prescribing medical practitioner;
 - b. The name and address of the patient;
 - c. The quantity dispensed on each original or refill prescription order;
 - d. The date of dispensing for each original or refill prescription order;
 - e. The name or identification code of the dispensing pharmacist; and
 - f. The serial number of each prescription order; and
 6. Providing a printout of requested prescription order information to an individual pharmacy within 72 hours of the request if prescription order information is maintained in a centralized computer record system.
- C.** A pharmacy permittee or pharmacist-in-charge of a pharmacy that uses a pharmacy computer system:
1. Shall notify the D.E.A. and the Board in writing that original and refill prescription order information and patient profiles are stored in a pharmacy computer system;
 2. Shall comply with this Section if the pharmacy computer system's refill records are used as an alternative to the manual refill records required in R4-23-407(B);
 3. Is exempt from the manual refill recordkeeping requirements of R4-23-407(B), if the pharmacy computer system complies with the requirements of this Section; and
 4. Shall ensure that documentation of the accuracy of original and refill prescription order information entered into a computer system is provided by each pharmacist using the computer system and kept on file in the pharmacy for seven years from the date of the last refill. Documentation includes one of the following:
 - a. A hard-copy printout of each day's original and refill prescription order data that:
 - i. States original and refill data for prescriptions dispensed by each pharmacist is reviewed for accuracy;
 - ii. Includes the printed name of each dispensing pharmacist; and
 - iii. Is signed and initialed by each dispensing pharmacist; or
 - b. A log book or separate file of daily statements that:
 - i. States original and refill data for prescriptions dispensed by each pharmacist is reviewed for accuracy;
 - ii. Includes the printed name of each dispensing pharmacist; and
- iii. Is signed and initialed by each dispensing pharmacist.
- D.** If a pharmacy computer system does not comply with the requirements of subsections (A), (B), and (F), the pharmacy permittee or pharmacist-in-charge shall bring the computer system into compliance within three months of a notice of noncompliance or violation letter. If the computer system is still noncompliant with subsection (A), (B), or (F) after three months, the pharmacy permittee or pharmacist-in-charge shall immediately comply with the manual recordkeeping requirements of R4-23-402 and R4-23-407.
- E.** If a pharmacy's personnel perform manual recordkeeping under subsection (D), the pharmacy's personnel shall continue manual recordkeeping until the pharmacist-in-charge sends proof, verified by a Board compliance officer, that the computer system complies with subsections (A), (B), and (F).
- F.** Security. To maintain the confidentiality of patient records, a pharmacy permittee or pharmacist-in-charge shall ensure:
1. The computer system has security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of prescription order information and patient profiles; and
 2. After a prescription order is dispensed, any alteration of prescription order information is documented, including the identification of the pharmacist responsible for the alteration.
- G.** A computer system that does not comply with all the requirements of subsections (A), (B), and (F) may be used in a pharmacy if:
1. The computer system was in use in the pharmacy before July 11, 2001, and
 2. The pharmacy complies with the manual recordkeeping requirements of R4-23-402 and R4-23-407.
- H.** Prescription records and retention.
1. Instead of filing the original hard-copy prescription order as required in A.R.S. § 32-1964, a pharmacy permittee or pharmacist-in-charge may use an electronic imaging recordkeeping system, if:
 - a. The system is capable of capturing, storing, and reproducing the exact image of a prescription order, including the reverse side of the prescription order if necessary;
 - b. Any notes of clarification of or alterations to a prescription order are directly associated with the electronic image of the prescription order;
 - c. A prescription order image and any associated notes of clarification of or alterations to the prescription order are retained for no fewer than seven years from the date the prescription order is last dispensed;
 - d. Policies and procedures for the use of an electronic imaging recordkeeping system are developed, implemented, reviewed, and revised in the same manner described in subsection (A) and complied with; and
 - e. The prescription is not for a controlled substance.
 2. If a pharmacy's computer system fields are automatically populated by an electronically transmitted prescription order, the automated record constitutes the original prescription order and a hard-copy or electronic image is not required if the computer system is capable of maintaining, printing, and providing all the prescription order information required in A.R.S. §§ 32-1968 and 36-2525 and R4-23-407(A) within 72 hours of a request by the

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Board, the Board's compliance officers, other authorized regulatory board agents, or authorized officers of the law.

- I. A pharmacy permittee or pharmacist-in-charge shall make all prescription records available within 72 hours after a Board request.

Historical Note

Adopted effective November 18, 1983 (Supp. 83-6).
Amended by final rulemaking at 7 A.A.R. 646, effective January 11, 2001 (Supp. 01-1). Amended by final rulemaking at 9 A.A.R. 5030, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 11 A.A.R. 4270, effective December 6, 2005 (Supp. 05-4).
Amended by final rulemaking at 12 A.A.R. 274, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 13 A.A.R. 440, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 26 A.A.R. 223, effective March 14, 2020 (Supp. 20-1).

R4-23-409. Returning Drugs and Devices

- A. After a person for whom a drug is prescribed or the person's agent takes the drug from the premises where sold, distributed, or dispensed, a pharmacist or pharmacy permittee shall not accept the drug for return or exchange for the purpose of resale unless the pharmacist determines that:
1. The drug is in its original, manufacturer's, unopened container; and
 2. The drug or its container has not been subjected to contamination or deterioration.
- B. The provisions of subsection (A) of this Section do not apply to a drug dispensed to:
1. A hospital inpatient as defined in R4-23-651; or
 2. A resident of a long-term care facility where a licensed health care professional administers the drug, and the pharmacist ensures and documents that the drug:
 - a. Has been stored in compliance with the requirements of the official compendium; and
 - b. Is not obviously contaminated or deteriorated.
- C. After a person for whom a device is prescribed or the person's agent takes the device from the premises where sold, distributed, or dispensed, a pharmacist or pharmacy permittee shall not accept the device for return or exchange for the purpose of resale or reuse unless the pharmacist determines that:
1. The device is inspected and is free of defects;
 2. The device is rendered incapable of transferring disease; and
 3. The device, if resold or reused, is not claimed to be new or unused.

Historical Note

Adopted effective November 18, 1983 (Supp. 83-6).
Amended by final rulemaking at 8 A.A.R. 1256, effective March 7, 2002 (Supp. 02-1).

R4-23-410. Current Good Compounding Practices

- A. This Section establishes the current good compounding practices to be used by a pharmacist licensed by the Board, in a pharmacy permitted by the Board, and in compliance with applicable federal and state law governing the practice of pharmacy.
- B. A pharmacy permittee shall ensure compliance with the provisions in this subsection.
1. All substances for compounding that are received, stored, or used by the pharmacy permittee:

- a. Meet official compendium requirements;
 - b. Are of high quality, such as Chemically Pure (CP), Analytical Reagent (AR), certified American Chemical Society (ACS), or Food Chemical Codex (FCC) grade; or
 - c. Are obtained from a source that, in the professional judgment of the pharmacist, is acceptable and reliable.
2. Before compounding a pharmaceutical product in excess of the quantity dispensed in anticipation of receiving valid prescriptions for the pharmaceutical product, a pharmacist, employed by the pharmacy permittee, shall establish a history of compounding valid prescriptions for the pharmaceutical product.
 3. Neither the pharmacy permittee nor a pharmacist employed by the pharmacy permittee provides a compounded pharmaceutical product to a pharmacy, medical practitioner, or other person for dispensing or distributing except that a compounded pharmaceutical product may be provided to a medical practitioner to administer to a patient of the medical practitioner if each container is accompanied by the written list required in subsection (I)(5) and has a label that includes the following:
 - a. The pharmacy's name, address, and telephone number;
 - b. The pharmaceutical product's name and the information required in subsection (I)(4);
 - c. A lot or control number;
 - d. A beyond-use-date based upon the pharmacist's professional judgment, but not more than the maximum guidelines recommended in the Pharmacy Compounding Practices chapter of the official compendium unless there is published or unpublished stability test data that shows a longer period is appropriate;
 - e. The statement "Not For Dispensing;" and
 - f. The statement "For Office or Hospital Administration Only."
 4. A pharmacy or pharmacist may advertise or otherwise promote the fact that the pharmacy or pharmacist provides prescription compounding services.
- C. A pharmacy permittee shall ensure compliance with the organization, training, and personnel issues in this subsection.
1. Before dispensing a compounded pharmaceutical product, a pharmacist:
 - a. Inspects and approves or rejects, or assumes responsibility for inspecting and approving or rejecting, components, pharmaceutical product containers and closures, in-process materials, and labeling;
 - b. Prepares or assumes responsibility for preparing all compounding records;
 - c. Reviews all compounding records to ensure that no errors occur in the compounding process;
 - d. Ensures the proper use, cleanliness, and maintenance of all compounding equipment; and
 - e. Documents by hand-written initials or signature in the compounding record the completion of the requirements of subsections (C)(1)(a), (b), (c), and (d).
 2. A pharmacist engaged in compounding:
 - a. Complies with the current good compounding practices and applicable state pharmacy laws;
 - b. Maintains compounding proficiency through current awareness, training, and continuing education; and

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- c. Ensures that personnel engaged in compounding wear:
 - i. Clean clothing appropriate to the work performed; and
 - ii. Protective apparel, such as coats, aprons, gowns, gloves or masks to protect the personnel from chemical exposure and prevent pharmaceutical product contamination.
- D. A pharmacy permittee shall ensure the security, safety, and quality of a compounded pharmaceutical product by conforming with the following standards:
 - 1. Implement procedures to exclude from direct contact with components, pharmaceutical product containers and closures, in-process materials, labeling, and pharmaceutical products, any person with an apparent illness or open lesion that may adversely affect the safety or quality of a compounded pharmaceutical product, until the illness or lesion, as determined by competent medical personnel, does not jeopardize the safety or quality of a compounded pharmaceutical product; and
 - 2. Require all personnel to inform a pharmacist of any health condition that may adversely affect a compounded pharmaceutical product.
- E. A pharmacy permittee shall provide compounding facilities that conform with the standards in this subsection.
 - 1. In addition to the minimum area requirements of R4-23-609, R4-23-655, or R4-23-673, the compounding area:
 - a. Complies with the requirements in R4-23-611; and
 - b. Has sufficient space to permit efficient pharmacy practice, free movement of personnel, and visual surveillance by a pharmacist.
 - 2. If sterile pharmaceutical product or radiopharmaceutical product compounding is performed, the compounding area complies with the requirements of R4-23-670, R4-23-681, and R4-23-682.
 - 3. A clean, dry, and temperature-controlled area and, if required, a refrigerated area, in which to store properly labeled containers of bulk drugs, chemicals, and materials used in compounding, that complies with state statutes and rules.
- F. To protect pharmaceutical product safety, identity, strength, quality, and purity, a pharmacy permittee shall ensure that equipment and utensils used in pharmaceutical product compounding are:
 - 1. Of appropriate design, adequate size, and suitably located for proper operation, cleaning, and maintenance;
 - 2. Made of material that is not reactive, additive, or absorptive when exposed to components, in-process materials, or pharmaceutical products;
 - 3. Cleaned and protected from contamination before use;
 - 4. Inspected and determined suitable for use before initiation of compounding operations; and
 - 5. Routinely inspected, calibrated, or checked to make proper performance certain.
- G. A pharmacy permittee shall ensure that the pharmacist-in-charge establishes, implements, and complies with procedures to prevent cross-contamination when pharmaceutical products that require special precautions to prevent cross-contamination, such as penicillin, are used in a compounding procedure. The procedures shall include either the dedication of equipment or the meticulous cleaning of contaminated equipment before its use in compounding other pharmaceutical products.
- H. A pharmacy permittee shall ensure that the pharmacist-in-charge establishes, implements, and complies with control procedures for components and pharmaceutical product containers and closures, either written or electronically stored with printable documentation, that conform with the standards in this subsection.
 - 1. Components and pharmaceutical product containers and closures are:
 - a. Stored off the floor,
 - b. Handled and stored to prevent contamination, and
 - c. Rotated so the oldest approved stock is used first.
 - 2. Container closure systems comply with official compendium standards.
 - 3. Pharmaceutical product containers and closures are clean and made of material that is not reactive, additive, or absorptive.
- I. A pharmacy permittee shall ensure that the pharmacist-in-charge establishes, implements, and complies with pharmaceutical product compounding controls that conform with the standards in this subsection.
 - 1. Pharmaceutical product compounding procedures are available in either written form or electronically stored with printable documentation:
 - a. To ensure that a finished pharmaceutical product has the identity, strength, quality, and purity it is purported or represented to possess, the procedures include, for each pharmaceutical product compounded, a description of:
 - i. The components, their manufacturer, lot number, expiration date, and amounts, the order of component addition, if applicable, and the compounding process;
 - ii. The equipment and utensils used; and
 - iii. The pharmaceutical product container and closure system proper for the sterility and stability of the pharmaceutical product as it is intended to be used.
 - b. To test the pharmaceutical product being compounded, the procedures monitor the output and validate the performance of compounding processes that may cause variability in the final pharmaceutical product, including assessing:
 - i. Dosage form weight variation;
 - ii. Adequacy of mixing to ensure uniformity and homogeneity; and
 - iii. Clarity, completeness, and pH of solutions, if applicable.
 - 2. Components for pharmaceutical product compounding are accurately weighed, measured, or subdivided. To ensure that each weight, measure, or subdivision is correct as stated in the compounding procedures, a pharmacist:
 - a. Checks and rechecks, or assumes responsibility for checking and re-checking, the operations at each stage of the compounding process; and
 - b. Documents by hand-written initials or signature the completion and accuracy of the compounding process.
 - 3. Compounding equipment and utensils are properly cleaned and maintained.
 - 4. In addition to the labeling requirements of A.R.S. § 32-1968(D), the label contains:
 - a. A statement, symbol, designation, or abbreviation that the pharmaceutical product is a compounded pharmaceutical product, and

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- b. A beyond-use-date as specified in subsection (B)(3)(d).
 - 5. A written list of the compounded pharmaceutical product's active ingredients is given to the patient at the time of dispensing.
 - 6. When a component is removed from its original container and transferred to another container, the new container label contains, in full text or an abbreviated code system, the following:
 - a. The component name,
 - b. The manufacturer's or supplier's name,
 - c. The lot or control number,
 - d. The weight or measure,
 - e. The beyond-use-date as specified in subsection (B)(3)(d), and
 - f. The transfer date.
 - J. A pharmacy permittee shall ensure that the pharmacist-in-charge stores any quantity of compounded pharmaceutical product produced in excess of the quantity dispensed in accordance with subsection (B):
 - 1. In an appropriate container with a label that contains:
 - a. A complete list of components or the pharmaceutical product's name;
 - b. The preparation date;
 - c. The assigned lot or control number; and
 - d. A beyond-use-date as specified in subsection (B)(3)(d); and
 - 2. Under conditions, dictated by the pharmaceutical product's composition and stability characteristics, that ensure its strength, quality, and purity.
 - K. A pharmacy permittee shall ensure that the pharmacist-in-charge establishes, implements, and complies with record-keeping procedures that comply with this subsection:
 - 1. Pharmaceutical product compounding procedures and other records required by this Section are maintained by the pharmacy for not less than seven years, and
 - 2. Pharmaceutical product compounding procedures and other records required by this Section are readily available for inspection by the Board or its designee.
- Historical Note**
- Adopted effective August 5, 1997 (Supp. 97-3).
 Amended by final rulemaking at 10 A.A.R. 3391,
 effective October 2, 2004 (Supp. 04-3). Amended by
 final rulemaking at 12 A.A.R. 3981, effective December
 4, 2006 (Supp. 06-4).
- R4-23-411. Pharmacist-administered or Intern-administered Immunizations**
- A. Authorization to administer immunizations, vaccines, and emergency medications, as defined at A.R.S. § 32-1974(N), to an eligible adult patient or eligible minor patient. As used in this Section, "eligible adult patient" means an eligible patient 13 years of age or older and "eligible minor patient" means an eligible patient at least three years of age but less than 13 years of age. A pharmacist or an intern in the presence of and under the immediate personal supervision of a pharmacist may administer, without a prescription, immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient, if:
 - 1. Both the pharmacist and intern meet the qualifications and standards specified by A.R.S. § 32-1974 and this Section;
 - 2. The Board authorizes both the pharmacist and intern as specified in subsection (D);
 - 3. For an eligible adult patient, the immunization or vaccine is:
 - a. Recommended for adults by the United States Centers for Disease Control and Prevention; or
 - b. Recommended by the United States Centers for Disease Control and Prevention's Health Information for International Travel;
 - 4. For an eligible adult patient, the immunization or vaccine is not on the Arizona Department of Health Services list specified in A.A.C. R9-6-1301 as required under A.R.S. § 32-1974(I);
 - 5. For an eligible minor patient, the immunization or vaccine is for influenza or a booster dose as described under A.R.S. § 32-1974(B)(2); and
 - 6. For an eligible minor patient, any immunizations or vaccines other than influenza or a booster dose as described under A.R.S. § 32-1974(B)(2) are administered in response to a public health emergency declared by the Governor under A.R.S. § 36-787.
 - B. A pharmacist or an intern in the presence of and under the immediate personal supervision of a pharmacist, may administer, with a prescription, any immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient, if:
 - 1. Both the pharmacist and intern meet the qualifications and standards specified by A.R.S. § 32-1974 and this Section; and
 - 2. The Board authorizes both the pharmacist and intern as specified in subsection (D).
 - C. A pharmacist or intern who is authorized to administer immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient shall:
 - 1. Not delegate the authority to any other pharmacist, intern, or employee not specifically authorized by rule; and
 - 2. Maintain their current certificate for inspection by the Board or its designee or review by the public.
 - D. Qualifications to administer immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient. After receipt of a completed application form, the Board shall authorize the administration of immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient by a pharmacist or intern who meets the following qualifications:
 - 1. Has a current license to practice pharmacy in this state,
 - 2. Successfully completes a training program specified in subsection (E), and
 - 3. Has a current certificate in basic cardiopulmonary resuscitation.
 - E. Immunizations training program requirements. A training program for pharmacists or interns to administer immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient shall include the following courses of study:
 - 1. Basic immunology and the human immune response;
 - 2. Mechanics of immunity, adverse effects, dose, and administration schedule of available vaccines;
 - 3. Response to an emergency situation as a result of the administration of an immunization, vaccine, or medication including administering an emergency medication to counteract the adverse effects of the immunization, vaccine, or medication given;
 - 4. Administration of intramuscular injections;
 - 5. Other immunization administration methods; and

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6. Recordkeeping and reporting requirements specified in subsection (F).
- F. Recordkeeping and reporting requirements.**
1. A pharmacist or intern authorized under this Section to administer immunizations, vaccines, and emergency medications to an eligible patient shall provide to the pharmacy the following information and documentation regarding each immunization, vaccine, or emergency medication administered:
 - a. The name, address, and date of birth of the patient;
 - b. The date of administration and site of injection;
 - c. The name, dose, manufacturer's lot number, and expiration date of the vaccine, immunization, or emergency medication;
 - d. The name and address of the patient's identified primary-care provider or physician;
 - e. The name of the pharmacist or intern administering the immunization, vaccine, or emergency medication;
 - f. A record of the pharmacist's or intern's consultation with the patient determining that the patient is an eligible patient as defined in R4-23-110;
 - g. Consultation or other professional information provided to the patient by the pharmacist or intern;
 - h. The name and date of the immunization or vaccine information sheet provided to the patient; and
 - i. For an immunization or vaccine given to an eligible minor patient, a consent form signed by the minor's parent or guardian.
 2. As required under A.R.S. § 32-1974(F)(1), the pharmacist or intern shall provide a written or electronic report to the patient's primary-care provider or physician containing the documentation required in subsection (F)(1)(a) through (d). The pharmacy shall document the time and date the report is sent and make the record of compliance with this subsection available in the pharmacy or on request, within 72 hours, for inspection by the Board or its designee.
 3. A pharmacy's pharmacist-in-charge or permittee shall maintain the records required in subsection (F)(1) in the pharmacy or database for a minimum of seven years from the administration date.
- G. Confidentiality of records.** A pharmacist, intern, pharmacy permittee, or pharmacist-in-charge shall comply with applicable state and federal privacy statutes and rules when releasing patient health information.
- H. Pharmacist-administered or intern-administered adult immunizations that require a prescription order.** A pharmacist or intern authorized by the Board to administer adult immunizations or vaccines shall not administer any immunization or vaccine listed in A.A.C. R9-6-1301 without a prescription order. In addition to filing a prescription order as required in A.R.S. § 32-1964, a pharmacist or pharmacy intern who administers an immunization or vaccine listed in A.A.C. R9-6-1301 shall comply with the recordkeeping requirements of subsection (F)(1).

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3967, effective November 13, 2004 (Supp. 04-3).
 Amended by final rulemaking at 12 A.A.R. 279, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 14 A.A.R. 3674, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 15 A.A.R. 1930, effective November 3, 2009 (Supp. 09-4).

Amended by final rulemaking at 17 A.A.R. 2596, effective February 4, 2012 (Supp. 11-4). Amended by final rulemaking at 23 A.A.R. 211, effective March 5, 2017 (Supp. 17-1). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).
 Amended by final rulemaking at 26 A.A.R. 223, effective March 14, 2020 (Supp. 20-1). Amended by final rulemaking at 28 A.A.R. 994 (May 13, 2022), effective July 2, 2022 (Supp. 22-2).

R4-23-412. Emergency Refill Prescription Dispensing

- A.** When a state of emergency is declared under A.R.S. § 32-1910(A) or (B) and the state of emergency results in individuals being unable to refill existing prescriptions, a pharmacist may work in the affected county, city, or town and may dispense a one-time emergency refill prescription of up to a 30-day supply of a prescribed medication to an affected individual if both of the following apply:
1. In the pharmacist's professional opinion the medication is essential to the maintenance of life or to the continuation of therapy, and
 2. The pharmacist makes a good faith effort to reduce the information to a written prescription marked "emergency prescription" and files and maintains the prescription as required by law.
- B.** If the state of emergency declared under A.R.S. § 32-1910(A) or (B) continues for at least 21-days after the pharmacist dispenses an emergency prescription under subsection (A), the pharmacist may dispense one additional emergency refill prescription of up to a 30-day supply of the prescribed medication if the pharmacist complies with subsection (A)(2).
- C.** A pharmacist's authority to dispense emergency prescriptions under this Section ends when the declared state of emergency is terminated.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 4400, effective January 3, 2009 (Supp. 08-4).

R4-23-413. Temporary Recognition of Nonresident Licensure

- A.** When a state of emergency is declared under A.R.S. § 32-1910(A) or (B):
1. A pharmacist who is not licensed in this state, but who is currently licensed in another state, may dispense prescription medications in those affected counties, cities, or towns in this state during the time that a declared state of emergency exists under A.R.S. § 32-1910(A) or (B) if both of the following apply:
 - a. The pharmacist provides proof of current licensure in another state, and
 - b. The pharmacist is engaged in a relief effort during a state of emergency.
 2. Acting under the direct supervision of a pharmacist, a pharmacy technician or pharmacy intern not licensed in this state, but currently licensed or registered in another state, may assist a pharmacist in dispensing prescription medications in affected counties, cities, or towns in this state during the time that a declared state of emergency exists under A.R.S. § 32-1910(A) or (B) if both of the following apply:
 - a. The pharmacy technician or pharmacy intern provides proof of current licensure or registration in another state, and
 - b. The pharmacy technician or pharmacy intern is engaged in a relief effort during a state of emergency.

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- B. The recognition of nonresident licensure or registration shall end with the termination of the declared state of emergency.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 4400, effective January 3, 2009 (Supp. 08-4).

R4-23-414. Reserved**R4-23-415. Impaired Licensees – Treatment and Rehabilitation**

- A. The Board may contract with qualified organizations to operate a program for the treatment and rehabilitation of licensees impaired as the result of alcohol or other drug abuse, pursuant to A.R.S. § 32-1932.01.
- B. Participants in the program are either “confidential” or “known.” Confidential participants are self-referred and may remain unidentified to the Board, subject to maintaining compliance with their program contract. Known participants are under Board order to complete a minimum tenure in the program. After a known participant completes the minimum tenure, the Board may terminate the Board order and reinstate the participant’s license to practice pharmacy.
- C. The program contract with a qualified organization shall include as a minimum the following:
1. Duties and responsibilities of each party.
 2. Duration, not to exceed two years, of contract and terms of compensation.
 3. Quarterly reports from the program administrator to the Board indicating:
 - a. Identity of participants;
 - i. By name, if a known participant; or
 - ii. By case number, if a confidential participant;
 - b. Status of each participant, including;
 - i. Clinical findings;
 - ii. Diagnosis and treatment recommendations;
 - iii. Program activities; and
 - iv. General recovery and rehabilitation program information.
 4. The program administrator shall report immediately to the Board the name of any impaired licensee who poses a danger to self or others.
 5. The program administrator shall report to the Board, as soon as possible, the name of any impaired licensee:
 - a. Who refuses to submit to treatment,
 - b. Whose impairment is not substantially alleviated through treatment, or
 - c. Who violates the terms of their contract.
 6. The program administrator shall periodically provide informational programs to the profession, including approved continuing education programs on the topic of drug and chemical impairment, treatment, and rehabilitation.
- D. Under A.R.S. § 32-1903(F), the Board may publish the names of participants under current Board orders.
- E. The Board or its executive director may request the treatment records for any participant. The program administrator shall provide treatment records within 10 working days of receiving a written request from the Board or its executive director for such records. Upon request of the program administrator or the Board or its executive director, a program participant shall authorize a drug and alcohol treatment facility or program or a private practitioner or treatment program to release the participant’s records to the program administrator or the Board or its executive director.

- F. On the recommendation of the program administrator or a Board member and by mutual consent, the program administrator, Board member, Board staff, and program participant may meet informally to discuss program compliance.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 467, effective January 4, 2000 (Supp. 00-1). Amended by final rulemaking at 14 A.A.R. 3611, effective November 8, 2008 (Supp. 08-3).

R4-23-416. Reserved**R4-23-417. Reserved****R4-23-418. Reserved****R4-23-419. Reserved****R4-23-420. Reserved****R4-23-421. Repealed****Historical Note**

New Section made by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 17 A.A.R. 2600, effective February 4, 2012 (Supp. 11-4).

R4-23-422. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 17 A.A.R. 2600, effective February 4, 2012 (Supp. 11-4).

R4-23-423. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 17 A.A.R. 2600, effective February 4, 2012 (Supp. 11-4).

R4-23-424. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 17 A.A.R. 2600, effective February 4, 2012 (Supp. 11-4).

R4-23-425. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 17 A.A.R. 2600, effective February 4, 2012 (Supp. 11-4).

R4-23-426. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 17 A.A.R. 2600, effective February 4, 2012 (Supp. 11-4).

R4-23-427. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Section

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repealed by final rulemaking at 17 A.A.R. 2600, effective February 4, 2012 (Supp. 11-4).

R4-23-428. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 17 A.A.R. 2600, effective February 4, 2012 (Supp. 11-4).

R4-23-429. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 4052, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 17 A.A.R. 2600, effective February 4, 2012 (Supp. 11-4).

**ARTICLE 5. CONTROLLED SUBSTANCES
PRESCRIPTION MONITORING PROGRAM**

New Article 5, consisting of Sections R4-23-501 through R4-23-505, made effective August 2, 2014 (Supp. 14-2).

Article 5, consisting of Sections R4-23-501 through R4-23-505, expired effective August 30, 2013 (Supp. 14-1).

Article 5, consisting of Sections R4-23-501 and R4-23-502, recodified to Article 8 at 9 A.A.R. 4011, effective August 18, 2003 (Supp. 03-3).

New Article 5, consisting of Sections R4-23-501 through R4-23-505, made by final rulemaking at 14 A.A.R. 3410, effective October 4, 2008 (Supp. 08-3).

R4-23-501. Controlled Substances Prescription Monitoring (CSPMP) Program Registration and Database Access

- A. Under A.R.S. § 36-2606, a medical practitioner who is issued a license under A.R.S. Title 32, Chapter 7, 11, 13, 14, 15, 16, 17, 21, 25, or 29 and possesses a current DEA registration under the Federal Controlled Substances Act shall have a current CSPMP registration issued by the Board.
- B. Application.
 1. An applicant for CSPMP registration shall:
 - a. Submit a completed application for CSPMP registration electronically or manually on a form furnished by the Board, and
 - b. Submit with the application form the documents specified in the application form.
 2. The Board office shall deem an application form received on the date the Board office electronically or manually date-stamps the form.
- C. Registration. Within seven business days of receipt of a completed application specified in subsection (B), the Board office shall determine whether an application is complete. If the application is complete, the Board office shall issue a registration number and provide a current registration certificate to the applicant by mail or electronic transmission. If the application is incomplete, the Board office shall issue a written notice of incompleteness. An applicant with an incomplete application shall comply with the requirements of R4-23-202(F).
- D. Registration renewal. As specified in A.R.S. § 36-2606(C), the Board shall automatically suspend the registration of any registrant that fails to renew the registration on or before May 1 of the year in which the renewal is due. The Board shall vacate a suspension if the registrant submits a renewal application. A suspended registrant with CSPMP database access credentials

is prohibited from accessing information in the prescription monitoring program database.

E. CSPMP database access.

1. A medical practitioner that chooses to use the CSPMP database shall request access from the CSPMP Director by completing an access user registration form electronically. Upon receipt of the access user registration form, the CSPMP Director or designee shall issue access credentials provided the medical practitioner is in compliance with the registration requirements of this Section.
2. A pharmacist that chooses to use the CSPMP database shall request access from the CSPMP Director by completing an access user registration form electronically. Upon receipt of the access user registration form, the CSPMP Director or designee shall issue access credentials provided the pharmacist has a current active pharmacist license.
3. A medical practitioner or pharmacist who is not licensed in Arizona may request access from the CSPMP Director by:
 - a. Completing an access user registration form electronically;
 - b. Printing the access user registration form;
 - c. Having the access user registration form signed and notarized; and
 - d. Mailing the notarized access user form along with a current copy of the applicant's nonresident state license and driver's license. Upon receipt of the notarized access user registration form and other required documents, the CSPMP Director or designee shall issue access credentials provided the nonresident licensed medical practitioner or pharmacist credentials show an current active license in another state.

Historical Note

Former Rule 5.2110; Amended effective August 9, 1983 (Supp. 83-4). Amended by final rulemaking at 8 A.A.R. 4898, effective January 5, 2003 (Supp. 02-4). Recodified to R4-23-801 at 9 A.A.R. 4011, effective August 18, 2003 (Supp. 03-3). New Section made by final rulemaking at 14 A.A.R. 3410, effective October 4, 2008 (Supp. 08-3). Amended by final rulemaking at 19 A.A.R. 94, effective March 10, 2013 (Supp. 13-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 133, effective August 30, 2013 (Supp. 14-1). New Section made by final rulemaking at 20 A.A.R. 1359, effective August 2, 2014 (Supp. 14-2).

R4-23-502. Requirements for Data Format and Transmission

- A. Each dispenser shall submit to the Board or its designee by electronic means information regarding each prescription dispensed for a controlled substance listed in Schedules II, III, and IV of A.R.S. Title 36, Chapter 27, the Arizona Uniform Controlled Substances Act. The information reported shall conform to the August 31, 2005 Version 003, Release 000 ASAP Rules-based Standard Implementation Guide for Prescription Monitoring Programs published by the American Society for Automation in Pharmacy as specified in A.R.S. § 36-2608(B). The information submitted for each prescription shall include:
 1. The name, address, telephone number, prescription number, and DEA registration number of the dispenser;

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2. The name, address, gender, date of birth, and telephone number of the person or, if for an animal, the owner of the animal for whom the prescription is written;
 3. The name, address, telephone number, and DEA registration number of the prescribing medical practitioner;
 4. The quantity and National Drug Code (NDC) number of the Schedule II, III, or IV controlled substance dispensed;
 5. The date the prescription was dispensed;
 6. The number of refills, if any, authorized by the medical practitioner;
 7. The date the prescription was issued;
 8. The method of payment identified as cash or third party; and
 9. Whether the prescription is new or a refill.
- B.** A dispenser shall submit the required information electronically unless the Board or its designee approves a waiver as specified in subsection (D).
- C.** A dispenser's electronic data transfer equipment including hardware, software, and internet connections shall meet the privacy and security standards of the Health Insurance Portability and Accountability Act (HIPAA) of 1996, as amended, and A.R.S. § 12-2292, in addition to common internet industry standards for privacy and security. A dispenser shall ensure that each electronic transmission meets the following data protection requirements:
1. Data shall be at least 128-bit encryption in transmission and at rest; and
 2. Data shall be transmitted via secure e-mail, telephone modem, diskette, CD-ROM, tape, secure File Transfer Protocol (FTP), Virtual Private Network (VPN), or other Board-approved media.
- D.** A dispenser who does not have an automated recordkeeping system capable of producing an electronic report in the Board established format may request a waiver from electronic reporting by submitting a written request to the Board or its designee. The Board or its designee shall grant the request if the dispenser agrees in writing to report the data by submitting a completed universal claim form supplied by the Board or its designee.
- E.** Unless otherwise approved by the Board, a dispenser shall report by the close of business on each Friday the required information for the previous week, Sunday through Saturday. If a Friday falls on a state holiday, the dispenser shall report the information on the following business day. The Board or its designee may approve a less frequent reporting period if a dispenser makes a showing that a less frequent reporting period will not reduce the effectiveness of the system or jeopardize the public health.
- B.** The Board or its designee shall review the prescription information collected under A.R.S. Title 36, Chapter 28 and R4-23-502. If the Board or its designee has reason to believe an act of unprofessional or illegal conduct has occurred, the Board or its designee shall notify the appropriate professional licensing board or law enforcement or criminal justice agency and provide the prescription information required for an investigation.
- C.** The Board or its designee is authorized to release data collected by the program to the following:
1. A person who is authorized to prescribe or dispense a controlled substance to assist that person to provide medical or pharmaceutical care to a patient or to evaluate a patient;
 2. An individual who requests the individual's own controlled substance prescription information under A.R.S. § 12-2293;
 3. A professional licensing board established under A.R.S. Title 32, Chapter 7, 11, 13, 14, 15, 16, 17, 18, 21, 25, or 29. Except as required under subsection (B), the Board or its designee shall provide this information only if the requesting board states in writing that the information is necessary for an open investigation or complaint;
 4. A local, state, or federal law enforcement or criminal justice agency. Except as required under subsection (B), the Board or its designee shall provide this information only if the requesting agency states in writing that the information is necessary for an open investigation or complaint;
 5. The Arizona Health Care Cost Containment System Administration regarding individuals who are receiving services under A.R.S. Title 36, Chapter 29. Except as required under subsection (B), the Board or its designee shall provide this information only if the Administration states in writing that the information is necessary for an open investigation or complaint;
 6. A person serving a lawful order of a court of competent jurisdiction;
 7. A person who is authorized to prescribe or dispense a controlled substance and who performs an evaluation on an individual under A.R.S. § 23-1026; and
 8. The Board staff for purposes of administration and enforcement of A.R.S. Title 36, Chapter 28 and this Article.
- D.** The Board or its designee may provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used to identify individual patients or persons who received prescriptions from dispensers.

Historical Note

Former Rule 5.2510. Amended by final rulemaking at 8 A.A.R. 4898, effective January 5, 2003 (Supp. 02-4). Recodified to R4-23-802 at 9 A.A.R. 4011, effective August 18, 2003 (Supp. 03-3). New Section made by final rulemaking at 14 A.A.R. 3410, effective October 4, 2008 (Supp. 08-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 133, effective August 30, 2013 (Supp. 14-1). New Section made by final rulemaking at 20 A.A.R. 1359, effective August 2, 2014 (Supp. 14-2).

R4-23-503. Access to Controlled Substances Prescription Monitoring Program Data

- A.** Except as provided in A.R.S. § 36-2604(B) and (C) and this Section, prescription information submitted to the Board or its designee is confidential and is not subject to public inspection.

Historical Note

Former Rules 5.3500, 5.3520, 5.3540, 5.3550, 5.3560, 5.3570, 5.3580, 5.3590, 5.4110, and 5.6110; Repealed effective August 2, 1982 (Supp. 82-4). New Section made by final rulemaking at 14 A.A.R. 3410, effective October 4, 2008 (Supp. 08-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 133, effective August 30, 2013 (Supp. 14-1). New Section made by final rulemaking at 20 A.A.R. 1359, effective August 2, 2014 (Supp. 14-2).

R4-23-504. Computerized Central Database Tracking System Task Force

- A.** The Board shall appoint a task force to help it administer the computerized central database tracking system as specified in A.R.S. § 36-2603.

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- B. The Task Force shall meet at least once each year and at the call of the chairperson to establish the procedures and conditions relating to the release of prescription information specified in A.R.S. § 36-2604 and R4-23-503.
- C. The Task Force shall determine:
 1. The information to be screened;
 2. The frequency and thresholds for screening; and
 3. The parameters for using the information to notify medical practitioners, patients, and pharmacies to educate and provide for patient management and treatment options.
- D. The Board shall review and approve the procedures and conditions established by the Task Force as needed but at least once every calendar year.

Historical Note

Former Rule 5.7010; Amended effective August 10, 1978 (Supp. 78-4). Repealed effective August 2, 1982 (Supp. 82-4). New Section made by final rulemaking at 14 A.A.R. 3410, effective October 4, 2008 (Supp. 08-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 133, effective August 30, 2013 (Supp. 14-1). New Section made by final rulemaking at 20 A.A.R. 1359, effective August 2, 2014 (Supp. 14-2).

R4-23-505. Reports

- A. Before releasing prescription monitoring program data, the Board or its designee shall receive a written or electronic request for controlled substance prescription information.
- B. A person authorized to access CSPMP data under R4-23-503(C)(1) through (7) shall submit a written or electronic request that:
 1. Specifies the information requested for the report;
 2. For a medical practitioner, provides a statement that the report's purpose is to provide medical or pharmaceutical care to a patient or to evaluate a patient;
 3. For an individual obtaining the individual's own controlled substance prescription information, provides a form of non-expired government-issued photo identification;
 4. For a professional licensing board, states that the information is necessary for an open investigation or complaint;
 5. For a local, state, or federal law enforcement or criminal justice agency, states that the information is necessary for an open investigation or complaint;
 6. For the AHCCCS Administration, states that the information is necessary for an open investigation or complaint; and
 7. For a person serving a lawful order of a court of competent jurisdiction, provides a copy of the court order.
- C. The Board or its designee may provide reports through U.S. mail, other common carrier, facsimile, or secured electronic media or may allow reports to be picked up in-person at the Board office.

Historical Note

Former Rules 5.7100, 5.8100, 5.8500, 5.9100, and 5.9500; Amended effective August 10, 1978 (Supp. 78-4). Repealed effective August 2, 1982 (Supp. 82-4). New Section made by final rulemaking at 14 A.A.R. 3410, effective October 4, 2008 (Supp. 08-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 133, effective August 30, 2013 (Supp. 14-1). New Section made by

final rulemaking at 20 A.A.R. 1359, effective August 2, 2014 (Supp. 14-2).

R4-23-506. Repealed**Historical Note**

Adopted effective December 3, 1974 (Supp. 75-1).
Repealed effective August 24, 1992 (Supp. 92-3).

ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS**R4-23-601. General Provisions**

- A. Permit required to sell a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical. A person shall have a current Board permit to:
 1. Sell a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical in Arizona; or
 2. Sell a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical from outside Arizona and ship the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical into Arizona.
- B. A medical practitioner is exempt from subsection (A) to administer a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical for the emergency needs of a patient.
- C. Permit fee. Permits are issued biennially on an odd- and even-year expiration based on the assigned permit number. The fee, specified in R4-23-205, is not refundable unless the Board fails to comply with the permit time frames established in R4-23-602.
- D. Record of receipt and disposal of narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals.
 1. Every person manufacturing a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical, including repackaging or relabeling, shall prepare and retain for no fewer than three years the manufacturing, repackaging, or relabeling date for each narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical.
 2. Every person receiving, selling, delivering, or disposing of a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical shall record and retain for no fewer than three years the following information:
 - a. The name, strength, dosage form, and quantity of each narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical received, sold, delivered, or disposed;
 - b. The name, address, and license or permit number, if applicable, of the person from whom each narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is received;
 - c. The name, address, and license or permit number, if applicable, of the person to whom each narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or

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regulated chemical is sold or delivered, or of the person who disposes of each narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and

- d. The receipt, sale, deliver, or disposal date of each narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical.
3. The record required in this subsection shall be available for inspection by the Board or its compliance officer during regular business hours.
4. If the record required in this subsection is stored in a centralized recordkeeping system and not immediately available for inspection, a permittee, manager, or pharmacist-in-charge shall provide the record within four working days of the Board's or its compliance officer's request.
- E. Narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals damaged by water, fire, or from human or animal consumption or use. A person shall not sell or offer to sell any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical damaged by water, fire, or from human or animal consumption or use.
- F. At least 14 days before there is a change in ownership, as defined at R4-23-110, of a license or permit issued under this Chapter, the new licensee or permittee shall apply to the Board for a new license or permit.

Historical Note

Former Rules 6.1100, 6.1200, 6.1300, 6.1400, and 6.1500. Amended effective August 10, 1978 (Supp. 78-4). Amended subsection (C) effective August 9, 1983 (Supp. 83-4). Amended subsection (C) effective August 12, 1988 (Supp. 88-3). Amended by final rulemaking at 6 A.A.R. 4656, effective November 14, 2000 (Supp. 00-4).

Amended by final rulemaking at 12 A.A.R. 1912, effective July 1, 2006 (Supp. 06-2). Amended by final rulemaking at 14 A.A.R. 3670, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).

R4-23-602. Permit Application Process and Time frames

- A. A person applying for a permit shall:
 1. Submit a completed application for the desired permit electronically or manually on a form furnished by the Board, and
 2. Submit with the application form:
 - a. The documents specified in the application form, and
 - b. The permit fee specified in R4-23-205.
- B. The Board office shall deem an application form received on the date the Board office electronically or manually date-stamps the form.
- C. Time frames for permits.
 1. The Board office shall finish an administrative completeness review within 60 days from the date the application form is received.
 - a. The Board office shall issue a written notice of administrative completeness to the applicant if no deficiencies are found in the application form.
 - b. If the application form is incomplete, the Board office shall provide the applicant with a written notice that includes a comprehensive list of the miss-

ing information. The 60-day time frame for the Board office to finish the administrative completeness review is suspended from the date the notice of incompleteness is served until the applicant provides the Board office with all missing information.

- c. If the Board office does not provide the applicant with written notice regarding administrative completeness, the application form shall be deemed complete 60 days after receipt by the Board office.
2. An applicant with an incomplete application form shall submit to the Board office all of the missing information within 90 days of service of the notice of incompleteness.
 - a. If an applicant cannot submit all missing information within 90 days of service of the notice of incompleteness, the applicant may send a written request for an extension to the Board office postmarked or delivered no later than 90 days from service of the notice of incompleteness;
 - b. The written request for an extension shall document the reasons the applicant is unable to meet the 90-day deadline; and
 - c. The Board office shall review the request for an extension of the 90-day deadline and grant the request if the Board office determines an extension of the 90-day deadline will enable the applicant to assemble and submit the missing information. An extension shall be for no more than 30 days. The Board office shall notify the applicant in writing of its decision to grant or deny the request for an extension.
3. If an applicant fails to submit a complete application form within the time allowed, the Board office shall close the applicant's file. An applicant whose file is closed and who later wishes to obtain a permit shall submit a new application and fee as specified in subsection (A).
4. For a nonprescription drug permit applicant, a compressed medical gas distributor permit applicant, and a durable medical equipment and compressed medical gas supplier permit applicant, the Board office shall issue a permit on the day the Board office determines an administratively complete application form is received.
5. Except as described in subsection (C)(4), from the date on which the administrative completeness review of an application form is finished, the Board office shall complete a substantive review of the applicant's qualifications in no more than 120 days.
 - a. If an applicant is found to be ineligible, the Board office shall issue a written notice of denial to the applicant.
 - b. If an applicant is found to be eligible, the Board office shall recommend to the Board that the applicant be issued a permit. Upon receipt of the Board office's recommendation, the Board shall either issue a permit to the applicant or if the Board determines the applicant does not meet eligibility requirements, return the matter to the Board office.
 - c. If the Board office finds deficiencies during the substantive review of the application form, the Board office shall issue a written request to the applicant for additional documentation.
 - d. The 120-day time frame for a substantive review for the issuance or denial of a permit is suspended from the date of the written request for additional documentation until the date all documentation is

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received. The applicant shall submit the additional documentation according to subsection (C)(2).

- e. If the applicant and the Board office mutually agree in writing, the 120-day substantive review time frame may be extended once for no more than 45 days.

- 6. For the purpose of A.R.S. § 41-1072 et seq., the Board establishes the following time frames for permits:

- a. Administrative completeness review time frame: 60 days.
- b. Substantive review time frame:
 - i. Nonprescription drug permit, compressed medical gas distributor permit, and durable medical equipment and compressed medical gas supplier permit: none.
 - ii. Except as described in subsection (C)(6)(b)(i): 120 days.
- c. Overall time frame:
 - i. Nonprescription drug permit, compressed medical gas distributor permit, and durable medical equipment and compressed medical gas supplier permit: 60 days.
 - ii. Except as described in subsection (C)(6)(c)(i): 180 days.

D. Permit renewal.

- 1. To renew a permit, a permittee shall submit a completed application for permit renewal electronically or manually on a form furnished by the Board with the biennial renewal fee specified in R4-23-205.
- 2. If the biennial renewal fee is not paid by November 1 of the renewal year specified in A.R.S. § 32-1931, the permit is suspended. The permittee shall pay a penalty as provided in A.R.S. § 32-1931 and R4-23-205 to vacate the suspension.
- 3. Time frames for permit renewals. The Board office shall follow the time frames established in subsection (C).

- E. Display of permit.** A permittee shall conspicuously display the permit in the location to which it applies.

Historical Note

Former Rules 6.2100, 6.2200, 6.2300, 6.2400, 6.2500, 6.2600, 6.2610, 6.2620, 6.2630, 6.2640, and 6.2650.
 Amended effective August 10, 1978 (Supp. 78-4).
 Amended effective August 9, 1983 (Supp. 83-4).
 Repealed effective August 12, 1988 (Supp. 88-3). New Section adopted effective August 5, 1997 (Supp. 97-3).
 Amended by final rulemaking at 6 A.A.R. 4589, effective November 14, 2000 (Supp. 00-4). Amended by final rulemaking at 20 A.A.R. 1364, effective August 2, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).

R4-23-603. Resident-Nonprescription Drugs, Retail

- A. Permit.** A person, including the following, shall not sell or distribute a nonprescription drug without a current Board-issued permit:
 - 1. A grocer;
 - 2. Other non-pharmacy retail outlet; or
 - 3. Mobile or non-fixed location retailer, such as a swap-meet vendor.
- B. A medical practitioner licensed under A.R.S. Title 32 is exempt from the requirements of subsection (A).**
- C. Application.** To obtain a permit to sell a nonprescription drug, a person shall submit:

- 1. A completed application form and fee as specified in R4-23-602; and
- 2. Documentation of compliance with local zoning laws, if required by the Board.

D. Drug sales. A nonprescription drug permittee:

- 1. Shall sell a drug only in the original container packaged and labeled by the manufacturer; and
- 2. Shall not package, repackage, label, or relabel any drug.

E. Inspection. A nonprescription drug permittee shall consent to inspection during business hours by a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901.

F. Quality control. A nonprescription drug permittee shall:

- 1. Ensure that all drugs stocked, sold, or offered for sale are:
 - a. Kept clean;
 - b. Protected from contamination, excessive heat, cold, sunlight, and other deteriorating factors;
 - c. In compliance with federal law; and
 - d. Received from a supplier with a current Board-issued permit as specified in R4-23-601(A).
- 2. Develop and implement a program to ensure that:
 - a. Any expiration-dated drug is reviewed regularly;
 - b. Any drug, that exceeds its expiration date, is deteriorated or damaged, or does not comply with federal law, is moved to a quarantine area and not sold or distributed; and
 - c. Any quarantined drug is destroyed or returned to its source of supply.

G. Notification. A nonprescription drug permittee shall submit using the permittee's online profile or provide written notice by mail, fax, or e-mail to the Board office within 10 days of changes involving the telephone or fax number, e-mail or mailing address, or business name.

H. Change of ownership. A nonprescription drug permittee shall comply with R4-23-601(F).

I. Relocation. No less than 30 days before an existing nonprescription drug permittee relocates, the permittee shall submit a completed application for relocation electronically or manually on a form furnished by the Board, and the documentation required in subsection (C).

J. Records. A nonprescription drug permittee shall:

- 1. Retain records of the receipt and disposal of nonprescription drugs as required in R4-23-601(D), and
- 2. Comply with the requirements of A.R.S. § 32-1977 and federal law for the retail sale of methamphetamine precursors.

K. Permit renewal. To renew a nonprescription drug permit, the permittee shall comply with R4-23-602(D).

L. Nonprescription drug vending machine outlet. In addition to the requirements of R4-23-601, R4-23-602, and subsections (A) through (K), a person selling or distributing a nonprescription drug in a vending machine shall comply with the following requirements:

- 1. Each individual vending machine is considered an outlet and shall have a Board-issued nonprescription drug permit;
- 2. Each nonprescription-drug-permitted vending machine shall display in public view an identification seal, furnished by the Board, containing the permit number, vending machine's serial number, owner's name, and telephone contact number;
- 3. Each nonprescription-drug-permitted vending machine is assigned a specific location that is within a weather-tight structure, protected from direct sunlight, and maintained

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at a temperature not less than 59° F and not greater than 86° F;

4. Each nonprescription drug sold in a vending machine is packaged and labeled in the manufacturer's original FDA-approved container;
5. A nonprescription-drug-permitted vending machine is subject to inspection by a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901 as follows:
 - a. The owner, manager, or other staff of the nonprescription drug permittee shall provide access to the contents of the vending machine within 24 hours of a request from a Board compliance officer or other authorized officer of the law; or
 - b. The Board compliance staff shall have independent access to the vending machine;
6. Before relocating or retiring a nonprescription-drug-permitted vending machine, the owner or manager shall notify the Board in writing. The notice shall include:
 - a. Permit number;
 - b. Vending machine's serial number;
 - c. Action planned (relocate or retire); and
 - d. If retiring a vending machine, the disposition of the nonprescription drug contents of the vending machine;
7. The sale or distribution of a precursor chemical or regulated chemical in a vending machine is prohibited; and
8. Under no circumstance may expired drugs be sold or distributed.

Historical Note

Adopted effective August 10, 1978 (Supp. 78-4).
 Amended subsection (D) paragraph (1) and added subsection (G) effective April 20, 1982 (Supp. 82-2).
 Amended effective August 12, 1988 (Supp. 88-3).
 Amended effective February 8, 1991 (Supp. 91-1).
 Amended effective August 5, 1997 (Supp. 97-3).
 Amended by final rulemaking at 6 A.A.R. 4589, effective November 14, 2000 (Supp. 00-4). Amended by final rulemaking at 20 A.A.R. 1364, effective August 2, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).

R4-23-604. Resident Drug Manufacturer

- A. Permit. A person shall not manufacture, package, repack, label, or relabel any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical without a current Board-issued drug manufacturer permit.
- B. Application. To obtain a permit to operate a drug manufacturing firm in Arizona, a person shall submit a completed application, on a form furnished by the Board, and the fee specified in R4-23-205.
- C. Before issuing a drug manufacturer permit, the Board shall:
 1. Receive and approve a completed permit application;
 2. Interview the applicant and manager, if different from the applicant, at a Board meeting; and
 3. Receive a satisfactory compliance inspection report on the facility from a Board compliance officer.
- D. Notification. A resident drug manufacturer permittee shall notify the Board of changes involving the drug list, address, telephone number, business name, or manager, including manager's telephone number. The resident drug manufacturer permittee shall submit using the permittee's online profile or a

written notice by mail, fax, or e-mail to the Board office within 24 hours of the change.

- E. Change of ownership. A resident drug manufacturer permittee shall comply with R4-23-601(F).
- F. Before an existing resident drug manufacturer permittee relocates, the drug manufacturer permittee shall submit the application packet described in subsection R4-23-604(B), excluding the fee. The facility at the new location shall pass a final inspection by a Board compliance officer before operations begin.
- G. No later than 14 days after the change occurs, a resident drug manufacturer permittee shall submit the application described under subsection R4-23-604(B), excluding the fee, for any change of officers in a corporation.
- H. Manufacturing and distribution.
 1. A drug manufacturer permittee shall manufacture and distribute a drug only:
 - a. To a pharmacy, drug manufacturer, or full-service or nonprescription drug wholesaler currently permitted by the Board;
 - b. To a medical practitioner currently licensed as a medical practitioner as defined in A.R.S. § 32-1901; or
 - c. To a properly permitted, registered, licensed, or certified person or firm of another jurisdiction.
 2. Before manufacturing and distributing a drug that is not listed on a drug manufacturer's permit application, the drug manufacturer permittee shall send to the Board office a written request to amend the permit application, including documentation of FDA approval to manufacture the drug not listed on the original permit application. If a request to amend a permit application includes the documentation required in this subsection, the Board or its designee shall approve the request to amend within 30 days of receipt.
- I. A drug manufacturer permit is subject to denial, suspension, probation, or revocation under A.R.S. § 32-1927.02.
- J. Current Good Manufacturing Practice. A drug manufacturer permittee is required under federal law to follow the good manufacturing practice requirements of 21 CFR 210 through 211.
- K. Records. A drug manufacturer permittee shall:
 1. Establish and implement written procedures for maintaining records pertaining to production, process control, labeling, packaging, quality control, distribution, complaints, and any information required by federal or state law;
 2. Retain the records required by this Article and 21 CFR 210 through 211 for at least two years after distribution of a drug or one year after the expiration date of a drug, whichever is longer; and
 3. Make the records required by this Article and 21 CFR 210 through 211 available within 48 hours for review by a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901.
- L. Inspections. A drug manufacturer permittee shall make the drug manufacturer's facility available for inspection by the Board or its compliance officer under A.R.S. § 32-1904.
- M. Nonresident drug manufacturer. A nonresident drug manufacturer shall comply with the requirements of R4-23-607.
- N. Manufacturing radiopharmaceuticals. Before manufacturing a radiopharmaceutical, a drug manufacturer permittee shall:

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1. Comply with the regulatory requirements of the Arizona Radiation Regulatory Agency, the U.S. Nuclear Regulatory Commission, the FDA, and this Section; and
2. Hold a current Arizona Radiation Regulatory Agency Radioactive Materials License. If a drug manufacturer permittee who manufactures radiopharmaceuticals fails to maintain a current Arizona Radiation Regulatory Agency Radioactive Materials License, the permittee's drug manufacturer permit shall be immediately suspended pending a hearing by the Board.

Historical Note

Former Rules 6.4001, 6.4002, 6.4003, 6.4004, 6.4005, 6.4006, 6.4007, 6.4008, 6.4009, 6.4100, 6.4110, 6.4111, 6.4115, 6.4116, 6.4120, 6.4122, 6.4190, 6.4191, 6.4200, 6.4250, 6.4300, 6.4350, 6.4355, 6.4360, 6.4400, 6.4401, 6.4403, 6.4410, 6.4430, 6.4450, 6.4500, 6.4510, 6.4530, 6.4533, 6.4600, 6.4610, 6.4640, 6.4660, 6.4700, 6.4710, and 6.4750. Adopted effective December 3, 1974 (Supp. 75-1). Amended effective August 10, 1978 (Supp. 78-4). Amended subsection (B) paragraph (2) effective April 20, 1982 (Supp. 82-2). Amended subsections (B), (G), (K) and (L) effective August 12, 1988 (Supp. 88-3). Amended effective August 24, 1992 (Supp. 92-3). Amended effective November 1, 1993 (Supp. 93-4). Amended by final rulemaking at 7 A.A.R. 3815, effective August 9, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 1105, effective April 30, 2005 (Supp. 05-1). Amended by final rulemaking at 19 A.A.R. 702, effective June 1, 2013 (Supp. 13-2). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).

R4-23-605. Resident Drug Wholesaler Permit

- A. Permit. A person shall not operate a business or firm for the wholesale distribution of any drug, device, precursor chemical, or regulated chemical without a current Board-issued full-service or nonprescription drug wholesale permit.
- B. Application.
 1. To obtain a permit to operate a full-service or nonprescription drug wholesale firm in Arizona, a person shall submit a completed application, on a form furnished by the Board, and the fee specified in R4-23-205.
 2. Before issuing a full-service or nonprescription drug wholesale permit, the Board shall:
 - a. Receive and approve a completed permit application;
 - b. Interview the applicant and the designated representative, if different from the applicant, at a Board meeting;
 - c. Receive a satisfactory compliance inspection report on the facility from a Board compliance officer; and
 - d. For a full-service drug wholesale permit, issue a fingerprint clearance to a qualified designated representative, as specified in subsection (L). If the fingerprint clearance of a designated representative for a full-service drug wholesale permit applicant is denied, the full-service drug wholesale permit applicant shall appoint another designated representative and submit the documentation, fingerprints, and fee specified in the application required in subsection (B).
- C. Notification. A resident full-service or nonprescription drug wholesale permittee shall notify the Board of changes involving the type of drugs sold or distributed, address, telephone

number, business name, or manager or designated representative, including the manager's or designated representative's telephone number.

1. The resident full-service or nonprescription drug wholesale permittee shall submit using the permittee's online profile or a written notice by mail, fax, or e-mail to the Board office within 10 days of the change.
 2. For a change of designated representative, a resident full-service drug wholesale permittee shall submit the documentation, fingerprints, and fee specified in the application required in subsection (B).
- D. Change of ownership. A resident full-service or nonprescription drug wholesale permittee shall comply with R4-23-601(F).
 - E. Before an existing resident full-service or nonprescription drug wholesaler permittee relocates, the resident full-service or nonprescription drug wholesale permittee shall submit the application required under subsection (B), excluding the fee. The facility at the new location shall pass a final inspection by a Board compliance officer before operations begin.
 - F. No later than 14 days after the change occurs, a resident full-service or nonprescription drug wholesale permittee shall submit the application described under subsection (B), excluding the fee, for any change of officers in a corporation.
 - G. Distribution restrictions. In addition to the requirements of this subsection, a resident full-service wholesale permittee shall comply with the distribution restrictions specified in A.R.S. § 32-1983.
 1. Records.
 - a. A full-service drug wholesale permittee shall:
 - i. Maintain records to ensure full accountability of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical including dates of receipt and sales, names, addresses, and DEA registration numbers, if required, of suppliers or sources of merchandise, and customer names, addresses, and DEA registration numbers, if required;
 - ii. File the records required in subsection (G)(1)(a)(i) in a readily retrievable manner for a minimum of three years;
 - iii. Make the records required in subsection (G)(1)(a)(i) available upon request during regular business hours for inspection by a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5). Records kept at a central location apart from the business location and not electronically retrievable shall be made available within two business days; and
 - iv. In addition to the records requirements of subsection (G)(1)(a)(i), comply with the retention of track and trace documents required under the Drug Supply Chain and Security Act for all prescription-only drugs that leave the normal distribution channel as defined in A.R.S. § 32-1981.
 - b. A nonprescription drug wholesale permittee shall:
 - i. Maintain records to ensure full accountability of any nonprescription drug, precursor chemical, or regulated chemical including dates of receipt and sales, names, addresses, and DEA registration numbers, if required, of suppliers

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- or sources of merchandise, and customer names, addresses, and DEA registration numbers, if required;
- ii. File the records required in subsection (G)(1)(b)(i) in a readily retrievable manner for a minimum of three years; and
 - iii. Make the records required in subsection (G)(1)(b)(i) available upon request during regular business hours for inspection by a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5). Records kept at a central location apart from the business location and not electronically retrievable shall be made available within two business days.
2. Drug sales.
 - a. A full-service drug wholesale permittee shall:
 - i. Not sell, distribute, give away, or dispose of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical, except in the original container packaged and labeled by the manufacturer or repackager;
 - ii. Not package, repack, label, or relabel any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical;
 - iii. Not sell, distribute, give away, or dispose of any narcotic or other controlled substance, or prescription-only drug or device, to anyone except a pharmacy, drug manufacturer, or full-service drug wholesaler currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - iv. Not sell, distribute, give away, or dispose of any nonprescription drug, precursor chemical, or regulated chemical, to anyone except a pharmacy, drug manufacturer, full-service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - v. Provide track and trace documents required under the Drug Supply Chain and Security Act upon request, if immediately available, or within two business days from the date of a request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901;
 - vi. Maintain a copy of the current permit or license of each person that buys, receives, or disposes of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and
 - vii. Provide permit and license records upon request, if immediately available, or within two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5).
 - b. A nonprescription drug wholesale permittee shall:
 - i. Not sell, distribute, give away, or dispose of any nonprescription drug, precursor chemical,
- or regulated chemical except in the original container packaged and labeled by the manufacturer or repackager;
 - ii. Not package, repack, label, or relabel any nonprescription drug, precursor chemical, or regulated chemical;
 - iii. Not sell or distribute any nonprescription drug, precursor chemical, or regulated chemical to anyone except a pharmacy, drug manufacturer, full-service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - iv. Maintain a record of the current permit or license of each person that buys, receives, or disposes of any nonprescription drug, precursor chemical, or regulated chemical; and
 - v. Provide permit and license records upon request, if immediately available, or within two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5).
- c. Nothing in this subsection shall be construed to prevent the return of a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical to the original source of supply.
3. Out-of-state drug sales.
 - a. A full-service drug wholesale permittee shall:
 - i. Not sell, distribute, give away, or dispose of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical except in the original container packaged and labeled by the manufacturer or repackager;
 - ii. Not package, repack, label, or relabel any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical;
 - iii. Not sell, distribute, give away, or dispose of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical to anyone except a person that is properly permitted, registered, licensed, or certified in another jurisdiction;
 - iv. Provide track and trace documents required under the Drug Supply Chain and Security Act upon request, if immediately available, or within two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901;
 - v. Maintain a copy of the current permit, registration, license, or certificate of each person that buys, receives, or disposes of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and
 - vi. Provide permit, registration, license, and certificate records upon request, if immediately available, or within two business days from the date of the request of a Board compliance officer.

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- cer or other authorized officer of the law as defined in A.R.S. § 32-1901(5); and
- b. A nonprescription drug wholesale permittee shall:
 - i. Not sell, distribute, give away, or dispose of any nonprescription drug, precursor chemical, or regulated chemical except in the original container packaged and labeled by the manufacturer or repackager;
 - ii. Not package, repack, label, or relabel any nonprescription drug, precursor chemical, or regulated chemical;
 - iii. Not sell or distribute any nonprescription drug, precursor chemical, or regulated chemical to anyone except a person that is properly permitted, registered, licensed, or certified in another jurisdiction;
 - iv. Maintain a record of the current permit, registration, license, or certificate of each person that buys, receives, or disposes of any nonprescription drug, precursor chemical, or regulated chemical; and
 - v. Provide permit, registration, license, or certificate records upon request, if immediately available, or within two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5).
4. Cash-and-carry sales.
 - a. A full-service drug wholesale permittee shall complete a cash-and-carry sale or distribution of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical only after:
 - i. Verifying the validity of the order;
 - ii. Verifying the identity of the pick-up person for each transaction by confirming that the person represented placed the cash-and-carry order; and
 - iii. For a prescription-only drug order, verifying that the cash-and-carry sale or distribution is used only to meet the immediate needs of a particular patient of the person that placed the cash-and-carry order; and
 - b. A nonprescription drug wholesale permittee shall complete a cash-and-carry sale or distribution of any nonprescription drug, precursor chemical, or regulated chemical only after:
 - i. Verifying the validity of the order; and
 - ii. Verifying the identity of the pick-up person for each transaction by confirming that the person represented placed the cash-and-carry order.
 - H. Prescription-only drug returns or exchanges. A full-service drug wholesale permittee shall ensure that any prescription-only drug returned or exchanged by a pharmacy or chain pharmacy warehouse under A.R.S. § 32-1983(A) meets the following criteria:
 1. The prescription-only drug is not adulterated or counterfeited, except an adulterated or counterfeited prescription-only drug that is the subject of an FDA or manufacturer recall may be returned for destruction or subsequent return to the manufacturer;
 2. The quantity of prescription-only drug returned or exchanged does not exceed the quantity of prescription-only drug that the full-service drug wholesale permittee or a full-service drug wholesale permittee under common ownership sold to the pharmacy or chain pharmacy warehouse; and
 3. The pharmacy or chain pharmacy warehouse provides documentation that:
 - a. Lists the name, strength, and manufacturer of the prescription-only drug being returned or exchanged; and
 - b. States that the prescription-only drug was maintained in compliance with storage conditions prescribed on the drug label or manufacturer's package insert.
 - I. Returned, outdated, damaged, deteriorated, adulterated, misbranded, counterfeited, and contraband drugs.
 1. Except as specified in subsection (H)(1) for a prescription-only drug, a full-service drug wholesale permittee shall ensure that the return of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical meets the following criteria.
 - a. Any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical that is outdated, damaged, deteriorated, adulterated, misbranded, counterfeited, or contraband or suspected of being adulterated, misbranded, counterfeited, or contraband, or otherwise deemed unfit for human or animal consumption shall be quarantined and physically separated from other narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals until the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA.
 - b. Any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical whose immediate or sealed outer or secondary containers or product labeling are misbranded, counterfeited, or contraband or suspected of being misbranded, counterfeited, or contraband shall be quarantined and physically separated from other narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals until the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA. When the immediate or sealed outer or secondary containers or product labeling are determined to be misbranded, counterfeited, or contraband or suspected of being misbranded, counterfeited, or contraband, the full-service drug wholesale permittee shall provide notice of the misbranding, counterfeiting, or contrabanding or suspected misbranding, counterfeiting, or contrabanding within three business days of the determination to the Board, FDA, and manufacturer or

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wholesale distributor from which the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical was acquired.

- c. Any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical that has been opened or used, but is not adulterated, misbranded, counterfeited, or contraband or suspected of being misbranded, counterfeited, or contraband shall be identified as opened or used, or both, and quarantined and physically separated from other narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals until the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA.
 - d. If the conditions under which a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical has been returned cast doubt on the safety, identity, strength, quality, or purity of the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical, the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical shall be quarantined and physically separated from other narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals until the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA, except as provided in subsection (I)(1)(d)(i).
 - i. If examination, testing, or other investigation proves that the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical meets appropriate standards of safety, identity, strength, quality, and purity, it does not have to be destroyed or returned to the manufacturer or wholesale distributor.
 - ii. In determining whether the conditions under which a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical has been returned cast doubt on the safety, identity, strength, quality, or purity of the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical, the full-service drug wholesale permittee shall consider, among other things, the conditions under which the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical has been held, stored, or shipped before or during its return and the condition of the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical and the condition of its container, carton, or product labeling as a result of storage or shipping.
 - e. For any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical identified under subsections (I)(1)(a) or (b), the full-service drug wholesale permittee shall ensure that the identified item or items and other evidence of criminal activity, and accompanying documentation is retained and not destroyed until its disposition is authorized by the Board and the FDA.
2. A nonprescription drug wholesale permittee shall ensure that the return of any nonprescription drug, precursor chemical, or regulated chemical meets the following criteria.
 - a. Any nonprescription drug, precursor chemical, or regulated chemical that is outdated, damaged, deteriorated, adulterated, misbranded, counterfeited, or contraband or suspected of being adulterated, misbranded, counterfeited, or contraband, or otherwise deemed unfit for human or animal consumption shall be quarantined and physically separated from other nonprescription drugs, precursor chemicals, or regulated chemicals until the nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA.
 - b. Any nonprescription drug, precursor chemical, or regulated chemical whose immediate or sealed outer or secondary containers or product labeling are misbranded, counterfeited, or contraband or suspected of being misbranded, counterfeited, or contraband shall be quarantined and physically separated from other nonprescription drugs, precursor chemicals, or regulated chemicals until the nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA. When the immediate or sealed outer or secondary containers or product labeling are determined to be misbranded, counterfeited, or contraband or suspected of being misbranded, counterfeited, or contraband, the nonprescription drug wholesale permittee shall provide notice of the misbranding, counterfeiting, or contrabanding or suspected misbranding, counterfeiting, or contrabanding within three business days of the determination to the Board, FDA, and manufacturer or wholesale distributor from which the nonprescription drug, precursor chemical, or regulated chemical was acquired.
 - c. Any nonprescription drug, precursor chemical, or regulated chemical that has been opened or used, but is not adulterated, misbranded, counterfeited, or contraband or suspected of being misbranded, counterfeited, or contraband, shall be identified as opened or used, or both, and quarantined and physi-

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cally separated from other nonprescription drugs, precursor chemicals, or regulated chemicals until the nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA.

- d. If the conditions under which a nonprescription drug, precursor chemical, or regulated chemical has been returned cast doubt on the safety, identity, strength, quality, or purity of the nonprescription drug, precursor chemical, or regulated chemical, the nonprescription drug, precursor chemical, or regulated chemical shall be quarantined and physically separated from other nonprescription drugs, precursor chemicals, or regulated chemicals until the nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA, except as provided in subsection (I)(2)(d)(i).

- i. If examination, testing, or other investigation proves that the nonprescription drug, precursor chemical, or regulated chemical meets appropriate standards of safety, identity, strength, quality, and purity, the nonprescription drug, precursor chemical, or regulated chemical does not need to be destroyed or returned to the manufacturer or wholesale distributor.

- ii. In determining whether the conditions under which a nonprescription drug, precursor chemical, or regulated chemical has been returned cast doubt on the safety, identity, strength, quality, or purity of the nonprescription drug, precursor chemical, or regulated chemical, the nonprescription drug wholesale permittee shall consider, among other things, the conditions under which the nonprescription drug, precursor chemical, or regulated chemical has been held, stored, or shipped before or during its return and the condition of the nonprescription drug, precursor chemical, or regulated chemical and the condition of its container, carton, or product labeling as a result of storage or shipping.

- e. For any nonprescription drug, precursor chemical, or regulated chemical identified under subsections (I)(2)(a) or (b), the nonprescription drug wholesale permittee shall ensure that the identified item or items and other evidence of criminal activity, and accompanying documentation is retained and not destroyed until its disposition is authorized by the Board and the FDA.

3. A full-service drug wholesale permittee and nonprescription drug wholesale permittee shall comply with the recordkeeping requirements of subsection (G) for all outdated, damaged, deteriorated, adulterated, misbranded, counterfeited and contraband narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals.

J. Facility. A full-service or nonprescription drug wholesale permittee shall:

1. Ensure that the facility occupied by the full-service or nonprescription drug wholesale permittee is of adequate

size and construction, well-lighted inside and outside, adequately ventilated, and kept clean, uncluttered, and sanitary;

2. Ensure that the permittee's warehouse facility:

- a. Is secure from unauthorized entry; and
 - b. Has an operational security system designed to provide protection against theft;

3. In a full-service drug wholesale facility, ensure that only authorized personnel may enter areas where any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is kept;

4. In a nonprescription drug wholesale facility, ensure that only authorized personnel may enter areas where any nonprescription drug, precursor chemical, or regulated chemical is kept;

5. In a full-service drug wholesale facility, ensure that any thermolabile narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is stored in an area where room temperature is maintained in compliance with storage conditions prescribed on the product label;

6. In a nonprescription drug wholesale facility, ensure that any thermolabile nonprescription drug, precursor chemical, or regulated chemical is stored in an area where room temperature is maintained in compliance with storage conditions prescribed on the product label;

7. Make the facility available for inspection by a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5) during regular business hours;

8. In a full-service drug wholesale facility, provide a quarantine area for storage of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical that is outdated, damaged, deteriorated, adulterated, misbranded, counterfeited, or contraband or suspected of being adulterated, misbranded, counterfeited, or contraband, otherwise deemed unfit for human or animal consumption, or that is in an open container; and

9. In a nonprescription drug wholesale facility, provide a quarantine area for storage of any nonprescription drug, precursor chemical, or regulated chemical that is outdated, damaged, deteriorated, adulterated, misbranded, counterfeited, or contraband or suspected of being adulterated, misbranded, counterfeited, or contraband, otherwise deemed unfit for human or animal consumption, or that is in an open container.

K. Quality controls.

1. A full-service drug wholesale permittee shall:

- a. Ensure that any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical that meets the criteria specified in subsection (I)(1) is not sold, distributed, or delivered to any person for human or animal consumption;

- b. Ensure that a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is not manufactured, packaged, repackaged, labeled, or relabeled by any of its employees;

- c. Ensure that any narcotic or other controlled substance, prescription-only drug or device, nonpre-

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- scription drug, precursor chemical, or regulated chemical stocked, sold, offered for sale, or delivered is:
- i. Kept clean,
 - ii. Protected from contamination and other deteriorating environmental factors, and
 - iii. Stored in a manner that complies with applicable federal and state law and official compendium storage requirements;
- d. Maintain manual or automatic temperature and humidity recording devices or logs to document conditions in areas where any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is stored; and
- e. Develop and implement a program to ensure that:
- i. Any expiration-dated narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is reviewed regularly;
 - ii. Any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical that has less than 120 days remaining on the expiration date, or is deteriorated, damaged, or does not comply with federal law, is moved to a quarantine area and not sold or distributed; and
 - iii. Any quarantined narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired.
2. A nonprescription drug wholesale permittee shall:
- a. Ensure that any nonprescription drug, precursor chemical, or regulated chemical that meets the criteria specified in subsection (I)(2) is not sold, distributed, or delivered to any person for human or animal consumption;
 - b. Ensure that a nonprescription drug, precursor chemical, or regulated chemical is not manufactured, packaged, repackaged, labeled, or relabeled by any of its employees;
 - c. Ensure that any nonprescription drug, precursor chemical, or regulated chemical stocked, sold, offered for sale, or delivered is:
 - i. Kept clean,
 - ii. Protected from contamination and other deteriorating environmental factors, and
 - iii. Stored in a manner that complies with applicable federal and state law and official compendium storage requirements;
 - d. Maintain manual or automatic temperature and humidity recording devices or logs to document conditions in areas where any nonprescription drug, precursor chemical, or regulated chemical is stored; and
 - e. Develop and implement a program to ensure that:
 - i. Any expiration-dated nonprescription drug, precursor chemical, or regulated chemical is reviewed regularly;
 - ii. Any nonprescription drug, precursor chemical, or regulated chemical that has fewer than 120 days remaining on the expiration date, or is deteriorated, damaged, or does not comply with federal law, is moved to a quarantine area and not sold or distributed; and
 - iii. Any quarantined nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired.
- L. Fingerprint clearance.
1. After receiving the state and federal criminal history record of a designated representative, the Board shall compare the record with the list of criminal offenses that preclude a designated representative from receiving a fingerprint clearance. If the designated representative's criminal history record does not contain any of the offenses listed in subsection (L)(2), the Board shall issue the designated representative a fingerprint clearance.
 2. The Board shall not issue a fingerprint clearance to a designated representative who is awaiting trial for or who has been convicted of committing or attempting or conspiring to commit one or more of the following offenses in this state or the same or similar offenses in another state or jurisdiction:
 - a. Unlawfully administering intoxicating liquors, controlled substances, dangerous drugs, or prescription-only drugs;
 - b. Sale of peyote;
 - c. Possession, use, or sale of marijuana, dangerous drugs, prescription-only drugs, or controlled substances;
 - d. Manufacture or distribution of an imitation controlled substance;
 - e. Manufacture or distribution of an imitation prescription-only drug;
 - f. Possession or possession with intent to use an imitation controlled substance;
 - g. Possession or possession with intent to use an imitation prescription-only drug; or
 - h. A felony offense involving sale, distribution, or transportation of, offer to sell, transport, or distribute marijuana, dangerous drugs, prescription-only drugs, or controlled substances.
 3. If the Board determines, after conducting a state and federal criminal history record check, that it is not authorized to issue a fingerprint clearance, the Board shall notify the full-service drug wholesale applicant or permittee that employs the designated representative that the Board is not authorized to issue a fingerprint clearance. This notice shall include the criminal history information on which the denial was based. This criminal history information is subject to dissemination restrictions under A.R.S. § 41-1750 and federal law.

Historical Note

Former Rules 6.5110, 6.5120, 6.5130, 6.5140, 6.5210, 6.5220, 6.5230, 6.5240, 6.5310, 6.5320, 6.5410, and 6.5420. Amended effective August 10, 1978 (Supp. 78-4). Amended effective April 20, 1982 (Supp. 82-2). Amended subsection (A) effective August 12, 1988 (Supp. 88-3). Amended effective February 8, 1991 (Supp. 91-1). Amended effective August 24, 1992 (Supp. 92-3). Amended by final rulemaking at 6 A.A.R. 4589, effective November 14, 2000 (Supp. 00-4). Amended by final rulemaking at 10 A.A.R. 232, effective March 6, 2004

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(Supp. 04-1). Amended by final rulemaking at 11 A.A.R. 1105, effective April 30, 2005 (Supp. 05-1). Amended by final rulemaking at 11 A.A.R. 4270, effective December 6, 2005 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 3477, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 19 A.A.R. 702, effective June 1, 2013 (Supp. 13-2). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).

R4-23-606. Resident-Pharmacy Permit: Community, Hospital, and Limited Service

- A.** Permit. A person shall not operate a pharmacy in Arizona without a current Board-issued pharmacy permit.
- B.** Application.
 - 1. To obtain a permit to operate a pharmacy in Arizona, a person shall submit a completed application, on a form available from the Board, and the fee specified in R4-23-205.
 - 2. Before issuing a pharmacy permit, the Board shall:
 - a. Receive and approve a completed permit application; and
 - b. Receive a satisfactory compliance inspection report on the facility from a Board compliance officer.
 - 3. Before issuing a pharmacy permit, the Board may interview the applicant and the pharmacist-in-charge, if different from the applicant, at a Board meeting based on the need for additional information.
- C.** Notification. A pharmacy permittee shall notify the Board office within 10 days of changes involving the type of pharmacy operated, telephone or fax number, e-mail or mailing address, business name, or staff pharmacist. A pharmacy permittee shall provide the Board office immediate notice of a change of the pharmacist-in-charge.
- D.** If any nonprescription drugs are sold outside the pharmacy area when the pharmacy area is closed, the pharmacy permittee shall ensure that the business has a current, Board-issued nonprescription drug permit as required in Section R4-23-603.
- E.** Change of ownership. A pharmacy permittee shall comply with R4-23-601(F).
- F.** Relocation or remodel.
 - 1. No fewer than 30 days before the relocation or remodel of an existing pharmacy, the pharmacy permittee shall submit, electronically or manually, a completed application for remodel or relocation using the form specified under subsection (B). A fee is not required with an application for remodel or relocation.
 - 2. The new or remodeled facility shall pass a final inspection by a Board compliance officer before operations begin.
- G.** Permit renewal. To renew a pharmacy permit, the permittee shall comply with R4-23-602(D).

Historical Note

Former Rules 6.6010, 6.6020, 6.6030, 6.6040, 6.6050, 6.6060, 6.6071, 6.6072, 6.6073, 6.6074, 6.6075, and 6.6076. Amended effective August 10, 1978 (Supp. 78-4). Amended subsections (G) and (H) effective April 20, 1982 (Supp. 82-2). Amended subsection (L) effective July 2, 1982 (Supp. 82-4). Amended subsections (G) and (H) effective August 12, 1988 (Supp. 88-3). Amended effective November 1, 1993 (Supp. 93-4). Section heading amended effective April 5, 1996 (Supp. 96-2). Amended by final rulemaking at 7 A.A.R. 3825, effective August 9, 2001 (Supp. 01-3). Amended by final rulemaking at 20 A.A.R. 1364, effective August 2, 2014

(Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).

R4-23-607. Nonresident Permits

- A.** Permit. A person that is not a resident of Arizona shall not sell or distribute any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical into Arizona without possessing both:
 - 1. A current Board-issued nonresident pharmacy permit, nonresident manufacturer permit, nonresident full-service or nonprescription drug wholesale permit, or nonresident nonprescription drug permit; and
 - 2. A current equivalent license or permit issued by the licensing authority in the jurisdiction where the person resides.
- B.** Application. To obtain a nonresident pharmacy, nonresident manufacturer, nonresident full-service or nonprescription drug wholesale, or nonprescription drug permit, a person shall submit a completed application, on a form furnished by the Board, and the fee specified in R4-23-205.
- C.** Notification. A permittee shall submit notification of any change required in this subsection using the permittee's online profile or as a written notice by mail, fax, or e-mail to the Board office within 10 days of the change.
 - 1. Nonresident pharmacy. A nonresident pharmacy permittee shall notify the Board of changes involving the type of pharmacy operated, address, telephone number, business name, or pharmacist-in-charge.
 - 2. Nonresident manufacturer. A nonresident manufacturer permittee shall notify the Board of changes involving listed drugs, address, telephone number, business name, or manager, including manager's telephone number.
 - 3. Nonresident drug wholesaler. A nonresident full-service or nonprescription drug wholesale permittee shall notify the Board of changes involving the types of drugs sold or distributed, address, telephone number, business name, or manager or designated representative, including the manager's or designated representative's telephone number. For a change of designated representative, a nonresident full-service drug wholesale permittee shall submit the documentation, fingerprints, and fee required with the application under subsection (B).
 - 4. Nonresident nonprescription drug retailer. A nonresident nonprescription drug permittee shall notify the Board of changes involving permit category, address, telephone number, business name, or manager, including manager's telephone number.
- D.** Change of ownership. A nonresident permittee shall comply with R4-23-601(F).
- E.** Drug sales.
 - 1. Nonresident pharmacy. A nonresident pharmacy permittee shall:
 - a. Not sell, distribute, give away, or dispose of any narcotic or other controlled substance or prescription-only drug or device to anyone in Arizona except:
 - i. A pharmacy, drug manufacturer, or full-service drug wholesaler currently permitted by the Board;
 - ii. A medical practitioner currently licensed under A.R.S. Title 32; or
 - iii. An Arizona resident upon receipt of a valid prescription order for the resident;

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- b. Not sell, distribute, give away, or dispose of any nonprescription drug, precursor chemical, or regulated chemical to anyone in Arizona except:
 - i. A pharmacy, drug manufacturer, full-service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board;
 - ii. A medical practitioner currently licensed under A.R.S. Title 32; or
 - iii. An Arizona resident either upon receipt of a valid prescription order for the resident or in the original container packaged and labeled by the manufacturer;
 - c. Except for a drug sale that results from the receipt and dispensing of a valid prescription order for an Arizona resident, maintain a copy of the current permit or license of each person in Arizona that buys, receives, or disposes of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and
 - d. Provide permit and license records upon request, if immediately available, or in no fewer than two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901.
2. Nonresident manufacturer. A nonresident manufacturer permittee shall:
- a. Not sell, distribute, give away, or dispose of any narcotic or other controlled substance or prescription-only drug or device to anyone in Arizona except a pharmacy, drug manufacturer, or full-service drug wholesaler currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - b. Not sell, distribute, give away, or dispose of any nonprescription drug, precursor chemical, or regulated chemical to anyone in Arizona except a pharmacy, drug manufacturer, full-service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - c. Maintain a copy of the current permit or license of each person in Arizona that buys, receives, or disposes of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and
 - d. Provide permit and license records upon request, if immediately available, or in no more than two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901.
3. Nonresident full-service drug wholesaler. In addition to complying with the distributions restrictions specified in A.R.S. § 32-1983, a nonresident full-service drug wholesale permittee shall:
- a. Not sell, distribute, give away, or dispose of, any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical to anyone in Arizona, except in the original container, packaged and labeled by the manufacturer or repackager;
 - b. Not package, repack, label, or relabel any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical for shipment or delivery to anyone in Arizona;
 - c. Provide track and trace documents required under the Drug Supply Chain and Security Act upon request, if immediately available, or in no more than two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901;
 - d. Not sell, distribute, give away, or dispose of any narcotic or other controlled substance, prescription only drug or device, nonprescription drug, precursor chemical, or regulated chemical to anyone in Arizona except a pharmacy, drug manufacturer, or full service drug wholesaler currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - e. Not sell, distribute, give away, or dispose of any nonprescription drug, precursor chemical, or regulated chemical to anyone in Arizona except a pharmacy, drug manufacturer, full-service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - f. Maintain a copy of the current permit or license of each person in Arizona that buys, receives, or disposes of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and
 - g. Provide permit and license records upon request, if immediately available, or in no more than two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901.
4. Nonresident nonprescription drug wholesaler. A nonresident nonprescription drug wholesale permittee shall:
- a. Not sell, distribute, give away, or dispose of any nonprescription drug, precursor chemical, or regulated chemical to anyone in Arizona, except in the original container, packaged and labeled by the manufacturer or repackager;
 - b. Not package, repack, label, or relabel any nonprescription drug, precursor chemical, or regulated chemical for shipment or delivery to anyone in Arizona;
 - c. Not sell, distribute, give away, or dispose of any nonprescription drug, precursor chemical, or regulated chemical to anyone in Arizona except a pharmacy, drug manufacturer, full-service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
 - d. Maintain a copy of the current permit or license of each person in Arizona that buys, receives, or disposes of any nonprescription drug, precursor chemical, or regulated chemical; and
 - e. Provide permit and license records upon request, if immediately available, or in no more than two business days from the date of the request of a Board

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compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901.

5. Nonresident nonprescription drug retailer. A nonresident nonprescription drug permittee shall not:
 - a. Sell, distribute, give away, or dispose of a nonprescription drug, precursor chemical, or regulated chemical to anyone in Arizona except in the original container packaged and labeled by the manufacturer;
 - b. Package, repack, label, or relabel any drug, precursor chemical, or regulated chemical for shipment or delivery to anyone in Arizona; or
 - c. Sell, distribute, give away, or dispose of any drug, precursor chemical, or regulated chemical to anyone in Arizona that exceeds its expiration date, is contaminated or deteriorated from excessive heat, cold, sunlight, moisture, or other factors, or does not comply with federal law.
- F. When selling or distributing any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical into Arizona, a nonresident pharmacy, nonresident manufacturer, nonresident full-service or nonprescription drug wholesale, or nonprescription drug permittee shall comply with federal law, the permittee's resident state drug law, and this Section.

Historical Note

Former Rules 6.6110, 6.6120, and 6.6130; Amended effective August 10, 1978 (Supp. 78-4). Repealed effective July 24, 1985 (Supp. 85-4). New Section adopted by final rulemaking at 6 A.A.R. 4589, effective November 14, 2000 (Supp. 00-4). Amended by final rulemaking at 7 A.A.R. 3825, effective August 9, 2001 (Supp. 01-3). Amended by final rulemaking at 10 A.A.R. 232, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 13 A.A.R. 520, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 13 A.A.R. 3477, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2). Amended by final rulemaking at 26 A.A.R. 223, effective March 14, 2020 (Supp. 20-1).

R4-23-608. Change of Personnel and Responsibility

- A. A community, hospital, or limited-service pharmacy permittee shall give the Board:
 1. Notice by mail, facsimile, or electronic mail within ten days of employing or terminating a pharmacist; and
 2. Immediate notice of designating or terminating a pharmacist-in-charge.
- B. Responsibility of ownership and management. The owner and management of a pharmacy shall:
 1. Ensure that pharmacists, interns, and other pharmacy employees comply with state and federal laws and administrative rules; and
 2. Not overrule a pharmacist in matters of pharmacy ethics and interpreting laws pertaining to the practice of pharmacy or the distribution of drugs and devices.
- C. The Board may suspend or revoke a pharmacy permit if the owner or management of a pharmacy violates subsection (B).

Historical Note

Former Rules 6.6140 and 6.6150; Amended subsection (A) effective August 9, 1983 (Supp. 83-4). Amended effective November 1, 1993 (Supp. 93-4). Amended by final rulemaking at 7 A.A.R. 4253, effective September

11, 2001 (Supp. 01-3).

R4-23-609. Pharmacy Area of Community Pharmacy

- A. Minimum area of community pharmacy. The minimum area of a community pharmacy, the actual area primarily devoted to stocking drugs restricted to pharmacists, and to the compounding and dispensing of prescription medication, exclusive of office area or other support function area, shall not be less than 300 square feet. A maximum of three pharmacy personnel may practice or work simultaneously in the minimum area. The pharmacy permittee shall provide an additional 60 square feet of floor area for each additional pharmacist, graduate intern, pharmacy intern, pharmacy technician, pharmacy technician trainee, or support personnel who may practice or work simultaneously. All of the allotted square footage area, including adequate shelving, shall lend itself to efficient pharmaceutical practice and permit free movement and visual surveillance of personnel by the pharmacist.
- B. Compounding and dispensing counter. On or after January 6, 2004, a pharmacy permit applicant or remodel or relocation applicant shall provide a compounding and dispensing counter that provides a minimum of three square feet of pharmacy counter working area of not less than 16 inches in depth and 24 inches in length for the practice of one pharmacist, graduate intern, pharmacy intern, pharmacy technician, or pharmacy technician trainee. For each additional pharmacist, graduate intern, pharmacy intern, pharmacy technician, or pharmacy technician trainee practicing simultaneously, there shall be an additional three square feet of pharmacy counter working area of not less than 16 inches in depth and 24 inches in length. The Board shall determine a pharmacy's total required compounding and dispensing counter area by multiplying the maximum number of personnel allowed in the pharmacy area using the requirements specified in subsection (A) by three square feet per person. A pharmacy permittee or pharmacist-in-charge may operate the pharmacy with a total pharmacy counter working area specified in subsection (A) that is equal to the actual maximum number of pharmacists, graduate interns, pharmacy interns, pharmacy technicians, and pharmacy technician trainees, working simultaneously in the pharmacy area times three square feet per person.
- C. Working area for compounding and dispensing counter. The aisle floor area used by the pharmacist, graduate intern, pharmacy intern, pharmacy technician, or pharmacy technician trainee at the compounding and dispensing counter shall extend the full length of the counter and be clear and continuous for a minimum of 36 inches from any counter, fixture, or structure.
- D. Area for patient counseling. On or after April 1, 1995, a pharmacy permit applicant or remodel or relocation applicant shall provide a separate and distinct patient counseling area that provides patient privacy. This subsection does not apply to a pharmacy exempt from the requirements of R4-23-402(B).
- E. Narcotic cabinet or safe. To prevent diversion, narcotics and other controlled substances may be:
 1. Kept in a separate locked cabinet or safe, or
 2. Dispersed throughout the pharmacy's prescription-only drug stock.
- F. Building security standard of community pharmacy area. The pharmacy area shall be enclosed by a permanent barrier or partition from floor or counter to structural ceiling or roof, with entry doors that can be securely locked. The barrier shall be designed so that only a pharmacist can access the area where prescription-only drugs, narcotics, and other controlled substances are stored, compounded and dispensed. The permanent

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barrier may be constructed of other than a solid material. If constructed of a material other than a solid, the openings or interstices of the material shall not be large enough to permit removal of items in the pharmacy area through the barrier. Any material used in the construction of the permanent barrier must be of sufficient strength and thickness that it cannot be readily or easily removed, penetrated, or bent. The pharmacy permittee shall submit plans and specifications of the permanent barrier to the Board for approval.

G. Drug storage and security.

1. The pharmacy permittee shall ensure that drugs and devices are stored in a dry, well-lit, ventilated, and clean and orderly area. The pharmacy permittee shall maintain the drug storage area at temperatures that ensure the integrity of the drugs before dispensing as stated in the official compendium defined in A.R.S. § 32-1901(55) or the manufacturer's or distributor's labeling.
2. If the pharmacy permittee needs additional storage area for drugs that are restricted to sale by a pharmacist, the pharmacy permittee shall ensure that the area is contained by a permanent barrier from floor or counter to structural ceiling or roof. The pharmacy permittee shall lock all doors and gates to the drug storage area. Only a pharmacist with a key is permitted to enter the storage area, except in an extreme emergency.

H. A pharmacy permittee or pharmacist-in-charge shall ensure that the pharmacy working counter area is protected from unauthorized access while the pharmacy is open for business by a barrier not less than 66 inches in height or another method approved by the Board or its designee.**Historical Note**

Former Rules 6.6210, 6.6220, 6.6230, 6.6240, 6.6250, 6.6310, 6.6320, and 6.6330; Amended effective August 10, 1978 (Supp. 78-4). Amended effective August 9, 1983 (Supp. 83-4). Amended effective November 1, 1993 (Supp. 93-4). Amended effective April 1, 1995; filed with the Secretary of State January 31, 1995 (Supp. 95-1). Amended by final rulemaking at 9 A.A.R. 5030, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 19 A.A.R. 97, effective March 10, 2013 (Supp. 13-1).

R4-23-610. Community Pharmacy Personnel and Security Procedures**A. Every pharmacy shall have a pharmacist designated as the "pharmacist-in-charge."**

1. The pharmacist-in-charge shall ensure the communication and compliance of Board directives to the management, other pharmacists, interns, and technicians of the pharmacy.
2. The pharmacist-in-charge shall:
 - a. Ensure that all pharmacy policies and procedures required under 4 A.A.C. 23 are prepared, implemented, and complied with;
 - b. Review biennially and, if necessary, revise all pharmacy policies and procedures required under 4 A.A.C. 23;
 - c. Document the review required under subsection (A)(2)(b);
 - d. Ensure that all pharmacy policies and procedures required under 4 A.A.C. 23 are assembled as a written or electronic manual; and
 - e. Make all pharmacy policies and procedures required under 4 A.A.C. 23 available in the pharmacy for

employee reference and inspection by the Board or its staff.

B. Personnel permitted in the pharmacy area of a community pharmacy include pharmacists, graduate interns, pharmacy interns, compliance officers, drug inspectors, peace officers acting in their official capacity, other persons authorized by law, pharmacy technicians, pharmacy technician trainees, support personnel, and other designated personnel. Pharmacy interns, graduate interns, pharmacy technicians, pharmacy technician trainees, support personnel, and other designated personnel shall be permitted in the pharmacy area only when a pharmacist is on duty, except in an extreme emergency as defined in R4-23-110.

1. The pharmacist-in-charge shall comply with the minimum area requirements as described in R4-23-609 for a community pharmacy and for compounding and dispensing counter area.
2. A pharmacist employed by a pharmacy shall ensure that the pharmacy is physically secure while the pharmacist is on duty.

C. In a community pharmacy, a pharmacist shall ensure that the pharmacy area, and any additional storage area for drugs that is restricted to access only by a pharmacist is locked when a pharmacist is not present, except in an extreme emergency.**D. A pharmacist is the only person permitted by the Board to unlock the pharmacy area or any additional storage area for drugs restricted to access only by a pharmacist, except in an extreme emergency.****E. A pharmacy permittee or pharmacist-in-charge shall ensure that any prescription-only drugs and controlled substances received in an area outside the pharmacy area are immediately transferred unopened to the pharmacy area. The pharmacist-in-charge shall ensure that any prescription-only drug and controlled substance shipments are opened and marked by pharmacy personnel in the pharmacy area under the supervision of a pharmacist, graduate intern, or pharmacy intern.****F. A pharmacy permittee or pharmacist-in-charge may provide a small opening or slot through which a written prescription order or prescription medication container to be refilled may be left in the prescription area when the pharmacist is not present.****G. A pharmacist shall ensure that prescription medication is not left outside the prescription area or picked up by the patient when the pharmacist is not present by either:**

1. Delivering the prescription medication to the patient, or
2. Securing the prescription medication inside the locked pharmacy, except when using an automated storage and distribution system that complies with the requirements of R4-23-614.

Historical Note

Former Rules 6.6410, 6.6420, 6.6430, 6.6440, 6.6450, 6.6460, 6.6470, 6.6480, and 6.6490; Amended subsection (F), deleted subsection (I) effective August 9, 1983 (Supp. 83-4). Amended effective May 16, 1990 (Supp. 90-2). Amended effective November 1, 1993 (Supp. 93-4). Amended effective April 1, 1995; filed with the Secretary of State January 31, 1995 (Supp. 95-1). Amended by final rulemaking at 5 A.A.R. 4441, effective November 2, 1999 (Supp. 99-4). Amended by final rulemaking at 10 A.A.R. 4453, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 13 A.A.R. 2631,

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effective September 8, 2007 (Supp. 07-3).

R4-23-611. Pharmacy Facilities

A. Facilities. A pharmacy permittee or pharmacist-in-charge shall ensure that:

1. A pharmacy's facilities are constructed according to state and local laws and ordinances;
2. A pharmacy facility's:
 - a. Walls, ceilings, windows, floors, shelves, and equipment are clean and in good repair and order; and
 - b. Counters, shelves, aisles, and open spaces are not cluttered;
3. Adequate trash receptacles are provided and emptied periodically during the day;
4. A pharmacy facility of any pharmacy permit issued or pharmacy remodeled after February 1, 2014 provides access to toilet facilities either:
 - a. Within the pharmacy area, or
 - b. No further than a walking distance of 100 feet from the pharmacy area or an alternative distance approved by the Board or its designee;
5. The toilet facilities are maintained in a sanitary condition and in good repair;
6. All professional personnel and staff of the pharmacy keep themselves and their apparel clean while in the pharmacy area;
7. No animals, except licensed assistant animals and guard animals, are allowed in the pharmacy;
8. The pharmacy facility is kept free of insects and rodents; and
9. There is a sink with hot and cold running water, other than a sink in a toilet facility, within the pharmacy area for use in preparing drug products.

B. Supply of drugs and chemicals. A pharmacy permittee or pharmacist-in-charge shall ensure that:

1. A pharmacy maintains a stock of drugs and chemicals that:
 - a. Are sufficient to meet the normal demands of the trading area or patient base the pharmacy serves; and
 - b. Meet all standards of strength and purity as established by the official compendiums;
2. All stock, materials, drugs, and chemicals held for ultimate sale or supply to the consumer are not contaminated;
3. Policies and procedures are developed, implemented, and complied with to prevent the sale or use of a drug or chemical:
 - a. That exceeds its expiration date;
 - b. That is deteriorated or damaged by reason of age, heat, light, cold, moisture, crystallization, chemical reaction, rupture of coating, disintegration, solidification, separation, discoloration, change of odor, precipitation, or other change as determined by organoleptic examination or by other means;
 - c. That is improperly labeled;
 - d. Whose container is defective; or
 - e. That does not comply with federal law; and
4. The policies and procedures described in subsection (B)(3):
 - a. Are made available in the pharmacy for employee reference and inspection by the Board or its designee; and
 - b. Provide the following:
 - i. Any expiration-dated drug or chemical is reviewed regularly;

- ii. Any drug or chemical that exceeds its expiration date, is deteriorated or damaged, improperly labeled, has a defective container, or does not comply with federal law, is moved to a quarantine area and not sold or distributed; and
- iii. Any quarantined drug or chemical is properly destroyed or returned to its source of supply.

Historical Note

Former Rules 6.6510, 6.6520, 6.6530, 6.6540, 6.6550, 6.6560, 6.6570, 6.6580, 6.6600, 6.6610, 6.6620, 6.6630, 6.6640, 6.6650, and 6.6660; Amended subsection (B) effective August 9, 1983 (Supp. 83-4). Amended effective April 1, 1995; filed with the Secretary of State January 31, 1995 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 4253, effective September 11, 2001 (Supp. 01-3). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 19 A.A.R. 4165, effective February 1, 2014 (Supp. 13-4).

R4-23-612. Equipment

A pharmacy permittee or pharmacist-in-charge shall ensure that a pharmacy has the necessary equipment to allow a pharmacist to practice the profession of pharmacy, including the following:

1. Adequate refrigeration equipment dedicated to the storage of drugs and biologicals;
2. A C-V controlled substance register, if C-V controlled substances are sold without an order of a medical practitioner;
3. Graduates in assorted sizes;
4. One mortar and pestle, not required if the pharmacy permittee states in the application that compounding will not be performed in the pharmacy;
5. Spatulas of assorted sizes including one nonmetallic;
6. Prescription balance, Class A with weights or an electronic balance of equal or greater accuracy, not required if the pharmacy permittee states in the application that compounding will not be performed in the pharmacy;
7. One ointment tile or equivalent, not required if the pharmacy permittee states in the application that compounding will not be performed in the pharmacy;
8. A current hard-copy or access to a current electronic-copy of the Arizona Pharmacy Act and administrative rules and Arizona Controlled Substance Act;
9. A professional reference library consisting of a minimum of one current reference or text, in hard-copy or electronic media, addressing the following subject areas:
 - a. Pharmacology or toxicology,
 - b. Therapeutics,
 - c. Drug compatibility, and
 - d. Drug product equivalency;
10. An assortment of labels, including prescription labels, transfer labels for controlled substances, and cautionary and warning labels;
11. A red C stamp as defined in R4-23-110, if C-III, C-IV, and C-V controlled substance invoices are not filed separately from other invoices;
12. Current antidote and drug interaction information; and
13. Regional poison control phone number prominently displayed in the pharmacy area.

Historical Note

Former Rule 6.6670; Former Section R4-23-612 repealed, new Section R4-23-612 adopted effective August 10, 1978 (Supp. 78-4). Amended effective

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August 9, 1983 (Supp. 83-4). Amended effective April 5, 1996 (Supp. 96-2). Amended by final rulemaking at 7 A.A.R. 4253, effective September 11, 2001 (Supp. 01-3). Amended by final rulemaking at 19 A.A.R. 4165, effective February 1, 2014 (Supp. 13-4).

R4-23-613. Procedure for Discontinuing a Pharmacy

- A.** A pharmacy permittee or pharmacist-in-charge shall provide written notice to the Board and the Drug Enforcement Administration (D.E.A.) at least 14 days before discontinuing operation of the pharmacy. The notice shall contain the following information:
1. Name, address, pharmacy permit number, and D.E.A. registration number of the pharmacy discontinuing business;
 2. Name, address, pharmacy permit number (if applicable), and D.E.A. registration number (if applicable) of the licensee, permittee, or registrant to whom any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical will be sold or transferred;
 3. Name and address of the location where the discontinuing pharmacy's records of purchase and disbursement of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical will be kept and the person responsible for the records. These records shall be kept for a minimum of three years from the date the pharmacy is discontinued;
 4. Name and address of the location where the discontinuing pharmacy's prescription files and patient profiles will be kept and the person responsible for the files and profiles. These records shall be kept for a minimum of seven years from the date the last original or refill prescription was dispensed; and
 5. The proposed date of discontinuing business operations.
- B.** The pharmacy permittee shall ensure that all pharmacy signs and symbols are removed from both the inside and outside of the premises.
- C.** The pharmacy permittee or pharmacist-in-charge shall ensure that all state permits and certificates of registration are returned to the Board office and that D.E.A. registration certificates and unused D.E.A. Schedule II order forms are returned to the D.E.A. Regional Office in Phoenix.
- D.** The pharmacist-in-charge of the pharmacy discontinuing business shall ensure that:
1. Only a pharmacist has access to the prescription-only drugs and controlled substances until they are transferred to the licensee, permittee, or registrant listed in subsection (A)(2);
 2. All narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals are removed from the premises on or before the date the pharmacy is discontinued; and
 3. All controlled substances are transferred as follows:
 - a. Take an inventory of all controlled substances that are transferred using the procedures in R4-23-1003;
 - b. Include a copy of the inventory with the controlled substances that are transferred;
 - c. Keep the original of the inventory with the discontinued pharmacy's records of narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical purchase and disbursement for a min-

imum of three years from the date the pharmacy is discontinued;

- d. Use a D.E.A. form 222 to transfer any Schedule II controlled substances; and
 - e. Transfer controlled substances that need destruction in the same manner as all other controlled substances.
- E.** Upon receipt of outdated or damaged controlled substances from a discontinued pharmacy, the licensee, permittee, or registrant described in subsection (A)(2) shall contact a D.E.A. registered reverse distributor for proper destruction of outdated or damaged controlled substances. If there are controlled substances a reverse distributor will not accept, the licensee, permittee, or registrant shall then contact the Board office and request an inspection for the purpose of drug destruction.
- F.** During the three-year record retention period specified in subsection (A)(3), the person described in subsection (A)(3) shall provide to the Board upon its request a discontinued pharmacy's records of the purchase and disbursement of narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals.
- G.** During the seven-year record retention period specified in subsection (A)(4), the person described in subsection (A)(4) shall provide to the Board upon its request a discontinued pharmacy's records of prescription files and patient profiles.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 3825, effective August 9, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 1105, effective April 30, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 1912, effective July 1, 2006 (Supp. 06-2). Amended by final rulemaking at 14 A.A.R. 3670, effective November 8, 2008 (Supp. 08-3).

R4-23-614. Automated Storage and Distribution System

- A.** Before using an automated storage and distribution system, a pharmacy permittee or pharmacist-in-charge shall:
1. Ensure that the automated storage and distribution system and the policies and procedures comply with subsection (B); and
 2. Notify the Board in writing of the intent to use an automated storage and distribution system, including the type or name of the system.
- B.** A pharmacy permittee or pharmacist-in-charge shall establish policies and procedures for appropriate performance and use of the automated storage and distribution system that:
1. Ensure that the automated storage and distribution system is in good working order while maintaining appropriate recordkeeping and security safeguards;
 2. Ensure that an automated storage and distribution system used by the pharmacy that allows access to drugs or devices by a patient:
 - a. Only contains prescriptions that:
 - i. Do not require oral consultation as specified in R4-23-402(B); and
 - ii. Are properly labeled and verified by a pharmacist before placement into the automated storage and distribution system and subsequent release to patients;
 - b. Allows a patient to choose whether or not to use the system;
 - c. Is located either in a wall of a properly permitted pharmacy or within 20 feet of a properly permitted

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- pharmacy if the automated storage and distribution system is secured against the wall or floor in such a manner that prevents the automated storage and distribution system's unauthorized removal;
- d. Provides a method to identify the patient and only release that patient's prescriptions;
 - e. Is secure from access and removal of drugs or devices by unauthorized individuals;
 - f. Provides a method for a patient to obtain a consultation with a pharmacist if requested by the patient; and
 - g. Does not allow the system to dispense refilled prescriptions if a pharmacist determines that the patient requires oral counseling as specified in R4-23-402(B);
3. Ensure that an automated storage and distribution system used by the pharmacy that allows access to drugs or devices only by authorized licensed personnel for the purposes of administration based on a valid prescription order or medication order:
 - a. Provides for adequate security to prevent unauthorized individuals from accessing or obtaining drugs or devices; and
 - b. Provides for the filling, stocking, or restocking of all drugs or devices in the system only by a Board licensee or other authorized licensed personnel; and
 4. Implement an ongoing quality assurance program that monitors compliance with the established policies and procedures of the automated storage and distribution system and federal and state law.
- C.** A pharmacy permittee or pharmacist-in-charge shall:
1. Ensure that the policies and procedures required under subsection (B) are prepared, implemented, and complied with;
 2. Review biennially and, if necessary, revise the policies and procedures required under subsection (B);
 3. Document the review required under subsection (C)(2);
 4. Assemble the policies and procedures as a written or electronic manual; and
 5. Make the policies and procedures available for employee reference and inspection by the Board or its staff within the pharmacy and at any location outside the pharmacy where the automated storage and distribution system is used.
- D.** The Board may prohibit a pharmacy permittee or pharmacist-in-charge from using an automated storage and distribution system if the pharmacy permittee or the pharmacy permittee's employees do not comply with the requirements of subsections (A), (B), or (C).
- Historical Note**
- New Section made by final rulemaking at 13 A.A.R. 616, effective April 7, 2007 (Supp. 07-1).
- R4-23-615. Mechanical Storage and Counting Device for a Drug in Solid, Oral Dosage Form**
- A.** A pharmacy permittee or pharmacist-in-charge shall ensure that a mechanical storage and counting device for a drug in a solid, oral dosage form that is used by a pharmacist or a pharmacy intern, graduate intern, pharmacy technician, or pharmacy technician trainee under the supervision of a pharmacist complies with the following method to identify the contents of the device:
1. The drug name and strength are affixed to the front of each cell or cassette of the device;
2. A paper or electronic log is kept for each cell or cassette that contains:
 - a. An identification of the cell or cassette by the drug name and strength or the number of the cell or cassette;
 - b. The drug's manufacturer or National Drug Code (NDC) number;
 - c. The expiration date and lot number from the manufacturer's stock bottle that is used to fill the cell or cassette. If multiple lot numbers of the same drug are added to a cell or cassette, each lot number and expiration date shall be documented, and the earliest expiration date shall become the expiration date of the mixed lot of drug in the cell or cassette;
 - d. The date the cell or cassette is filled;
 - e. Documentation of the identity of the licensee who placed the drug into the cell or cassette; and
 - f. If the licensee who filled the cell or cassette is not a pharmacist, documentation of the identity of the pharmacist who supervised the non-pharmacist licensee who filled the cell or cassette; and
 3. The paper or electronic log is available in the pharmacy for inspection by the Board or its designee for not less than two years.
- B.** A pharmacy permittee or pharmacist-in-charge shall ensure that any drug previously counted by a mechanical storage and counting device for a drug in a solid, oral dosage form that has not left the pharmacy is not returned to the drug's cell, cassette, or stock bottle, unless the drug return method is approved by the Board or its designee as specified in subsection (G). This subsection does not prevent a pharmacy permittee or pharmacist-in-charge from using a manual or mechanical counting device to count and dispense a previously counted drug that has not left the pharmacy if the previously counted drug is dispensed before its beyond-use-date.
- C.** A pharmacy permittee or pharmacist-in-charge shall ensure the accuracy of any mechanical storage and counting device for a drug in a solid, oral dosage form that is used by a pharmacist or a pharmacy intern, graduate intern, pharmacy technician, or pharmacy technician trainee under the supervision of a pharmacist by documenting completion of the following:
1. Training in the maintenance, calibration, and use of the mechanical storage and counting device for each employee who uses the mechanical storage and counting device;
 2. Maintenance and calibration of the mechanical storage and counting device as recommended by the device's manufacturer; and
 3. Routine quality assurance and accuracy validation testing for each mechanical storage and counting device.
- D.** A pharmacy permittee or pharmacist-in-charge shall ensure that the documentation required in subsection (C) is available for inspection by the Board or its designee.
- E.** A pharmacy permittee or pharmacist-in-charge shall:
1. Ensure that policies and procedures for the performance and use of a mechanical storage and counting device for a drug in a solid, oral dosage form are prepared, implemented, and complied with;
 2. Review biennially and, if necessary, revise the policies and procedures required under subsection (E)(1);
 3. Document the review required under subsection (E)(2);
 4. Assemble the policies and procedures as a written or electronic manual; and

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5. Make the policies and procedures available within the pharmacy for employee reference and inspection by the Board or its staff.
- F. The Board may prohibit a pharmacy permittee or pharmacist-in-charge from using a mechanical storage and counting device for a drug in a solid, oral dosage form if the pharmacy permittee or the pharmacy permittee's employees do not comply with the requirements of subsections (A), (B), (C), (D), or (E).
- G. Returning a drug previously counted by a mechanical storage and counting device for a drug in a solid, oral dosage form that has not left the pharmacy to the drug's cell or cassette.
 1. Before returning a drug previously counted by a mechanical storage and counting device that has not left the pharmacy to the drug's cell or cassette, a pharmacy permittee or pharmacist-in-charge shall:
 - a. Apply for approval from the Board or its designee for the drug return method to be used in returning the drug;
 - b. Develop a drug return method that uses technology, such as bar coding, to prevent drug return errors;
 - c. Provide documentation depicting the drug return method;
 - d. Demonstrate the drug return method for a Board Compliance Officer; and
 - e. Receive approval from the Board or its designee for the drug return method to be used in returning the drug.
 2. Before approving a request to waive the drug return prohibition in subsection (B), the Board or its designee shall:
 - a. Receive a request in writing from the pharmacy permittee or pharmacist-in-charge;
 - b. Review the documentation of the drug return method; and
 - c. Receive a satisfactory inspection report from a Board Compliance Officer that the drug return method uses technology to prevent drug return errors.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 616, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 14 A.A.R. 3677, effective November 8, 2008 (Supp. 08-3).

R4-23-616. Mechanical Counting Device for a Drug in Solid, Oral Dosage Form

- A. A pharmacy permittee or pharmacist-in-charge shall ensure the accuracy of any mechanical counting device for a drug in a solid, oral dosage form that is used by a pharmacist or a pharmacy intern, graduate intern, pharmacy technician, or pharmacy technician trainee under the supervision of a pharmacist by documenting completion of the following:
 1. Training in the maintenance, calibration, and use of the mechanical counting device for each employee who uses the mechanical counting device;
 2. Maintenance and calibration of the mechanical counting device as recommended by the device's manufacturer; and
 3. Routine quality assurance and accuracy validation testing for each mechanical counting device.
- B. A pharmacy permittee or pharmacist-in-charge shall ensure that the documentation required in subsection (A) is available for inspection by the Board or its designee.
- C. A pharmacy permittee or pharmacist-in-charge shall:
 1. Ensure that policies and procedures for the performance and use of a mechanical counting device for a drug in a solid, oral dosage form are prepared, implemented, and complied with;
 2. Review biennially and, if necessary, revise the policies and procedures required under subsection (C)(1);
 3. Document the review required under subsection (C)(2);
 4. Assemble the policies and procedures as a written or electronic manual; and
 5. Make the policies and procedures available within the pharmacy for employee reference and inspection by the Board or its staff.

1. Ensure that policies and procedures for the performance and use of a mechanical counting device for a drug in a solid, oral dosage form are prepared, implemented, and complied with;
 2. Review biennially and, if necessary, revise the policies and procedures required under subsection (C)(1);
 3. Document the review required under subsection (C)(2);
 4. Assemble the policies and procedures as a written or electronic manual; and
 5. Make the policies and procedures available within the pharmacy for employee reference and inspection by the Board or its staff.
- D. The Board may prohibit a pharmacy permittee or pharmacist-in-charge from using a mechanical counting device for a drug in a solid, oral dosage form if the pharmacy permittee or the pharmacy permittee's employees do not comply with the requirements of subsections (A), (B), or (C).

Historical Note

New Section made by final rulemaking at 13 A.A.R. 616, effective April 7, 2007 (Supp. 07-1).

R4-23-617. Temporary Pharmacy Facilities or Mobile Pharmacies

- A. Pharmacies located in declared disaster areas, nonresident pharmacies, and pharmacies licensed or permitted in another state but not licensed or permitted in this state, if necessary to provide pharmacy services during a declared state of emergency, may arrange to temporarily locate to a temporary pharmacy facility or mobile pharmacy or relocate to a temporary pharmacy facility or mobile pharmacy if the pharmacist-in-charge of the temporary pharmacy facility or mobile pharmacy ensures that:
 1. The pharmacy is under the control and management of the pharmacist-in-charge or a supervising pharmacist designated by the pharmacist-in-charge;
 2. The pharmacy is located within or adjacent to the declared disaster area;
 3. The Board is notified of the pharmacy's location;
 4. The pharmacy is properly secured to prevent theft and diversion of drugs;
 5. The pharmacy's records are maintained in accordance with Arizona statutes and rules; and
 6. The pharmacy stops providing pharmacy services when the declared state of emergency ends, unless it possesses a current resident pharmacy permit issued by the Board under A.R.S. §§ 32-1929, 32-1930, and 32-1931.
- B. The Board shall have the authority to approve or deny temporary pharmacy facilities, mobile pharmacies, and shall make arrangements for appropriate monitoring and inspection of the temporary pharmacy facilities and mobile pharmacies on a case-by-case basis.
- C. A temporary pharmacy facility wishing to permanently operate at its temporary site shall apply for and have received a permit issued under A.R.S. §§ 32-1929, 32-1930, and 32-1931 by following the application process under R4-23-606.
- D. A mobile pharmacy, placed in operation during a declared state of emergency, shall not operate permanently.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 4400, effective January 3, 2009 (Supp. 08-4).

R4-23-618. Reserved

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R4-23-619. Reserved**R4-23-620. Continuous Quality Assurance Program**

- A. Each pharmacy permittee shall implement or participate in a continuous quality assurance (CQA) program. A pharmacy permittee meets the requirements of this Section if it holds a current general, special or rural general hospital license from the Arizona Department of Health Services and is any of the following:
1. Certified by the Centers for Medicare and Medicaid Services to participate in the Medicare or Medicaid programs;
 2. Accredited by the Joint Commission on the Accreditation of Healthcare Organizations; or
 3. Accredited by the American Osteopathic Association.
- B. A pharmacy permittee or the pharmacist-in-charge shall ensure that:
1. The pharmacy develops, implements, and utilizes a CQ program consistent with the requirements of this Section and A.R.S. § 32-1973;
 2. The medication error data generated by the CQA program is utilized and reviewed on a regular basis, as required by subsection (D); and
 3. Training records, policies and procedures, and other program records or documents, other than medication error data, are maintained for a minimum of two years in the pharmacy or in a readily retrievable manner.
- C. A pharmacy permittee or pharmacist-in-charge shall:
1. Ensure that policies and procedures for the operation and management of the pharmacy's CQA program are prepared, implemented, and complied with;
 2. Review biennially and, if necessary, revise the policies and procedures required under subsection (C)(1);
 3. Document the review required under subsection (C)(2);
 4. Assemble the policies and procedures as a written or electronic manual; and
 5. Make the policies and procedures available within the pharmacy for employee reference and inspection by the Board or its staff.
- D. The policies and procedures shall address a planned process to:
1. Train all pharmacy personnel in relevant phases of the CQA program;
 2. Identify and document medication errors;
 3. Record, measure, and analyze data collected to:
 - a. Assess the causes and any contributing factors relating to medication errors, and
 - b. Improve the quality of patient care;
 4. Utilize the findings from subsections (D)(2) and (3) to develop pharmacy systems and workflow processes designed to prevent or reduce medication errors; and
 5. Communicate periodically, and at least annually, with pharmacy personnel to review CQA program findings and inform pharmacy personnel of any changes made to pharmacy policies, procedures, systems, or processes as a result of CQA program findings.
- E. The Board's regulatory oversight activities regarding a pharmacy's CQA program are limited to inspection of the pharmacy's CQA policies and procedures and enforcing the pharmacy's compliance with those policies and procedures.
- F. A pharmacy's compliance with this Section shall be considered by the Board as a mitigating factor in the investigation and evaluation of a medication error.

Historical Note

New Section made by final rulemaking at 18 A.A.R. 2603, effective December 2, 2012 (Supp. 12-4).

R4-23-621. Shared Services

- A. Before participating in shared services, a pharmacy shall have either a current resident or non-resident pharmacy permit issued by the Board.
- B. A pharmacy may provide or utilize shared services functions only if the pharmacies involved:
1. Have the same owner, or
 2. Have a written contract or agreement that outlines the services provided and the shared responsibilities of each party in complying with federal and state pharmacy statutes and rules, and
 3. Share a common electronic file or technology that allows access to information necessary or required to perform shared services in conformance with the pharmacy act and the Board's rules.
- C. Notifications to patients.
1. Before using shared services provided by another pharmacy, a pharmacy permittee shall:
 - a. Notify patients that their orders may be processed or filled by another pharmacy; and
 - b. Provide the name of that pharmacy or, if the pharmacy is part of a network of pharmacies under common ownership and any of the network pharmacies may process or fill the order, notify the patient of this fact. The notification may be provided through a one-time written notice to the patient or through use of a sign in the pharmacy.
 2. If an order is delivered directly to the patient by a filling pharmacy and not returned to the requesting pharmacy, the filling pharmacy permittee shall ensure that the following is placed on the prescription container or on a separate sheet delivered with the prescription container:
 - a. The local, and if applicable, the toll-free telephone number of the pharmacy utilizing shared services that has access to the patient's records; and
 - b. A statement that conveys to the patient or patient's care-giver the following information: "Written information about this prescription has been provided for you. Please read this information before you take the medication. If you have questions concerning this prescription, a pharmacist is available during normal business hours to answer these questions at (insert the local and toll-free telephone numbers of the pharmacy utilizing shared services that has access to the patient's records)."
 3. The provisions of subsection (C) do not apply to orders delivered to patients in facilities where a licensed health care professional is responsible for administering the prescription medication to the patient.
- D. A pharmacy permittee engaged in shared services shall:
1. Maintain manual or electronic records that identify, individually for each order processed, the name, initials, or identification code of each pharmacist, graduate intern, pharmacy intern, pharmacy technician, and pharmacy technician trainee who took part in the order interpretation, order entry verification, drug utilization review, drug compatibility and drug allergy review, final order verification, therapeutic intervention, or refill authorization functions performed at that pharmacy;
 2. Maintain manual or electronic records that identify, individually for each order filled or dispensed, the name, ini-

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tials, or identification code of each pharmacist, graduate intern, pharmacy intern, pharmacy technician, and pharmacy technician trainee who took part in the filling, dispensing, and counseling functions performed at that pharmacy;

3. Report to the Board as soon as practical the results of any disciplinary action taken by another state's pharmacy regulatory agency involving shared services;
4. Maintain a mechanism for tracking the order during each step of the processing and filling procedures performed at the pharmacy;
5. Provide for adequate security to protect the confidentiality and integrity of patient information; and
6. Provide for inspection of any required record or information within 72 hours of any request by the Board or its designee.

E. Each pharmacy permittee that provides or utilizes shared services shall develop, implement, review, revise, and comply with joint policies and procedures for shared services in the manner described in R4-23-610(A)(2). Each pharmacy permittee is required to maintain only those portions of the joint policies and procedures that relate to that pharmacy's operations. The policies and procedures shall:

1. Outline the responsibilities of each of the pharmacies;
2. Include a list of the name, address, telephone numbers, and all license and permit numbers of the pharmacies involved in shared services; and
3. Include policies and procedures for:
 - a. Notifying patients that their orders may be processed or filled by another pharmacy and providing the name of that pharmacy;
 - b. Protecting the confidentiality and integrity of patient information;
 - c. Dispensing orders when the filled order is not received or the patient comes in before the order is received;
 - d. Maintaining required manual or electronic records to identify the name, initials, or identification code and specific activity or activities of each pharmacist, graduate intern, pharmacy intern, pharmacy technician, or pharmacy technician trainee who performed any shared services;
 - e. Complying with federal and state laws; and
 - f. Operating a continuous quality improvement program for shared services, designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve patient care, and resolve identified problems.

F. Nothing in this Section shall prohibit an individual pharmacist licensed in Arizona, who is an employee of or under contract with a pharmacy, or an Arizona-licensed graduate intern, pharmacy intern, pharmacy technician, or pharmacy technician trainee, working under the supervision of the pharmacist, from accessing that pharmacy's electronic database from inside or outside the pharmacy and performing the order processing functions permitted by the pharmacy act, if both of the following conditions are met:

1. The pharmacy establishes controls to protect the confidentiality and integrity of patient information; and
2. None of the database is duplicated, downloaded, or removed from the pharmacy's electronic database.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 520,

effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 19 A.A.R. 97, effective March 10, 2013 (Supp. 13-1).

R4-23-622. Reserved

R4-23-623. Reserved

R4-23-624. Reserved

R4-23-625. Reserved

R4-23-626. Reserved

R4-23-627. Reserved

R4-23-628. Reserved

R4-23-629. Reserved

R4-23-630. Reserved

R4-23-631. Reserved

R4-23-632. Reserved

R4-23-633. Reserved

R4-23-634. Reserved

R4-23-635. Reserved

R4-23-636. Reserved

R4-23-637. Reserved

R4-23-638. Reserved

R4-23-639. Reserved

R4-23-640. Reserved

R4-23-641. Reserved

R4-23-642. Reserved

R4-23-643. Reserved

R4-23-644. Reserved

R4-23-645. Reserved

R4-23-646. Reserved

R4-23-647. Reserved

R4-23-648. Reserved

R4-23-649. Reserved

R4-23-650. Reserved

R4-23-651. Definitions

The following definitions apply to R4-23-651 through R4-23-659:

"Administration" means the giving of a dose of medication to a patient as a result of an order of a medical practitioner.

"Direct copy" means an electronic, facsimile or carbonized copy.

"Dispensing for hospital inpatients" means the interpreting, evaluating, and implementing a medication order including preparing for delivery a drug or device to an inpatient or inpatient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, an inpatient (hereafter referred to as "dispensing").

"Drug distribution" means the delivery of drugs other than "administering" or "dispensing."

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“Emergency medical situation” means a condition of emergency in which immediate drug therapy is required for the preservation of health, life, or limb of a person or persons.

“Floor stock” means a supply of essential drugs not labeled for a specific patient and maintained and controlled by the pharmacy at a patient care area for the purpose of timely administration to a patient of the hospital.

“Formulary” means a continually revised compilation of pharmaceuticals (including ancillary information) that reflects the current clinical judgment of the medical staff.

“Hospital pharmacy” means a pharmacy, as defined in A.R.S. § 32-1901, that holds a current permit issued by the Board pursuant to A.R.S. § 32-1931, and is located in a hospital as defined in A.R.S. § 32-1901.

“Inpatient” means any patient who receives non-self-administered drugs from a hospital pharmacy for use while within a facility owned by the hospital.

“Intravenous admixture” means a sterile parenteral solution to which one or more additional drug products have been added.

“Medication order” means a written, electronic, or verbal order from a medical practitioner or a medical practitioner’s authorized agent for administration of a drug or device.

“On-call” means a pharmacist is available to:

Consult or provide drug information regarding drug therapy or related issues; or

Dispense a medication order and review a patient’s medication order for pharmaceutical and therapeutic feasibility under R4-23-653(E)(2) before any drug is administered to a patient, except as specified in R4-23-653(E)(1).

“Patient care area” means any area for the primary purpose of providing a physical environment that is owned by or operated in conjunction with a hospital, for a patient to obtain health care services, except those areas where a physician, dentist, veterinarian, osteopath, or other medical practitioner engages primarily in private practice.

“Repackaged drug” means a drug product that is transferred by pharmacy personnel from an original manufacturer’s container to another container properly labeled for subsequent dispensing.

“Satellite pharmacy” means a work area in a hospital setting under the direction of a pharmacist that is a remote extension of a centrally licensed hospital pharmacy and owned by and dependent upon the centrally licensed hospital pharmacy for administrative control, staffing, and drug procurement.

“Single unit” means a package of medication that contains one discrete pharmaceutical dosage form.

“Supervision” means the process by which a pharmacist directs the activities of hospital pharmacy personnel to a sufficient degree to ensure that all activities are performed accurately, safely, and without risk of harm to patients.

Historical Note

Former Rules 6.7110, 6.7120, and 6.7130; Amended effective August 10, 1978 (Supp. 78-4). Amended subsection (B) effective April 20, 1982 (Supp. 82-2). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Amended effective November 1,

1993 (Supp. 93-4). Amended effective April 5, 1996 (Supp. 96-2). Amended by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4).

R4-23-652. Hospital Pharmacy Permit

- A. The following rules are applicable to all hospitals as defined by A.R.S. § 32-1901 and hospital pharmacies as defined by R4-23-651.
- B. Before opening a hospital pharmacy, a person shall obtain a pharmacy permit as specified in R4-23-602 and R4-23-606.
- C. Discontinued hospitals. If a hospital license is discontinued by the state Department of Health Services, the pharmacy permittee or pharmacist-in-charge shall follow the procedures described in R4-23-613 for discontinuing a pharmacy.

Historical Note

Former Rules 6.7210, 6.7220, 6.7230, 6.7231, 6.7232, and 6.7233. Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Amended by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4).

R4-23-653. Personnel: Professional or Technician

- A. Each hospital pharmacy shall be directed by a pharmacist who is licensed to engage in the practice of pharmacy in Arizona and is referred to as the Director of Pharmacy. The Director of Pharmacy shall be the pharmacist-in-charge, as defined in A.R.S. § 32-1901 or shall appoint a pharmacist-in-charge. The Director of Pharmacy and the pharmacist-in-charge, if a different individual, shall:
 1. Be responsible for all the activities of the hospital pharmacy and for meeting the requirements of the Arizona Pharmacy Act and these rules;
 2. Ensure that the policies and procedures required by these rules are prepared, implemented, and complied with;
 3. Review biennially and, if necessary, revise the policies and procedures required under these rules;
 4. Document the review required under subsection (A)(3);
 5. Assemble the policies and procedures as a written manual or by another method approved by the Board or its designee; and
 6. Make the policies and procedures available within the pharmacy for employee reference and inspection by the Board or its designee.
- B. In all hospitals, a pharmacist shall be in the hospital during the time the pharmacy is open for pharmacy services, except for an extreme emergency as defined in R4-23-110. Pharmacy services shall be provided for a minimum of 40 hours per week, unless an exception for less than the minimum hours is made upon written request by the hospital and with express permission of the Board or its designee.
- C. In a hospital where the pharmacy is not open 24 hours per day for pharmacy services, a pharmacist shall be “on-call” as defined in R4-23-651 when the pharmacy is closed.
- D. The Director of Pharmacy may be assisted by other personnel approved by the Director of Pharmacy in order to operate the pharmacy competently, safely, and adequately to meet the needs of the hospital’s patients.
- E. Pharmacists. A pharmacist or a pharmacy intern or graduate intern under the supervision of a pharmacist shall perform the following professional practices:
 1. Verify a patient’s medication order before administration of a drug to the patient, except:
 - a. In an emergency medical situation; or
 - b. In a hospital where the pharmacy is open less than 24 hours a day for pharmacy services, a pharmacist

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shall verify a patient's medication order within four hours of the time the pharmacy opens for pharmacy services;

2. Verify a medication order's pharmaceutical and therapeutic feasibility based upon:
 - a. The patient's medical condition,
 - b. The patient's allergies,
 - c. The pharmaceutical and therapeutic incompatibilities, and
 - d. The recommended dosage limits;
 3. Measure, count, pour, or otherwise prepare and package a drug needed for dispensing, except a pharmacy technician or pharmacy technician trainee may measure, count, pour, or otherwise prepare and package a drug needed for dispensing under the supervision of a pharmacist according to written policies and procedures approved by the Board or its designee;
 4. Compound, admix, combine, or otherwise prepare and package a drug needed for dispensing, except a pharmacy technician may compound, admix, combine, or otherwise prepare and package a drug needed for dispensing under the supervision of a pharmacist according to written policies and procedures approved by the Board or its designee;
 5. Verify the accuracy, correct procedure, compounding, admixing, combining, measuring, counting, pouring, preparing, packaging, and safety of a drug prepared and packaged by a pharmacy technician or pharmacy technician trainee according to subsections (E)(3) and (4) and according to the policies and procedures in subsection (G);
 6. Supervise drug repackaging and check the completed repackaged product as specified in R4-23-402(A);
 7. Supervise training and education in aseptic technique and drug incompatibilities for all personnel involved in the admixture of parenteral products within the hospital pharmacy;
 8. Consult with the medical practitioner regarding the patient's drug therapy or medical condition;
 9. When requested by a medical practitioner, patient, patient's agent, or when the pharmacist deems it necessary, provide consultation with a patient regarding the medication order, patient's profile, or overall drug therapy;
 10. Monitor a patient's drug therapy for safety and effectiveness;
 11. Provide drug information to patients and health care professionals;
 12. Manage the activities of pharmacy technicians, pharmacy technician trainees, other personnel, and systems to ensure that all activities are performed accurately, safely, and without risk of harm to patients;
 13. Verify the accuracy of all aspects of the original, completed medication order; and
 14. Ensure compliance by pharmacy personnel with a quality assurance program developed by the hospital.
- F.** Pharmacy technicians and pharmacy technician trainees. Before working as a pharmacy technician or pharmacy technician trainee, an individual shall meet the eligibility and licensure requirements prescribed in 4 A.A.C. 23, Article 11
- G.** Pharmacy technician policies and procedures. Before employing a pharmacy technician or pharmacy technician trainee, a Director of Pharmacy or pharmacist-in-charge shall develop the policies and procedures required under R4-23-1104.

H. Pharmacy technician training program.

1. A Director of Pharmacy or pharmacist-in-charge shall comply with the training program requirements of R4-23-1105 based on the needs of the hospital pharmacy;
2. A pharmacy technician or pharmacy technician trainee shall:
 - a. Perform only those tasks for which training and competency have been demonstrated; and
 - b. Not perform professional practices reserved for a pharmacist, graduate intern, or pharmacy intern in subsection (E), except as specified in subsections (E)(3) and (4).

- I.** Supervision. A hospital pharmacy's Director of Pharmacy and the pharmacist-in-charge, if a different individual, shall supervise all of the activities and operations of a hospital pharmacy. A pharmacist shall supervise all functions and activities of pharmacy technicians, pharmacy technician trainees, and other hospital pharmacy personnel to ensure that all functions and activities are performed competently, safely, and without risk of harm to patients.

Historical Note

Former Rules 6.7310 and 6.7320; Amended effective August 10, 1978 (Supp. 78-4). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Amended effective November 1, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3).

R4-23-654. Absence of Pharmacist

- A.** If a pharmacist will not be on duty in the hospital, the Director of Pharmacy or pharmacist-in-charge shall arrange, before the pharmacist's absence, for the medical staff and other authorized personnel of the hospital to have access to drugs in the remote drug storage area defined in R4-23-110 or in the hospital pharmacy if a drug is not available in a remote drug storage area and is required to treat the immediate needs of a patient. A pharmacist shall be on-call during all absences.
- B.** If a pharmacist will not be on duty in the hospital pharmacy, the Director of Pharmacy or pharmacist-in-charge shall arrange, before the pharmacist's absence, for the medical staff and other authorized personnel of the hospital to have telephone access to an on-call pharmacist.
- C.** The hospital pharmacy permittee shall ensure that the hospital pharmacy is not without a pharmacist on duty in the hospital for more than 72 consecutive hours.
- D.** Remote drug storage area. The Director of Pharmacy or pharmacist-in-charge shall, in consultation with the appropriate committee of the hospital:
 1. Develop and maintain an inventory listing of the drugs to be included in a remote drug storage area; and
 2. Develop, implement, review, and revise in the same manner described in R4-23-653(A) and comply with policies and procedures that ensure proper storage, access, and accountability for drugs in a remote drug storage area.
- E.** Access to hospital pharmacy. If a drug is not available from a remote drug storage area and the drug is required to treat the immediate needs of a patient whose health may be compromised, the drug may be obtained from the hospital pharmacy according to the requirements of this subsection.
 1. The Director of Pharmacy or pharmacist-in-charge shall, in consultation with the appropriate committee of the hos-

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pital, develop, implement, review, and revise in the same manner described in R4-23-653(A) and comply with policies and procedures to ensure that access to the hospital pharmacy during the pharmacist's absence conforms to the following requirements:

- a. Access is delegated to only one supervisory nurse in each shift;
 - b. The policy and name of supervisory nurse is communicated in writing to the medical staff of the hospital;
 - c. Access is delegated only to a nurse who has received training from the Director of Pharmacy, pharmacist-in-charge, or Director's designee in the procedures required for proper access, drug removal, and recordkeeping; and
 - d. Access is delegated by the supervisory nurse to another nurse only in an emergency.
2. If a nurse to whom authority is delegated to access the hospital pharmacy removes a drug from the hospital pharmacy, the nurse shall:
 - a. Record the following information on a form or by another method approved by the Board or its designee:
 - i. Patient's name;
 - ii. Drug name, strength, and dosage form;
 - iii. Quantity of drug removed; and
 - iv. Date and time of removal;
 - b. Sign or initial, if a corresponding signature is on file in the hospital pharmacy, the form recording the drug removal;
 - c. Attach the original or a direct copy of the medication order for the drug to the form recording the drug removal; and
 - d. Place the form recording the drug removal conspicuously in the hospital pharmacy.
 3. Within four hours after a pharmacist returns from an absence, the pharmacist shall verify all records of drug removal that occurred during the pharmacist's absence according to R4-23-653(E).

Historical Note

Former Rules 6.7410, 6.7420, 6.7430, 6.7440, 6.7450, and 6.7460; Amended subsection (A) effective Aug. 9, 1983 (Supp. 83-4). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Amended by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3).

R4-23-655. Physical Facility

- A. General. A hospital pharmacy permittee shall ensure that the hospital pharmacy has sufficient equipment and physical facilities for proper compounding, dispensing, and storage of drugs, including parenteral preparations.
- B. Minimum area of hospital pharmacy. The minimum area of a hospital pharmacy depends on the type of hospital, the number of beds, and the pharmaceutical services provided. Any hospital pharmacy permit issued or hospital pharmacy remodeled after January 31, 2003 shall provide a minimum hospital pharmacy area, the actual area primarily devoted to drug dispensing and preparation functions, exclusive of bulk drug storage, satellite pharmacy, and office areas that is not less than 500 square feet. The minimum area requirement, not including

unusable area, may be varied upon approval by the Board for out-of-the-ordinary conditions or for systems that require less space.

- C. The Board may also require that a hospital pharmacy permittee or applicant provide:
 1. More than the minimum area if equipment, inventory, personnel, or other factors cause crowding to a degree that interferes with safe pharmacy practice;
 2. Additional dispensing, preparation, or storage areas because of the increased number of specific drugs prescribed per day, the increased use of intravenous and irrigating solutions, and the increased use of disposable and prepackaged products;
 3. Additional dispensing, preparation, or storage areas to handle investigational drugs, emergency drug kits, chemotherapeutics, alcohol and other flammables, poisons, external preparations, and radioisotopes, and to accommodate quality control procedures; and
 4. Additional office space to provide for an increased number of personnel, a drug information library, a poison information library, research support, teaching and conferences, and a waiting area.
- D. Hospital pharmacy area. A hospital pharmacy permittee shall ensure that the hospital pharmacy area is enclosed by a permanent barrier or partition from floor to ceiling with entry doors that can be securely locked, constructed according to R4-23-609(F).
- E. Hospital pharmacy storage areas. The hospital pharmacy permittee, Director of Pharmacy, or pharmacist-in-charge shall ensure that all undispensed or undistributed drugs are stored in designated areas within the hospital pharmacy or other locked areas under the control of a pharmacist that ensure proper sanitation, temperature, light, ventilation, moisture control, segregation, and security.

Historical Note

Former Rules 6.7471, 6.7472, 6.7473, 6.7474, and 6.7490; Amended effective Aug. 9, 1983 (Supp. 83-4). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Correction to Table 1 ("square feet" changed to "square feet") (Supp. 91-1). Amended by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4). Amended by final rulemaking at 11 A.A.R. 462, effective March 5, 2005 (Supp. 05-1).

R4-23-656. Sanitation and Equipment

A hospital pharmacy permittee or Director of Pharmacy shall ensure that a hospital pharmacy:

1. Has a professional reference library consisting of hard-copy or electronic media appropriate for the scope of pharmacy services provided by the hospital;
2. Has a sink, other than a sink in a toilet facility, that:
 - a. Has hot and cold running water;
 - b. Is within the hospital pharmacy area for use in preparing drug products; and
 - c. Is maintained in a sanitary condition and in good repair;
3. Maintains a room temperature within a range compatible with the proper storage of drugs;
4. Has a refrigerator and freezer with a temperature maintained within a range compatible with the proper storage of drugs requiring refrigeration or freezing; and
5. Has a designated area for a laminar air flow hood and other supplies required for the preparation of sterile products as specified in R4-23-670.

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Historical Note

Former Rule 6.7480. Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1).
Amended by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4).

R4-23-657. Security

- A.** Personnel security standards. A Director of Pharmacy shall ensure that:
1. No one is permitted in the pharmacy unless a pharmacist is present except as provided in this Section and R4-23-654. If only one pharmacist is on duty in the pharmacy and that pharmacist must leave the pharmacy for an emergency or patient care duties, nonpharmacist personnel may remain in the pharmacy to perform duties as outlined in R4-23-653, provided that all C-II controlled substances are secured to prohibit access by other than a pharmacist, and that the pharmacist remains available in the hospital;
 2. All hospital pharmacy areas are kept locked by key or programmable lock to prevent access by unauthorized personnel; and
 3. Pharmacists, pharmacy or graduate interns, pharmacy technicians, pharmacy technician trainees, and other personnel working in the pharmacy wear identification badges, including name and position, whenever on duty.
- B.** Prescription blank security. The Director of Pharmacy shall develop, implement, review, and revise in the same manner described in R4-23-653(A) and comply with policies and procedures for the safe distribution and control of prescription blanks bearing identification of the hospital.

Historical Note

Former Rule 6.7500; Amended effective Aug. 9, 1983 (Supp. 83-4). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Amended by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1).
Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3).

R4-23-658. Drug Distribution and Control

- A.** General. The Director of Pharmacy or pharmacist-in-charge shall in consultation with the medical staff, develop, implement, review, and revise in the same manner described in R4-23-653(A) and comply with written policies and procedures for the effective operation of a drug distribution system that optimizes patient safety.
- B.** Responsibility. The Director of Pharmacy is responsible for the safe and efficient procurement, dispensing, distribution, administration, and control of drugs, including the following:
1. In consultation with the appropriate department personnel and medical staff committee, develop a medication formulary for the hospital;
 2. Proper handling, distribution, and recordkeeping of investigational drugs; and
 3. Regular inspections of drug storage and preparation areas within the hospital.
- C.** Physician orders. A Director of Pharmacy or pharmacist-in-charge shall ensure that:
1. Drugs are dispensed from the hospital pharmacy only upon a written order, direct copy or facsimile of a written order, or verbal order of an authorized medical practitioner; and

2. A pharmacist reviews the original, direct or facsimile copy, or verbal order before an initial dose of medication is administered, except as specified in R4-23-653(E)(1).
- D.** Labeling. A Director of Pharmacy or pharmacist-in-charge shall ensure that all drugs distributed or dispensed by a hospital pharmacy are packaged in appropriate containers and labeled as follows:
1. For use inside the hospital.
 - a. Labels for all single unit packages contain at a minimum, the following information:
 - i. Drug name, strength, and dosage form;
 - ii. Lot number and beyond-use-date; and
 - iii. Appropriate auxiliary labels;
 - b. Labels for repackaged preparations contain at a minimum the following information:
 - i. Drug name, strength, and dosage form;
 - ii. Lot number and beyond-use-date;
 - iii. Appropriate auxiliary labels; and
 - iv. Mechanism to identify pharmacist accountable for repackaging;
 - c. Labels for all intravenous admixture preparations contain at a minimum the following information:
 - i. Patient's name and location;
 - ii. Name and quantity of the basic parenteral solution;
 - iii. Name and amount of drug added;
 - iv. Date of preparation;
 - v. Beyond-use-date and time;
 - vi. Guidelines for administration;
 - vii. Appropriate auxiliary label or precautionary statement; and
 - viii. Initials of pharmacist responsible for admixture preparation; and
 2. For use outside the hospital. Any drug dispensed to a patient by a hospital pharmacy that is intended for self-administration outside of the hospital is labeled as specified in A.R.S. §§ 32-1963.01(C) and 32-1968(D) and A.A.C. R4-23-402.
- E.** Controlled substance accountability. A Director of Pharmacy or pharmacist-in-charge shall ensure that effective policies and procedures are developed, implemented, reviewed, and revised in the same manner described in R4-23-653(A) and complied with regarding the use, accountability, and record-keeping of controlled substances in the hospital, including the use of locked storage areas when controlled substances are stored in patient care areas.
- F.** Emergency services dispensing. If a hospital permits dispensing of drugs from the emergency services department when the pharmacy is unable to provide this service, the Director of Pharmacy, in consultation with the appropriate department personnel and medical staff committee shall develop, implement, review, and revise in the same manner described in R4-23-653(A) and comply with written policies and procedures for dispensing drugs for outpatient use from the hospital's emergency services department. The policies and procedures shall include the following requirements:
1. Drugs are dispensed only to patients who have been admitted to the emergency services department;
 2. Drugs are dispensed only by an authorized medical practitioner, not a designee or agent;
 3. The nature and type of drugs available for dispensing are designed to meet the immediate needs of the patients treated within the hospital;

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4. Drugs are dispensed only in quantities sufficient to meet patient needs until outpatient pharmacy services are available;
5. Drugs are prepackaged by a pharmacist or a pharmacy intern, graduate intern, pharmacy technician, or pharmacist technician trainee under the supervision of a pharmacist in suitable containers and appropriately prelabeled with the drug name, strength, dosage form, quantity, manufacturer, lot number, beyond-use-date, and any appropriate auxiliary labels;
6. Upon dispensing, the authorized medical practitioner completes the label on the prescription container that complies with the requirements of R4-23-658(D); and
7. The hospital pharmacy maintains a dispensing log, hard-copy prescription, or electronic record, approved by the Board or its designee and includes the patient name and address, drug name, strength, dosage form, quantity, directions for use, medical practitioner's signature or identification code, and DEA registration number, if applicable.

Historical Note

Former Rules 6.7610, 6.7620, and 6.7710; Amended effective Aug. 9, 1983 (Supp. 83-4). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Correction to subsection (I)(5) ("unnecessary" changed to "necessary") (Supp. 91-1). Amended effective November 1, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3).

R4-23-659. Administration of Drugs

- A. Self-administration. A hospital shall not allow self-administration of medications by a patient unless the Director of Pharmacy or pharmacist-in-charge, in consultation with the appropriate department personnel and medical staff committee, develops, implements, reviews, and revises in the same manner described in R4-23-653(A) and complies with policies and procedures for self-administration of medications by a patient. The policies and procedures shall specify that self-administration of medications, if allowed, occurs only when:
 1. Specifically ordered by a medical practitioner, and
 2. The patient is educated and trained in the proper manner of self-administration.
- B. Drugs brought in by a patient. If a hospital allows a patient to bring a drug into the hospital and before a patient brings a drug into the hospital, the Director of Pharmacy or pharmacist-in-charge shall, in consultation with the appropriate department personnel and medical staff committee, develop, implement, review, and revise in the same manner described in R4-23-653(A) and comply with policies and procedures for a patient-owned drug brought into the hospital. The policies and procedures shall specify the following criteria for a patient-owned drug brought into the hospital:
 1. When policy allows the administration of a patient-owned drug, the drug is not administered to the patient unless:
 - a. A pharmacist or medical practitioner identifies the drug, and
 - b. A medical practitioner writes a medication order specifying administration of the identified patient-owned drug; and

2. If a patient-owned drug will not be used during the patient's hospitalization, the hospital pharmacy's personnel shall:
 - a. Package, seal, and give the drug to the patient's agent for removal from the hospital; or
 - b. Package, seal, and store the drug for return to the patient at the time of discharge from the hospital.
- C. Drug samples. The Director of Pharmacy or pharmacist-in-charge is responsible for the receipt, storage, distribution, and accountability of drug samples within the hospital, including developing, implementing, reviewing, and revising in the same manner described in R4-23-653(A) and complying with specific policies and procedures regarding drug samples.

Historical Note

Former Rules 6.7720, 6.7730, 6.7740, 6.7760, 6.7770, 6.7780, 6.7800, 6.7810, 6.7820, 6.7830, 6.7840, 6.7850, 6.7871, 6.7872, and 6.7873; Amended effective Aug. 9, 1983 (Supp. 83-4). Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Correction to Section heading ("rules" changed to "roles") (Supp. 91-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3).

R4-23-660. Investigational Drugs

The Director of Pharmacy or pharmacist-in-charge shall ensure that:

1. The following information concerning an investigational drug is available for use by hospital personnel:
 - a. Composition,
 - b. Pharmacology,
 - c. Adverse reactions,
 - d. Administration guidelines, and
 - e. All other available information concerning the drug, and
2. An investigational drug is:
 - a. Properly stored in, labeled, and dispensed from the pharmacy, and
 - b. Not dispensed before the drug is approved by the appropriate medical staff committee of the hospital.

Historical Note

Former Rules 6.7881, 6.7882, and 6.7883; Amended subsection (A) effective Aug. 9, 1983 (Supp. 83-4). Repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4).

R4-23-661. Repealed**Historical Note**

Former Rules 6.7910, 6.7920, 6.7930, 6.7940, and 6.7950. Section repealed, new Section adopted effective February 7, 1990 (Supp. 90-1). Section repealed by final rulemaking at 8 A.A.R. 4902, effective January 5, 2003 (Supp. 02-4).

R4-23-662. Repealed**Historical Note**

Adopted effective February 7, 1990 (Supp. 90-1). Section repealed by final rulemaking at 8 A.A.R. 4902, effective

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January 5, 2003 (Supp. 02-4).

R4-23-663. Repealed**Historical Note**

Adopted effective February 7, 1990 (Supp. 90-1).
Amended effective November 1, 1993 (Supp. 93-4).
Section repealed by final rulemaking at 8 A.A.R. 4902,
effective January 5, 2003 (Supp. 02-4).

R4-23-664. Repealed**Historical Note**

Adopted effective February 7, 1990 (Supp. 90-1).
Subsection label removed (Supp. 91-1). Section repealed
by final rulemaking at 8 A.A.R. 4902, effective January
5, 2003 (Supp. 02-4).

R4-23-665. Reserved**R4-23-666. Reserved****R4-23-667. Reserved****R4-23-668. Reserved****R4-23-669. Reserved****R4-23-670. Sterile Pharmaceutical Products**

A. In addition to the minimum area requirement of R4-23-609(A) and R4-23-655(B) and before compounding a sterile pharmaceutical product, a pharmacy permittee, limited-service pharmacy permittee, or applicant shall provide a minimum sterile pharmaceutical product compounding area that is not less than 100 square feet of contiguous floor area, except any pharmacy permit issued or pharmacy remodeled before November 1, 2006 may continue to use a sterile pharmaceutical product compounding area that is not less than 60 square feet of contiguous floor area, until a pharmacy ownership change occurs that requires issuance of a new permit or the pharmacy is remodeled. The pharmacy permittee or the pharmacist-in-charge shall ensure that the sterile pharmaceutical product compounding area:

1. Is dedicated to the purpose of preparing and compounding sterile pharmaceutical products;
2. Is isolated from other pharmacy functions;
3. Restricts entry or access;
4. Is free from unnecessary disturbances in air flow;
5. Is made of non-porous and cleanable floor, wall, and ceiling material; and
6. Meets the minimum air cleanliness standards of an ISO Class 7 environment as defined in R4-23-110, except an ISO class 7 environment is not required if all sterile pharmaceutical product compounding occurs within an ISO class 5 environment isolator, such as a glove box, pharmaceutical isolator, barrier isolator, pharmacy isolator, or hospital pharmacy isolator.

B. In addition to the equipment requirements in R4-23-611 and R4-23-612 or R4-23-656 and before compounding a sterile pharmaceutical product, a pharmacy permittee, limited-service pharmacy permittee, or applicant shall ensure that a pharmacist who compounds a sterile pharmaceutical product has the following equipment:

1. Environmental control devices capable of maintaining a compounding area environment equivalent to an "ISO class 5 environment" as defined in R4-23-110. Devices capable of meeting these standards include: laminar airflow hoods, hepa filtered zonal airflow devices, glove boxes, pharmaceutical isolators, barrier isolators, phar-

macy isolators, hospital pharmacy isolators, and biological safety cabinets;

2. Disposal containers designed for needles, syringes, and other material used in compounding sterile pharmaceutical products and if applicable, separate containers to dispose of cytotoxic, chemotherapeutic, and infectious waste products;
 3. Freezer storage units with thermostatic control and thermometer, if applicable;
 4. Packaging or delivery containers capable of maintaining official compendial drug storage conditions;
 5. Infusion devices and accessories, if applicable; and
 6. In addition to the reference library requirements of R4-23-612, a current reference pertinent to the preparation of sterile pharmaceutical products.
- C. Before compounding a sterile pharmaceutical product, the pharmacy permittee, limited-service pharmacy permittee, or pharmacist-in-charge shall:
1. Prepare, implement, and comply with policies and procedures for compounding and dispensing sterile pharmaceutical products,
 2. Review biennially and if necessary revise the policies and procedures required under subsection (C)(1),
 3. Document the review required under subsection (C)(2),
 4. Assemble the policies and procedures as a written manual or by another method approved by the Board or its designee, and
 5. Make the policies and procedures available in the pharmacy for employee reference and inspection by the Board or its designee.
- D. The assembled policies and procedures shall include, where applicable, the following subjects:
1. Supervisory controls and verification procedures to ensure the quality and safety of sterile pharmaceutical products;
 2. Clinical services and drug monitoring procedures for:
 - a. Patient drug utilization reviews;
 - b. Inventory audits;
 - c. Patient outcome monitoring;
 - d. Drug information; and
 - e. Education of pharmacy and other health professionals;
 3. Controlled substances;
 4. Supervisory controls and verification procedures for:
 - a. Cytotoxics handling, storage, and disposal;
 - b. Disposal of unused supplies and pharmaceutical products; and
 - c. Handling and disposal of infectious wastes;
 5. Pharmaceutical product administration, including guidelines for the first dosing of a pharmaceutical product;
 6. Drug and component procurement;
 7. Pharmaceutical product compounding, dispensing, and storage;
 8. Duties and qualifications of professional and support staff;
 9. Equipment maintenance;
 10. Infusion devices and pharmaceutical product delivery systems;
 11. Investigational drugs and their protocols;
 12. Patient profiles;
 13. Patient education and safety;
 14. Quality management procedures for:
 - a. Adverse drug reactions;
 - b. Drug recalls;

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- c. Expired pharmaceutical products;
 - d. Beyond-use-dating for both standard-risk and substantial-risk sterile pharmaceutical products consistent with the requirements of R4-23-410(B)(3)(d);
 - e. Temperature and other environmental controls;
 - f. Documented process and product validation testing; and
 - g. Semi-annual certification of the laminar air flow hood or other ISO class 5 environment, other equipment, and the ISO class 7 environment, including documentation of routine cleaning and maintenance for each laminar air flow hood or other ISO class 5 environment, other equipment, and the ISO class 7 environment; and
15. Sterile pharmaceutical product delivery requirements for:
- a. Shipment to the patient;
 - b. Security; and
 - c. Maintaining official compendial storage conditions.
- E. Standard-risk sterile pharmaceutical product compounding. Before compounding a standard-risk sterile pharmaceutical product, a pharmacy permittee or pharmacist-in-charge shall ensure compliance with the following minimum standards:
- 1. Compounding occurs only in an ISO class 5 environment within an ISO class 7 environment, and the ISO class 7 environment may have a specified prep area inside the environment;
 - 2. Compounding sterile pharmaceutical products from sterile commercial drugs or sterile pharmaceutical otic or ophthalmic products from non-sterile ingredients occurs using procedures that involve only a few closed-system, basic, simple aseptic transfers and manipulations;
 - 3. Each person who compounds wears adequate personnel protective clothing for sterile preparation that includes gown, gloves, head cover, and booties. Each person who compounds is not required to wear personnel protective clothing when all sterile pharmaceutical compounding occurs within an ISO class 5 environment isolator, and the ISO Class 5 environment isolator is not inside an ISO Class 7 environment; and
 - 4. Each person who compounds completes an annual media-fill test to validate proper aseptic technique.
- F. Substantial-risk sterile pharmaceutical product compounding. Before compounding a substantial-risk sterile pharmaceutical product, a pharmacy permittee or pharmacist-in-charge shall ensure compliance with the following minimum standards:
- 1. Compounding parenteral or injectable sterile pharmaceutical products from non-sterile ingredients occurs only in an ISO class 5 environment within an ISO class 7 environment and the ISO class 7 environment shall not have a prep area inside the environment;
 - 2. Each person who compounds wears adequate personnel protective clothing for sterile preparation that includes gown, gloves, head cover, and booties. Each person who compounds is not required to wear personnel protective clothing when all sterile pharmaceutical compounding occurs within an ISO class 5 environment isolator, and the ISO Class 5 environment isolator is not inside an ISO Class 7 environment; and
 - 3. Each person who compounds completes a semi-annual media-fill test that simulates the most challenging or stressful conditions for compounding using dry non-sterile media to validate proper aseptic technique.

Historical Note

Adopted effective November 1, 1993 (Supp. 93-4).

Amended by final rulemaking at 10 A.A.R. 3391, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 12 A.A.R. 3981, effective December 4, 2006 (Supp. 06-4).

R4-23-671. General Requirements for Limited-service Pharmacy

- A. Before opening a limited-service pharmacy, a person shall obtain a permit in compliance with A.R.S. §§ 32-1929, 32-1930, 32-1931, and R4-23-606.
- B. The limited-service pharmacy permittee shall secure the limited-service pharmacy by conforming with the following standards:
 - 1. Permit no one to be in the limited-service pharmacy unless the pharmacist-in-charge or a pharmacist authorized by the pharmacist-in-charge is present;
 - 2. Require the pharmacist-in-charge to designate in writing, by name, title, and specific area, those persons who will have access to particular areas of the limited-service pharmacy;
 - 3. Implement procedures to guard against theft or diversion of drugs, including controlled substances; and
 - 4. Require all persons working in the limited-service pharmacy to wear badges, with their names and titles, while on duty.
- C. To obtain permission to deviate from the minimum area requirement set forth in R4-23-609, R4-23-673, or R4-23-682, a limited-service pharmacy permittee shall submit a written request to the Board and include documentation that the deviation will facilitate experimentation or technological advances in the practice of pharmacy as defined in A.R.S. § 32-1901. If the Board determines the requested deviation from the minimum area requirement will enhance the practice of pharmacy and benefit the public, the Board shall grant the requested deviation.
- D. The Board shall require more than the minimum area in a limited-service pharmacy when the Board determines that equipment, personnel, or other factors in the limited-service pharmacy cause crowding that interferes with safe pharmacy practice.
- E. Before dispensing from a limited-service pharmacy, the limited-service pharmacy permittee or pharmacist-in-charge shall:
 - 1. Prepare, implement, and comply with written policies and procedures for pharmacy operations and drug dispensing and distribution,
 - 2. Review biennially and if necessary revise the policies and procedures required under subsection (E)(1),
 - 3. Document the review required under subsection (E)(2),
 - 4. Assemble the policies and procedures as a written manual or by another method approved by the Board or its designee, and
 - 5. Make the policies and procedures available in the pharmacy for employee reference and inspection by the Board or its designee.

Historical Note

Adopted effective April 5, 1996 (Supp. 96-2). Amended by final rulemaking at 9 A.A.R. 1064, effective May 4, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 3391, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3).

R4-23-672. Limited-service Correctional Pharmacy

- A. The limited-service pharmacy permittee shall ensure that the limited-service correctional pharmacy complies with the stan-

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dards for area, personnel, security, sanitation, equipment, drug distribution and control, administration of drugs, drug source, quality assurance, investigational drugs, and inspections as set forth in R4-23-608, R4-23-609(A) through (D) and (F) through (H), R4-23-610(A), R4-23-611, R4-23-612, R4-23-653(E), R4-23-658(B) through (E), R4-23-659, and R4-23-660.

- B. The pharmacist-in-charge of a limited-service correctional pharmacy shall authorize only pharmacists, interns, pharmacy technicians, pharmacy technician trainees, compliance officers, drug inspectors, peace officers, and correctional officers acting in their official capacities, other persons authorized by law, support personnel, and other designated personnel to be in the limited-service correctional pharmacy.
- C. When no pharmacist will be on duty in the correctional facility, the pharmacist-in-charge shall arrange, before there is no pharmacist on duty, for the medical staff and other authorized personnel of the correctional facility to have access to drugs in remote drug storage areas or, if a drug is not available in a remote drug storage area and is required to treat the immediate needs of a patient, in the limited-service correctional pharmacy.
 - 1. The pharmacist-in-charge shall, in consultation with the appropriate committee of the correctional facility, develop and implement procedures to ensure that remote drug storage areas:
 - a. Contain only properly labeled drugs that might reasonably be needed and can be administered safely during the pharmacist's absence,
 - b. Contain drugs packaged only in amounts sufficient for immediate therapeutic requirements,
 - c. Are accessible only with a physician's written order,
 - d. Provide a written record of each drug withdrawn,
 - e. Are inventoried at least once each week, and
 - f. Are audited for compliance with the requirements of this rule at least once each month.
 - 2. The pharmacist-in-charge shall, in consultation with the appropriate committee of the correctional facility, develop and implement procedures to ensure that access to the limited-service correctional pharmacy when no pharmacist is on duty conforms to the following requirements:
 - a. Is delegated to only one nurse, who is in a supervisory position;
 - b. Is communicated in writing to medical staff of the correctional facility;
 - c. Is delegated only to a nurse who has received training from the pharmacist-in-charge in proper methods of access, removal of drugs, and recordkeeping procedures; and
 - d. Is delegated by the supervisory nurse to another nurse only in an emergency.
 - 3. When a nurse to whom authority to access the limited-service correctional pharmacy is delegated removes a drug from the limited-service correctional pharmacy, the nurse shall:
 - a. Record the following information on a form:
 - i. Patient's name,
 - ii. Name of the drug and its strength and dosage form,
 - iii. Dose prescribed,
 - iv. Amount of drug removed, and
 - v. Date and time of removal;
 - b. Sign the form recording the drug removal;
- c. Attach the original or a direct copy of a physician's written order for the drug to the form recording the drug removal; and
- d. Place the form recording the drug removal conspicuously in the limited-service correctional pharmacy.
- 4. Within four hours after a pharmacist in the limited-service correctional pharmacy returns to duty following an absence in which the limited-service correctional pharmacy was accessed by a nurse to whom authority had been delegated, the pharmacist shall verify all records of drug removal according to R4-23-402.
- D. When no pharmacist will be on duty in the correctional facility, the pharmacist-in-charge shall arrange, before there is no pharmacist on duty, for the medical staff and other authorized personnel of the correctional facility to have telephone access to a pharmacist.
- E. The limited-service pharmacy permittee shall ensure that the limited-service correctional pharmacy is not without a pharmacist on duty for more than 96 consecutive hours.
- F. In addition to the requirements of R4-23-671, the limited-service pharmacy permittee shall secure the limited-service correctional pharmacy as follows:
 - 1. Permit no one to be in the limited-service correctional pharmacy unless a pharmacist is on duty except:
 - a. As provided in subsection (C)(3) when a pharmacist is not on duty; or
 - b. A pharmacy technician or pharmacy technician trainee may remain to perform duties in R4-23-1104(A), when a pharmacist is on duty and available in the correctional facility but temporarily absent from the pharmacy, provided:
 - i. All controlled substances are secured in a manner that prohibits access by persons other than a pharmacist;
 - ii. Activities performed by a pharmacy technician or pharmacy technician trainee while the pharmacist is temporarily absent are verified by the pharmacist immediately upon returning to the pharmacy;
 - iii. Any drug measured, counted, poured, or otherwise prepared and packaged by a pharmacy technician or pharmacy technician trainee while the pharmacist is temporarily absent is verified by the pharmacist immediately upon returning to the pharmacy; and
 - iv. Any drug that has not been verified by a pharmacist for accuracy is not dispensed, supplied, or distributed while the pharmacist is temporarily absent from the pharmacy; and
 - 2. Provide keyed or programmable locks to all areas of the limited-service correctional pharmacy.
- G. The pharmacist-in-charge of a limited-service correctional pharmacy shall ensure that the written policies and procedures for pharmacy operations and drug distribution within the correctional facility include the following:
 - 1. Physicians' orders, prescription orders, or both;
 - 2. Authorized abbreviations;
 - 3. Formulary system;
 - 4. Clinical services and drug utilization management including:
 - a. Participation in drug selection,
 - b. Drug utilization reviews,
 - c. Inventory audits,
 - d. Patient outcome monitoring,

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- e. Committee participation,
- f. Drug information, and
- g. Education of pharmacy and other health professionals;
- 5. Duties and qualifications of professional and support staff;
- 6. Products of abuse and contraband medications;
- 7. Controlled substances;
- 8. Drug administration;
- 9. Drug product procurement;
- 10. Drug compounding, dispensing, and storage;
- 11. Stop orders;
- 12. Pass or discharge medications;
- 13. Investigational drugs and their protocols;
- 14. Patient profiles;
- 15. Quality management procedures for:
 - a. Adverse drug reactions;
 - b. Drug recalls;
 - c. Expired and beyond-use-date drugs;
 - d. Medication or dispensing errors;
 - e. Drug storage; and
 - f. Education of professional staff, support staff, and patients;
- 16. Recordkeeping;
- 17. Sanitation;
- 18. Security;
- 19. Access to remote drug storage areas by non-pharmacists; and
- 20. Access to limited-service correctional pharmacy by non-pharmacists.

Historical Note

Adopted effective April 5, 1996 (Supp. 96-2). Amended by final rulemaking at 10 A.A.R. 4453, effective December 4, 2004 (Supp. 04-4).

R4-23-673. Limited-service Mail-order Pharmacy

- A. The limited-service pharmacy permittee shall design and construct the limited-service mail-order pharmacy to conform with the following requirements:
 - 1. A dispensing area devoted to stocking, compounding, and dispensing prescription medications, which is physically separate from a non-dispensing area devoted to non-dispensing pharmacy services;
 - 2. A dispensing area of at least 300 square feet if three or fewer persons work in the dispensing area simultaneously;
 - 3. A dispensing area that provides 300 square feet plus 60 square feet for each person in excess of three persons if more than three persons work in the dispensing area simultaneously;
 - 4. Space in the dispensing area permits efficient pharmaceutical practice, free movement of personnel, and visual surveillance by the pharmacist;
 - 5. A non-dispensing area of at least 30 square feet for each person working simultaneously in the non-dispensing area; and
 - 6. Space in the non-dispensing area permits free movement of personnel and visual surveillance by the pharmacist; or
- B. The limited-service pharmacy permittee shall design and construct the limited-service mail-order pharmacy to conform with the following requirements:
 - 1. A contiguous area in which both dispensing and non-dispensing pharmacy services are provided;
 - 2. A contiguous area of at least 300 square feet if three or fewer persons work in the area simultaneously;
 - 3. A contiguous area that provides 300 square feet plus 60 square feet for each person in excess of three persons if more than three persons work in the area simultaneously; and
 - 4. Space in the contiguous area permits efficient pharmaceutical practice, free movement of personnel, and visual surveillance by the pharmacist.
- C. The limited-service pharmacy permittee shall ensure that the limited-service mail-order pharmacy complies with the standards for area, personnel, security, sanitation, and equipment set forth in R4-23-608, R4-23-609(B) through (H), R4-23-610 (A) and (C) through (F), R4-23-611, and R4-23-612.
- D. The pharmacist-in-charge of a limited-service mail-order pharmacy shall authorize only pharmacists, interns, pharmacy technicians, pharmacy technician trainees, compliance officers, drug inspectors, peace officers acting in their official capacities, support personnel, other persons authorized by law, and other designated personnel to be in the limited-service mail-order pharmacy.
- E. The pharmacist-in-charge of a limited-service mail-order pharmacy shall ensure that prescription medication is delivered to the patient or locked in the dispensing area when a pharmacist is not present in the pharmacy.
- F. In addition to the delivery requirements of R4-23-402, the limited-service pharmacy permittee shall, during regular hours of operation but not less than five days and a minimum 40 hours per week, provide toll-free telephone service to facilitate communication between patients and a pharmacist who has access to patient records at the limited-service mail-order pharmacy. The limited-service pharmacy permittee shall disclose this toll-free number on a label affixed to each container of drugs dispensed from the limited-service mail-order pharmacy.
- G. The pharmacist-in-charge of a limited-service mail-order pharmacy shall ensure that the written policies and procedures for pharmacy operations and drug distribution include the following:
 - 1. Prescription orders;
 - 2. Clinical services and drug utilization management for:
 - a. Drug utilization reviews,
 - b. Inventory audits,
 - c. Patient outcome monitoring,
 - d. Drug information, and
 - e. Education of pharmacy and other health professionals;
 - 3. Duties and qualifications of professional and support staff;
 - 4. Controlled substances;
 - 5. Drug product procurement;
 - 6. Drug compounding, dispensing, and storage;
 - 7. Patient profiles;
 - 8. Quality management procedures for:
 - a. Adverse drug reactions,
 - b. Drug recalls,
 - c. Expired and beyond-use-date drugs,
 - d. Medication or dispensing errors, and
 - e. Education of professional and support staff;
 - 9. Recordkeeping;
 - 10. Sanitation;
 - 11. Security;
 - 12. Drug delivery requirements for:
 - a. Transportation,
 - b. Security,

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- c. Temperature and other environmental controls,
- d. Emergency provisions, and
- 13. Patient education.

Historical Note

Adopted effective April 5, 1996 (Supp. 96-2). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 10 A.A.R. 4453, effective December 4, 2004 (Supp. 04-4).

R4-23-674. Limited-service Long-term Care Pharmacy

- A. A limited-service pharmacy permittee shall ensure that the limited-service long-term care pharmacy complies with:
 - 1. The general requirements of R4-23-671;
 - 2. The professional practice standards of Article 4 and Article 11; and
 - 3. The permits and drug distribution standards of R4-23-606 through R4-23-612, R4-23-670, and this Section.
- B. If a limited-service long-term care pharmacy permittee contracts with a long-term care facility as a Provider Pharmacy, as defined in R4-23-110, the limited-service long-term care pharmacy permittee shall ensure that the long-term care consultant pharmacist and the pharmacist-in-charge of the limited-service long-term care pharmacy comply with R4-23-701, R4-23-701.01, R4-23-701.02, R4-23-701.03, R4-23-701.04, and this Section.
- C. The limited-service long-term care pharmacy permittee or pharmacist-in-charge shall ensure that prescription medication is delivered to the patient's long-term care facility or locked in the dispensing area of the pharmacy when a pharmacist is not present in the pharmacy.
- D. The pharmacist-in-charge of a limited-service long-term care pharmacy shall authorize only those individuals listed in R4-23-610(B) to be in the limited-service long-term care pharmacy.
- E. In consultation with the long-term care facility's medical director and director of nursing, the long-term care consultant pharmacist and pharmacist-in-charge of the long-term care facility's provider pharmacy may develop, if necessary, a medication formulary for the long-term care facility that ensures the safe and efficient procurement, dispensing, distribution, administration, and control of drugs in the long-term care facility.
- F. The limited-service long-term care pharmacy permittee or pharmacist-in-charge shall ensure that the written policies and procedures required in R4-23-671(E) include the following:
 - 1. Clinical services and drug utilization management for:
 - a. Drug utilization reviews,
 - b. Inventory audits,
 - c. Patient outcome monitoring,
 - d. Drug information, and
 - e. Education of pharmacy and other health professionals;
 - 2. Controlled substances;
 - 3. Drug compounding, dispensing, and storage;
 - 4. Drug delivery requirements for:
 - a. Transportation,
 - b. Security,
 - c. Temperature and other environmental controls, and
 - d. Emergency provisions;
 - 5. Drug product procurement;
 - 6. Duties and qualifications of professional and support staff;
 - 7. Emergency drug supply unit procedures;

- 8. Formulary, including development, review, modification, use, and documentation, if applicable;
- 9. Patient profiles;
- 10. Patient education;
- 11. Prescription orders, including:
 - a. Approved abbreviations,
 - b. Stop-order procedures, and
 - c. Leave-of-absence and discharge prescription order procedures;
- 12. Quality management procedures for:
 - a. Adverse drug reactions,
 - b. Drug recalls,
 - c. Expired and beyond-use-date drugs,
 - d. Medication or dispensing errors, and
 - e. Education of professional and support staff;
- 13. Recordkeeping;
- 14. Sanitation; and
- 15. Security.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 1064, effective May 4, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 2894, effective November 10, 2013 (Supp. 13-3).

R4-23-675. Limited-service Sterile Pharmaceutical Products Pharmacy

- A. The limited-service pharmacy permittee or the pharmacist-in-charge shall ensure that the limited-service sterile pharmaceutical products pharmacy complies with the standards for area, personnel, security, sanitation, equipment, sterile pharmaceutical products, and limited-service pharmacies established in R4-23-608, R4-23-609, R4-23-610, R4-23-611, R4-23-612, R4-23-670, and R4-23-671.
- B. The pharmacist-in-charge of a limited-service sterile pharmaceutical products pharmacy shall authorize only pharmacists, interns, compliance officers, peace officers acting in their official capacities, pharmacy technicians, pharmacy technician trainees, support personnel, and other designated personnel to be in the limited-service sterile pharmaceutical products pharmacy.
- C. The pharmacist-in-charge of a limited-service sterile pharmaceutical products pharmacy shall ensure that prescription medication is delivered to the patient or locked in the dispensing area when a pharmacist is not present in the pharmacy.
- D. In addition to the delivery requirements of R4-23-402, the limited-service pharmacy permittee shall, during regular hours of operation, but not less than a minimum 40 hours per week, provide toll-free telephone service to facilitate communication between patients and a pharmacist who has access to patient records at the limited-service sterile pharmaceutical products pharmacy. The limited-service pharmacy permittee shall disclose this toll-free number on a label affixed to each container dispensed from the limited-service sterile pharmaceutical products pharmacy.
- E. The limited-service pharmacy permittee or the pharmacist-in-charge shall ensure development, implementation, review and revision in the same manner described in R4-23-671(E) and compliance with policies and procedures for pharmacy operations, including pharmaceutical product compounding, dispensing, and distribution, that comply with the requirements of R4-23-402, R4-23-410, R4-23-670, and R4-23-671.
- F. The non-dispensing roles of the pharmacist may include chart reviews, audits, drug therapy monitoring, committee participa-

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tion, drug information, and in-service training of pharmacy and other health professionals.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3391, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). This Section was not amended as originally stated in the historical note published in Supp. 13-3; therefore the reference to the amendment has been removed (Supp. 18-2).

R4-23-676. Third-party Logistics Provider Permit

- A. A person shall not provide logistics services, as described under A.R.S. § 32-1941(A), until the Board issues a third-party logistics provider permit for the facility.
- B. A person that wants to provide logistics services shall obtain a Board-issued third-party logistics provider permit for each facility.
- C. Application. To obtain a third-party logistics provider permit for a facility, a person shall submit a completed application, using a form available on the Board's website, and the fee specified in R4-23-205.
- D. Change of ownership. A third-party logistics provider permittee shall comply with R4-23-601(F).
- E. A third-party logistics provider permittee shall renew the permit as specified under R4-23-602(D).
- F. The Board shall adhere to the time frames specified under R4-23-602(C) when processing an initial or renewal application for a third-party logistics provider permit.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).

R4-23-677. Automated Prescription-dispensing Kiosk Permit

- A. General provisions.
 - 1. Only a person issued a Board permit under A.R.S. § 32-1929 to operate a pharmacy in Arizona may apply to the Board under A.R.S. § 32-1930 for a permit to operate an automated prescription-dispensing kiosk.
 - 2. A pharmacy permittee described under subsection (A)(1) shall apply for a separate permit for each automated prescription-dispensing kiosk to be operated.
 - 3. To obtain an automated prescription-dispensing kiosk permit, a pharmacy permittee shall submit a completed application, using a form available on the Board's website, and the fee specified in R4-23-205.
 - 4. A pharmacy permittee to which the Board issues an automated prescription-dispensing kiosk permit shall designate a pharmacist in charge of the automated prescription-dispensing kiosk.
 - 5. A pharmacy permittee to which the Board issues an automated prescription-dispensing kiosk permit shall not place the automated prescription-dispensing kiosk in a gas station or convenience store.
- B. Policies and procedures. A pharmacy permittee to which the Board issues an automated prescription-dispensing kiosk permit shall:
 - 1. Ensure policies and procedures are established for the appropriate performance and use of the automated prescription-dispensing kiosk. The policies and procedures shall address:
 - a. Maintaining a record of each transaction in a manner that attaches the record to the permit number of the automated prescription-dispensing kiosk;

- b. Controlling access to the automated prescription-dispensing kiosk;
 - c. Operating the automated prescription-dispensing kiosk;
 - d. Training personnel who use the automated prescription-dispensing kiosk;
 - e. Maintaining patient services when the automated prescription-dispensing kiosk is not operating or the prescribed drug or device is not available;
 - f. Securing the automated prescription-dispensing kiosk against unauthorized removal of the kiosk or access to or removal of drugs or devices from the kiosk;
 - g. Assuring a patient receives the pharmacy services necessary for appropriate pharmaceutical care including consultation with a pharmacist;
 - h. Maintaining integrity of information in the system and patient confidentiality;
 - i. Stocking and restocking the automated prescription-dispensing kiosk;
 - j. Ensuring compliance with packaging and labeling requirements; and
 - k. Removing drugs and devices from the automated prescription-dispensing kiosk without dispensing them and handling wasted or discarded drugs and devices;
- 2. Ensure the policies and procedures are implemented and complied with by all personnel using the automated prescription-dispensing kiosk;
 - 3. Maintain the policies and procedures by:
 - a. Reviewing the policies and procedures biennially and making needed revisions, if any;
 - b. Documenting the review required under subsection (B)(3)(a);
 - c. Assembling the policies and procedures as a written or electronic manual; and
 - d. Making the policies and procedures available within the pharmacy permittee to which the Board issued an automated prescription-dispensing kiosk permit for reference by pharmacy personnel and inspection by the Board; and
 - 4. Implement a quality assurance program to monitor compliance with the policies and procedures and all state and federal law.
- C. Change of ownership. An automated prescription-dispensing kiosk permittee shall comply with R4-23-601(F).
 - D. An automated prescription-dispensing kiosk permittee shall renew the permit as specified under R4-23-602(D).
 - E. The Board shall adhere to the time frames specified under R4-23-602(C) when processing an initial or renewal application for an automated prescription-dispensing kiosk permit.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 1012, effective June 1, 2019 (Supp. 19-2).

R4-23-678. Reserved

R4-23-679. Reserved

R4-23-680. Reserved

R4-23-681. General Requirements for Limited-service Nuclear Pharmacy

- A. To be an authorized nuclear pharmacist, a pharmacist shall:
 - 1. Hold a current pharmacist license issued by the Board; and

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2. Be certified as a nuclear pharmacist by:
 - a. The Board of Pharmaceutical Specialties, or
 - b. A similar group recognized by the Arizona State Board of Pharmacy; or
3. Satisfy each of the following requirements:
 - a. Meet minimal standards of training for status as an authorized user of radioactive material, as specified by the Arizona Radiation Regulatory Agency and the United States Nuclear Regulatory Commission;
 - b. Submit certification of completion of a Board-approved nuclear pharmacy training program or other training program recognized by the Arizona Radiation Regulatory Agency, with 200 hours of didactic training in the following areas:
 - i. Radiation physics and instrumentation,
 - ii. Radiation protection,
 - iii. Mathematics pertaining to the use and measurement of radioactivity,
 - iv. Radiation biology, and
 - v. Radiopharmaceutical chemistry;
 - c. Submit evidence of a minimum of 500 hours of clinical/practical nuclear pharmacy training under the supervision of an authorized nuclear pharmacist in the following areas:
 - i. Procuring radioactive materials;
 - ii. Compounding radiopharmaceuticals;
 - iii. Performing routine quality control procedures;
 - iv. Dispensing radiopharmaceuticals;
 - v. Distributing radiopharmaceuticals;
 - vi. Implementing basic radiation protection procedures; and
 - vii. Consulting and educating the nuclear medicine community, patients, pharmacists, other health professionals, and the general public; and
 - d. Submit written certification, signed by a preceptor who is an authorized nuclear pharmacist, that the above training was satisfactorily completed.
- B. Radiopharmaceuticals are prescription-only drugs that require specialized techniques in their handling and testing, to obtain optimum results and minimize hazards.
 1. A person shall not sell, barter, or otherwise dispose of, or be in possession of any radiopharmaceutical except under the conditions detailed in A.R.S. § 32-1929.
 2. A person shall not manufacture, compound, sell, or dispense any radiopharmaceutical unless the person is a pharmacist or a pharmacy intern acting under the direct supervision of a pharmacist in accordance with A.R.S. § 32-1961 and these rules, with the exception of the following, if the following are licensed by the Arizona Radiation Regulatory Agency to use radiopharmaceuticals in compliance with A.R.S. § 30-673:
 - a. A medical practitioner who administers a radiopharmaceutical to the medical practitioner's patient as provided in A.R.S. § 32-1921(A),
 - b. A hospital nuclear medicine department, and
 - c. A medical practitioner's office.
 3. The Board shall cooperate with the Arizona Radiation Regulatory Agency and other interested state and federal agencies, in the enforcement of these rules for the protection of the public. This cooperation may include exchange of licensing and other information, joint inspections, and other activities where indicated.
- C. In addition to compliance with all the applicable federal and state laws and rules governing drugs, whether radioactive or

not, a limited-service nuclear pharmacy permittee shall comply with all laws and rules of the Arizona Radiation Regulatory Agency and the U.S. Nuclear Regulatory Commission, including emergency and safety provisions.

- D. A limited-service nuclear pharmacy permittee shall comply with the education, experience, and licensing requirements of the Arizona Radiation Regulatory Agency.
- E. A limited-service nuclear pharmacy permittee shall ensure that radiopharmaceuticals are transferred only to a person or firm that holds a current Radioactive Materials License issued by the Arizona Radiation Regulatory Agency.

Historical Note

Adopted effective December 3, 1974 (Supp. 75-1).
 Amended subsections (A), (C) and (D) effective Aug. 12, 1988 (Supp. 88-3). Amended effective July 8, 1997 (Supp. 97-3).

R4-23-682. Limited-service Nuclear Pharmacy

- A. Before operating a limited-service nuclear pharmacy, a person shall obtain a permit in compliance with A.R.S. §§ 32-1929, 32-1930, and 32-1931, and R4-23-606.
- B. A permit to operate a limited-service nuclear pharmacy shall be issued only to a person who is or employs an authorized nuclear pharmacist and holds a current Arizona Radiation Regulatory Agency Radioactive Materials License. A limited-service nuclear pharmacy permittee that fails to maintain a current Arizona Radiation Regulatory Agency Radioactive Materials License shall be immediately suspended pending revocation by the Board. A limited-service nuclear pharmacy permittee shall have copies of Arizona Radiation Regulatory Agency inspection reports available upon request for Board inspection.
 1. A limited-service nuclear pharmacy permittee shall designate an authorized nuclear pharmacist as the pharmacist-in-charge. The pharmacist-in-charge shall be responsible to the Board:
 - a. For the operations of the pharmacy related to the practice of pharmacy and distribution of drugs and devices;
 - b. For communicating Board directives to the management, pharmacists, interns, and other personnel of the pharmacy; and
 - c. For the pharmacy's compliance with all federal and state pharmacy laws and rules.
 2. An authorized nuclear pharmacist shall directly supervise all personnel performing tasks in the preparation and distribution of radiopharmaceuticals and ancillary drugs.
 3. An authorized nuclear pharmacist shall be present whenever the limited-service nuclear pharmacy is open for business.
- C. A limited-service nuclear pharmacy permittee shall ensure that the limited-service nuclear pharmacy complies with the standards for personnel, area, security, sanitation, and general requirements in R4-23-608, R4-23-609, R4-23-610, R4-23-611, and R4-23-671.
 1. A limited-service nuclear pharmacy shall contain separate areas for:
 - a. Preparing and dispensing radiopharmaceuticals,
 - b. Receiving and shipping radiopharmaceuticals,
 - c. Storing radiopharmaceuticals, and
 - d. Decaying radioactive waste.
 2. The Board may require more than the minimum area in instances where equipment, inventory, personnel, or other

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factors cause crowding to a degree that interferes with safe pharmacy practice.

- D. The pharmacist-in-charge shall designate in writing, by title and specific area, the persons who may have access to particular pharmacy areas.
- E. A limited-service nuclear pharmacy permittee shall maintain records of acquisition, inventory, and disposition of radiopharmaceuticals, other radioactive substances, and other drugs in accordance with federal and state statutes and rules.
 1. A prescription order, in addition to the requirements in A.R.S. § 32-1968(C) and R4-23-407(A), shall contain:
 - a. The date and time of calibration of the radiopharmaceutical,
 - b. The name of the procedure for which the radiopharmaceutical is prescribed, and
 - c. The words "Physician's Use Only" instead of the name of the patient if the radiopharmaceutical is nontherapeutic or for a nonblood product.
 2. The lead container used to store and transport a radiopharmaceutical shall have a label that, in addition to the requirements in A.R.S. § 32-1968(D), includes:
 - a. The date and time of calibration of the radiopharmaceutical,
 - b. The name of the radiopharmaceutical,
 - c. The molybdenum 99 content to USP limits,
 - d. The name of the procedure for which the radiopharmaceutical is prescribed,
 - e. The words "Physician's Use Only" instead of the name of the patient if the radiopharmaceutical is nontherapeutic or for a nonblood product,
 - f. The words "Caution: Radioactive Material," and
 - g. The standard radiation symbol.
 3. The radiopharmaceutical container shall have a label that includes:
 - a. The date and time of calibration of the radiopharmaceutical;
 - b. The name of the patient, recorded before dispensing, if the radiopharmaceutical is therapeutic or for a blood product;
 - c. The words "Physician's Use Only" instead of the name of the patient if the radiopharmaceutical is nontherapeutic or for a nonblood product;
 - d. The name of the radiopharmaceutical;
 - e. The dose of radiopharmaceutical;
 - f. The serial number;
 - g. The words "Caution: Radioactive Material"; and
 - h. The standard radiation symbol.
- F. The following minimum requirements are in addition to the requirements of the Arizona Radiation Regulatory Agency, the applicable U.S. Nuclear Regulatory Commission regulations, and the applicable regulations of the federal Food and Drug Administration. A limited-service nuclear pharmacy permittee shall provide:
 1. In addition to the minimum pharmacy area requirements in R4-23-609:
 - a. An area for the storing, compounding, and dispensing of radiopharmaceuticals completely separate from pharmacy areas for nonradioactive drugs;
 - b. A minimum of 80 sq. ft. for a hot lab and storage area; and
 - c. A minimum of 300 sq. ft. of compounding and dispensing area;
 2. The following equipment:
 - a. Fume hood, approved by the Arizona Radiation Regulatory Agency;
 - b. Laminar flow hood;
 - c. Dose calibrator;
 - d. Refrigerator;
 - e. Prescription balance, Class A, and weights or an electronic balance of equal or greater accuracy;
 - f. Well scintillation counter;
 - g. Incubator oven;
 - h. Microscope;
 - i. An assortment of labels, including prescription labels and cautionary and warning labels;
 - j. Glassware necessary for compounding and dispensing radiopharmaceuticals as required by the Arizona Radiation Regulatory Agency;
 - k. Other equipment necessary for radiopharmaceutical quality control for products compounded or dispensed as required by the Arizona Radiation Regulatory Agency;
 - l. Current antidote and drug interaction information; and
 - m. Regional poison control phone number prominently displayed in the pharmacy area;
 3. Supplies necessary for compounding and dispensing radiopharmaceuticals as required by the Arizona Radiation Regulatory Agency;
 4. A professional reference library consisting of a minimum of one current reference or text addressing each of the following subject areas:
 - a. Therapeutics,
 - b. Nuclear pharmacy practice, and
 - c. Imaging;
 5. Current editions and supplements of:
 - a. A.R.S. §§ 30-651 through 30-696 pertaining to the Arizona Radiation Regulatory Agency,
 - b. Rules of the Arizona Radiation Regulatory Agency,
 - c. Regulations of the federal Food and Drug Administration pertaining to radioactive drugs,
 - d. Arizona Pharmacy Act and rules,
 - e. Arizona Uniform Controlled Substances Act, and
 - f. Radiological Health Handbook.
- G. The pharmacist-in-charge of a limited-service nuclear pharmacy shall prepare, implement, review, and revise in the same manner described in R4-23-671(E) and comply with written policies and procedures for pharmacy operations and drug distribution.
- H. The written policies and procedures of a limited-service nuclear pharmacy shall include the following:
 1. Prescription orders;
 2. Clinical services and drug utilization management including:
 - a. Drug utilization reviews,
 - b. Inventory audits,
 - c. Patient outcome monitoring,
 - d. Drug information, and
 - e. Education of pharmacy and other health professionals;
 3. Duties and qualifications of professional and support staff;
 4. Radioactive material handling, storage, and disposal;
 5. Drug product procurement;
 6. Drug compounding, dispensing, and storage;
 7. Investigational drugs and their protocols;
 8. Patient profiles;

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9. Quality management procedures for:
 - a. Adverse drug reaction reports;
 - b. Drug recall;
 - c. Expired and beyond-use-date drugs;
 - d. Medication or dispensing errors;
 - e. Radiopharmaceutical quality assurance;
 - f. Radiological health and safety;
 - g. Drug storage and disposition; and
 - h. Education of professional staff, support staff, and patients;
10. Recordkeeping;
11. Sanitation;
12. Security;
13. Drug delivery requirements for:
 - a. Transportation,
 - b. Security,
 - c. Radiological health and safety procedures,
 - d. Temperature and other environmental controls, and
 - e. Emergency provisions; and
14. Patient education.

Historical note

Adopted effective July 8, 1997 (Supp. 97-3). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3).

- R4-23-683. Reserved**
- R4-23-684. Reserved**
- R4-23-685. Reserved**
- R4-23-686. Reserved**
- R4-23-687. Reserved**
- R4-23-688. Reserved**
- R4-23-689. Reserved**
- R4-23-690. Reserved**
- R4-23-691. Repealed**

Historical Note

Adopted effective Dec. 3, 1974 (Supp. 75-1). Amended effective Aug. 12, 1988 (Supp. 88-3). Amended effective November 1, 1993 (Supp. 93-4). Repealed effective July 8, 1997 (Supp. 97-3).

R4-23-692. Compressed Medical Gas (CMG) Distributor-Resident or Nonresident**A. Permit.**

1. A person shall not manufacture, process, transfill, package, or label a compressed medical gas in Arizona, or manufacture, process, transfill, package, or label a compressed medical gas outside Arizona and ship into Arizona without a current Board-issued resident or nonresident compressed medical gas distributor permit.
2. Before operating as a compressed medical gas distributor, a person shall register with the FDA as a medical gas manufacturer and comply with the drug listing requirements of the federal act.

B. Application. To obtain a resident or nonresident CMG distributor permit, a person shall submit to the Board a completed application form and the fee specified in R4-23-205.

1. A resident CMG distributor permit applicant shall include documentation of compliance with local zoning laws, if required by the Board.

2. A nonresident CMG distributor permit applicant that resides in a jurisdiction that issues an equivalent license or permit shall include a copy of the equivalent license or permit.

C. Notification. A resident or nonresident CMG distributor permittee shall submit using the permittee's online profile or provide written notice by mail, fax, or e-mail to the Board office within 10 days of changes involving the telephone or fax number, e-mail or mailing address, or business name.**D. Change of ownership.** A resident or nonresident CMG distributor permittee shall comply with R4-23-601(F).**E. Relocation.**

1. No fewer than 30 days before a resident CMG distributor permittee relocates, the permittee shall electronically or manually submit a completed application for relocation using a form furnished by the Board, and the documentation required in subsection (B). A fee is not required with an application for relocation.
2. A nonresident CMG distributor permittee shall provide written notice by mail, fax, or e-mail to the Board office no fewer than 10 days before relocating.

F. A resident or nonresident CMG distributor permittee is authorized to sell or distribute a compressed medical gas under a compressed medical gas order only to durable medical equipment and compressed medical gas suppliers and other entities that are registered, licensed, or permitted to use, administer, or distribute compressed medical gases.**G. Facility.** A resident or nonresident CMG distributor permittee shall ensure the facility is clean, uncluttered, sanitary, temperature controlled, and secure from unauthorized access.**H. Current Good Manufacturing Practice:** A resident or nonresident CMG distributor permittee is required under federal law to follow the good manufacturing practice requirements of 21 CFR parts 210 and 211.**I. Records:** A resident or nonresident CMG distributor permittee shall:

1. Establish and implement written procedures for maintaining records pertaining to production, transfilling, process control, labeling, packaging, quality control, distribution, returns, recalls, training of personnel, complaints, and any information required by federal or state law.
2. Retain the records required by Section R4-23-601, this Section, and 21 CFR parts 210 and 211 for not fewer than three years or one year after the expiration date of the compressed medical gas, whichever is longer.
3. Make the records required by Section R4-23-601, this Section, and 21 CFR parts 210 and 211 available for inspection by the Board or its compliance officer, or if stored in a centralized recordkeeping system apart from the inspection location and not electronically retrievable, provide the records within four working days of a request by the Board or its compliance officer.

J. Inspection.

1. A resident CMG distributor permittee shall make the CMG distributor's facility available for inspection by the Board or its compliance officers under A.R.S. § 32-1904.
2. Within 10 days from the date of a request by the Board or its staff, a nonresident CMG distributor permittee shall provide a copy of the most recent inspection report completed by the permittee's resident licensing authority or the FDA or a copy of the most recent inspection report completed by a third-party auditor approved by the permittee's resident licensing authority or the Board or its designee. The Board may inspect, or may employ a third-

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party auditor to inspect, a nonresident permittee as specified in A.R.S. § 32-1904.

- K. Permit renewal. To renew a CMG distributor permit, the permittee shall comply with R4-23-602(D).
- L. Nothing in this Section shall be construed to prohibit the emergency administration of oxygen by licensed health-care personnel, emergency medical technicians, first responders, fire fighters, law enforcement officers, and other emergency personnel trained in the proper use of emergency oxygen.

Historical Note

Adopted effective January 12, 1998 (Supp. 98-1).
Amended by final rulemaking at 19 A.A.R. 97, effective March 10, 2013 (Supp. 13-1). Amended by final rulemaking at 20 A.A.R. 1364, effective August 2, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).

R4-23-693. Durable Medical Equipment (DME) and Compressed Medical Gas (CMG) Supplier-Resident or Nonresident

- A. Permit. A person shall not sell, lease, or supply durable medical equipment or a compressed medical gas to a patient or consumer in Arizona for use in a home or residence without a current Board-issued resident or nonresident durable medical equipment and compressed medical gas supplier permit.
 - 1. The permit requirements of this Section do not apply to the following unless there is a separate business entity engaged in the business of providing durable medical equipment or a compressed medical gas to a patient or consumer for use in a home or residence:
 - a. A medical practitioner licensed under A.R.S. Title 32;
 - b. A hospital, long-term care facility, hospice, or other health-care facility using durable medical equipment or a compressed medical gas in the normal course of treating a patient; and
 - c. A pharmacy.
 - 2. Nothing in this Section shall be construed to prohibit a person with a current Board-issued nonprescription drug permit from the retail sale of nonprescription drugs or devices.
- B. Application. To obtain a resident or nonresident DME and CMG supplier permit, a person shall submit a completed application form and fee specified in R4-23-205.
 - 1. A resident DME and CMG supplier permit applicant shall include documentation of compliance with local zoning laws, if required by the Board.
 - 2. A nonresident DME and CMG supplier permit applicant that resides in a jurisdiction that issues an equivalent license or permit shall include a copy of the equivalent license or permit.
- C. Notification. A resident or nonresident DME and CMG supplier permittee shall submit using the permittee's online profile or provide written notice by mail, fax, or e-mail to the Board office within 10 days of changes involving the telephone or fax number, email or mailing address, or business name.
- D. Change of ownership. A resident or nonresident DME and CMG supplier permittee shall comply with R4-23-601(F).
- E. Relocation.
 - 1. No fewer than 30 days before a resident DME and CMG supplier permittee relocates, the permittee shall submit a completed application for relocation electronically or manually on a form furnished by the Board, and the documentation required in subsection (B). A fee is not required with an application for relocation.
 - 2. A nonresident DME and CMG supplier permittee shall provide written notice by mail, fax, or e-mail to the Board office no fewer than 10 days before relocating.
- F. Orders. A resident or nonresident DME and CMG supplier shall sell, lease, or provide:
 - 1. Durable medical equipment that is a prescription-only device, as defined in A.R.S. § 32-1901, only under a prescription or medication order from a medical practitioner; and
 - 2. A compressed medical gas only under a compressed medical gas order from a medical practitioner.
- G. Restriction. A DME and CMG supplier permit authorizes the permittee to procure, possess, and provide a prescription-only device or compressed medical gas to a patient or consumer as specified in subsection (F). A DME and CMG supplier permit does not authorize the permittee to procure, possess, or provide narcotics or other controlled substances, prescription-only drugs other than compressed medical gases, precursor chemicals, or regulated chemicals.
- H. Facility. A resident or nonresident DME and CMG supplier permittee shall ensure the facility is clean, uncluttered, sanitary, temperature controlled, and secure from unauthorized access. A permittee shall maintain separate and identified storage areas in the facility and in delivery vehicles for clean, dirty, contaminated, or damaged durable medical equipment or compressed medical gases.
- I. A resident or nonresident DME and CMG supplier permittee shall not manufacture, process, transfill, package, or label a compressed medical gas, except as stated in subsection (K).
- J. Records. A resident or nonresident DME and CMG supplier permittee shall establish and implement written procedures for maintaining records about acquisition, distribution, returns, recalls, training of personnel, maintenance, cleaning, and complaints.
- K. A permittee shall:
 - 1. Ensure a prescription order, medication order, or compressed medical gas order is obtained as specified in subsection (F);
 - 2. Ensure each compressed medical gas container supplied by the permittee contains a label bearing the name and address of the permittee;
 - 3. Ensure all appropriate warning labels are present on the durable medical equipment or compressed medical gas;
 - 4. Retain the records required by Section R4-23-601 and this Section for not fewer than three years, or if supplying a compressed medical gas, one year after the expiration date of the compressed medical gas, whichever is longer; and
 - 5. Make the records required by Section R4-23-601 and this Section available for inspection by the Board or its compliance officer, or if stored in a centralized recordkeeping system apart from the inspection location and not electronically retrievable for inspection, provide the records within four working days of a request by the Board or its staff.
- L. Inspection.
 - 1. A resident DME and CMG supplier permittee shall make the DME and CMG supplier's facility available for inspection by the Board or its compliance officers under A.R.S. § 32-1904.
 - 2. Within 10 days from the date of a request by the Board or its staff, a nonresident DME and CMG supplier permittee shall provide a copy of the most recent inspection report completed by the permittee's resident licensing authority,

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or a copy of the most recent inspection report completed by a third-party auditor approved by the permittee's resident licensing authority or the Board or its designee. The Board may inspect, or may employ a third-party auditor to inspect, a nonresident permittee as specified in A.R.S. § 32-1904.

- M. Permit renewal. To renew a resident or nonresident DME and CMG supplier permit, the permittee shall comply with in R4-23-602(D).
- N. Nothing in this Section shall be construed to prohibit the emergency administration of oxygen by licensed health-care personnel, emergency medical technicians, first responders, fire fighters, law enforcement officers, and other emergency personnel trained in the proper use of emergency oxygen.

Historical Note

Adopted effective January 12, 1998 (Supp. 98-1).
Amended by final rulemaking at 20 A.A.R. 1364,
effective August 2, 2014 (Supp. 14-2). Amended by final
rulemaking at 25 A.A.R. 1015, effective June 1, 2019
(Supp. 19-2).

**ARTICLE 7. NON-PHARMACY LICENSED OUTLETS –
GENERAL PROVISIONS****R4-23-701. Long-term Care Facilities Pharmacy Services:
Consultant Pharmacist**

- A. The long-term care consultant pharmacist as defined in R4-23-110 shall:
 1. Possess a valid Arizona pharmacist license issued by the Board;
 2. Ensure the provision of pharmaceutical patient care services as defined in R4-23-110;
 3. Review the distribution and storage of drugs and devices and assist the facility in establishing policies and procedures for the distribution and storage of drugs and devices;
 4. Provide resident evaluation programs that relate to monitoring the therapeutic response and utilization of all drugs and devices prescribed or administered to residents, using as guidelines the most current indicators established by the Centers for Medicare and Medicaid Services, United States Department of Health and Human Services as required in 42 CFR 483.60 (revised October 1, 2010, incorporated by reference and on file with the Board. This incorporated material contains no future editions or amendments.);
 5. Serve as a resource for pharmacy-related education services within the facility;
 6. Participate in quality management of resident care in the facility; and
 7. Communicate with the provider pharmacy regarding areas of mutual concern and resolution.
- B. A long-term care consultant pharmacist shall ensure that:
 1. When a provider pharmacy is not open for business, arrangements are made in advance by the long-term care consultant pharmacist, in cooperation with the pharmacist-in-charge of the provider pharmacy and the director of nursing and medical staff of the long-term care facility, for providing emergency drugs for the licensed nursing staff to administer to the residents of the facility using an emergency drug supply unit located at the facility;
 2. The label and packaging of prescription-only and nonprescription drugs intended for use within a long-term care facility complies with state and federal law; and
 3. The long-term care facility:
 - a. Stores controlled substances listed in A.R.S. § 36-2513 in a separately locked and permanently affixed compartment, unless the facility uses a single-unit package medication distribution system; and
 - b. Maintains accurate records of controlled substance administration or ultimate disposition.

- C. The long-term care consultant pharmacist shall:
 1. Ensure availability of records and reports designed to provide the data necessary to evaluate the drug use of each long-term care facility resident that include the following:
 - a. Provider pharmacy patient profiles and long-term care facility medication administration records;
 - b. Reports of suspected adverse drug reactions;
 - c. Inspection reports of drug storage areas with emphasis on detecting outdated drugs; and
 - d. Accountability reports, that include:
 - i. Date and time of administration,
 - ii. Name of the person who administered the drug,
 - iii. Documentation and verification of any wasted or partial doses,
 - iv. Exception reports for refused doses, and
 - v. All drug destruction forms; and
 2. Identify and report drug irregularities and dispensing errors to the prescriber, the director of nursing of the facility, and the provider pharmacy.
- D. A long-term care consultant pharmacist or pharmacist-in-charge of a provider pharmacy shall ensure that:
 1. Discontinued or outdated drugs, including controlled substances, are destroyed or disposed of in a timely manner using methods consistent with federal, state, and local requirements and subject to review by the Board or its staff; and
 2. Drug containers with illegible or missing labels are:
 - a. Identified; and
 - b. Replaced or relabeled by a pharmacist employed by the pharmacy that dispensed the prescription medication.

Historical Note

Former Rules 6.8110, 6.8120, 6.8130, 6.8140, 6.8150, 6.8160, and 6.8170; Amended effective Aug. 10, 1978 (Supp. 78-4). Section repealed, new Section adopted effective December 18, 1992 (Supp. 92-4). Amended by final rulemaking at 9 A.A.R. 1064, effective May 4, 2003 (Supp. 03-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 19 A.A.R. 2894, effective November 10, 2013 (Supp. 13-3).

**R4-23-701.01. Long-term Care Facilities Pharmacy Services:
Provider Pharmacy**

The limited-service pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall ensure that:

1. A prescription medication is provided only by a valid prescription order for an individual long-term care facility resident, properly labeled for that resident, as specified in this subsection. Nothing in this Section shall prevent a provider pharmacy from supplying nonprescription drugs in a manufacturer's unopened container or emergency drugs using an emergency drug supply unit as specified in R4-23-701.02;
2. A prescription medication label for a long-term care facility resident complies with A.R.S. §§ 32-1968 and 36-2525 and contains:

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- a. The drug name, strength, dosage form, and quantity; and
- b. The beyond-use-date;
- 3. Only a pharmacist employed by the pharmacy that dispensed the prescription medication may, through the exercise of professional judgment, relabel or alter a prescription medication label that is illegible or missing;
- 4. The provider pharmacy develops and implements drug recall policies and procedures that protect the health and safety of facility residents. The drug recall procedures shall include immediate discontinuation of any patient level recalled drug and notification of the prescriber and director of nursing of the facility; and
- 5. Drugs previously dispensed to a resident of the long-term care facility by another pharmacy, and drugs previously dispensed by the provider pharmacy, are not repackaged.

Historical Note

Adopted effective December 18, 1992 (Supp. 92-4).
Amended by final rulemaking at 9 A.A.R. 1064, effective May 4, 2003 (Supp. 03-1). Amended by final rulemaking at 19 A.A.R. 2894, effective November 10, 2013 (Supp. 13-3).

R4-23-701.02. Long-term Care Facilities Pharmacy Services: Emergency Drugs

- A. The limited-service pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall ensure that:
 - 1. An emergency drug supply unit is available within the long-term care facility;
 - 2. Drugs contained in an emergency drug supply unit remain the property of the provider pharmacy; and
 - 3. Controlled substance drugs contained in an emergency drug supply unit are included in all inventories required under A.R.S. § 36-2523(B) and R4-23-1003(A).
- B. An emergency drug supply unit shall meet the following criteria:
 - 1. The drugs are necessary to meet the immediate and emergency therapeutic needs of long-term care facility residents as determined by the provider pharmacy's pharmacist-in-charge in consultation with the long-term care facility's medical director and nursing director;
 - 2. The purpose of the emergency drug supply unit in a long-term care facility is not to relieve a provider pharmacy of the responsibility for timely provision of the resident's routine drug needs, but to ensure that an emergency drug supply unit is available for facility residents in need of immediate and emergency therapeutic drugs; and
 - 3. The drugs are provided in a manufacturer's unit of use package or are prepackaged and labeled to include the drug name, strength, dosage form, manufacturer, lot number, and expiration date and provider pharmacy's name, address, telephone number, and pharmacist's initials.
- C. The limited-service pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall ensure that an emergency drug supply unit:
 - 1. Is stored in an area that:
 - a. Is temperature controlled; and
 - b. Prevents unauthorized access;
 - 2. Contains on the exterior of the emergency drug supply unit a label to indicate that the contents are for emergency use only;
 - 3. Contains on the exterior of the emergency drug supply unit a complete list of the contents of the unit by drug

- name, strength, dosage form, and quantity and the provider pharmacy's name, address, and telephone number;
- 4. Contains on the exterior of the emergency drug supply unit a label that indicates the date of the earliest drug expiration date;
- 5. Contains on the exterior of the emergency drug supply unit a label that indicates the date of and pharmacist responsible for the last inspection of the emergency drug supply unit; and
- 6. Is secured with a tamper-evident seal, or is locked and sealed in a manner that obviously reveals when the unit has been opened or tampered with.
- D. The limited-service pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall:
 - 1. Prepare, implement, review, and revise in the same manner described in R4-23-671(E) and comply with written policies and procedures for the storage and use of an emergency drug supply unit in a long-term care facility;
 - 2. Make the policies and procedures available in the provider pharmacy and long-term care facility for employee reference and inspection by the Board or its staff;
 - 3. Ensure that the written policies and procedures include the following:
 - a. Drug removal procedures that require:
 - i. The long-term care facility's personnel receive a valid prescription order for each drug removed from the emergency drug supply unit;
 - ii. The long-term care facility's personnel notify the provider pharmacy when a drug is removed from the emergency drug supply unit;
 - b. Outdated drug replacement procedures; and
 - c. Security and inspection procedures;
 - 4. Exchange or restock the emergency drug supply unit weekly, or more often as necessary, to ensure the availability of an adequate supply of emergency drugs within the long-term care facility. Restocking of the emergency drug supply unit at the facility shall be completed by an Arizona licensed pharmacist employed by the provider pharmacy, or by an Arizona licensed intern, graduate intern, technician or technician trainee under the direct onsite supervision of an Arizona licensed pharmacist; and
 - 5. Educate pharmacy and long-term care facility personnel in the storage and use of an emergency drug supply unit.
- E. In addition to the requirements of subsections (A) through (D), an automated emergency drug supply unit may be used provided:
 - 1. The pharmacy permittee or pharmacist-in-charge of the provider pharmacy notifies the Board or its staff in writing of the intent to use an automated emergency drug supply unit, including the name and type of unit;
 - 2. The provider pharmacy is notified electronically when the automated emergency drug supply unit has been accessed;
 - 3. All events involving the access of the automated emergency drug supply unit are recorded electronically and maintained for not less than two years;
 - 4. The provider pharmacy is capable of producing a report of all transactions of the automated emergency drug supply unit including a single drug usage report as required in R4-23-408(B)(5) on inspection by the Board or its staff;
 - 5. The provider pharmacy develops written policies and procedures for:

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- a. Accessing the automated emergency drug supply unit in the event of a system malfunction or down-time,
 - b. Authorizing and modifying user access,
 - c. An ongoing quality assurance program that includes:
 - i. Training in the use of the automated emergency drug supply unit for all authorized users,
 - ii. Maintenance and calibration of the automated emergency drug supply unit as recommended by the device manufacturer; and
 - 6. Documentation of the requirements of subsection (E)(5)(c)(ii) is maintained for inspection by the Board or its staff for not less than two years.
- F.** The Board may prohibit a pharmacy permittee or pharmacist-in-charge of a provider pharmacy from using an automated emergency drug supply unit if the pharmacy permittee or pharmacy permittee's employees do not comply with the requirements of subsections (A) through (E).

Historical Note

Adopted effective December 18, 1992 (Supp. 92-4).
 Amended by final rulemaking at 9 A.A.R. 1064, effective May 4, 2003 (Supp. 03-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 19 A.A.R. 2894, effective November 10, 2013 (Supp. 13-3).

R4-23-701.03. Long-term Care Facilities Pharmacy Services: Emergency Drug Prescription Order

The limited-service pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall ensure that every emergency drug prescription order is evaluated according to the requirements of R4-23-402(A) by a pharmacist within 72 hours of the first dose of drug administered by long-term care facility personnel under the emergency drug prescription order.

Historical Note

Adopted effective December 18, 1992 (Supp. 92-4).
 Amended by final rulemaking at 9 A.A.R. 1064, effective May 4, 2003 (Supp. 03-1).

R4-23-701.04. Long-term Care Facilities Pharmacy Services: Automated Dispensing Systems

- A.** Before using an automated dispensing system as defined in R4-23-110, a pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall:
- 1. Notify the Board or its staff in writing of the intent to use an automated dispensing system, including the name and type of system;
 - 2. Obtain a separate controlled substances registration at the location of each long-term care facility at which an automated dispensing system containing controlled substances will be located as required by federal law; and
 - 3. Maintain copies of the registrations required under subsection (A)(2) at the provider pharmacy for inspection by the Board or its staff.
- B.** A pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall ensure:
- 1. Drugs contained in an automated dispensing system remain the property of the provider pharmacy,
 - 2. Controlled substance drugs contained in an automated dispensing system are included in all inventories required under A.R.S. § 36-2523(B) and R4-23-1003(A),
 - 3. Schedule II drugs are not stocked in an automated dispensing system, and
 - 4. A separate emergency drug supply unit is available in the long-term care facility to meet the requirements of R4-23-701.02.
- C.** A pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall:
- 1. Ensure that policies and procedures as required in subsection (D) for the use of an automated dispensing system in a long-term care facility are prepared, implemented, and complied with;
 - 2. Review biennially and, if necessary, revise the policies and procedures required under subsection (D);
 - 3. Document the review required under subsection (C)(2);
 - 4. Assemble the policies and procedures as a written or electronic manual; and
 - 5. Make the policies and procedures available for employee reference and inspection by the Board or its staff within the pharmacy and at any location outside of the pharmacy where the automated dispensing system is used.
- D.** A pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall ensure the written policies and procedures include:
- 1. Drug removal procedures that include the following:
 - a. A drug is provided only by a valid prescription order for an individual long-term care facility resident;
 - b. A drug is dispensed from an automated dispensing system only after a pharmacist has:
 - i. Reviewed and verified the resident's prescription order as required by R4-23-402(A), and
 - ii. Electronically authorized the access for that drug for that particular resident, and
 - c. The automated dispensing system labels each individual drug packet with a resident specific label that complies with R4-23-701.01(2) and contains the resident's room number or facility identification number; and
 - 2. Security procedures that include the following:
 - a. The pharmacy permittee or pharmacist-in-charge of the provider pharmacy is responsible for authorizing user access, including adding and removing users and modifying user access;
 - b. Each authorized user is a licensee of the Board or authorized licensed personnel of the long-term care facility; and
 - c. The automated dispensing system is secured at the long-term care facility by electronic or mechanical means or a combination thereof designed to prevent unauthorized access;
 - 3. Drug stocking procedures that include the following:
 - a. Automated dispensing systems that use non-removable containers that do not allow prepackaging of the container as set out in subsection (D)(3)(b):
 - i. Are stocked at the long-term care facility by an Arizona licensed pharmacist employed by the provider pharmacy, or by an Arizona licensed intern, graduate intern, technician or technician trainee under the direct onsite supervision of an Arizona licensed pharmacist; and
 - ii. Utilize bar code or other technologies to ensure the correct drug is placed in the correct canister or container; and
 - b. Automated dispensing systems that use removable containers may be stocked at the long-term care facility by an authorized user provided:

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- i. The prepackaging of the container occurs at the provider pharmacy;
 - ii. A pharmacist verifies the container has been properly filled and labeled, and the container is secured with a tamper-evident seal;
 - iii. The individual containers are transported to the long-term care facility in a secure, tamper-evident shipping container; and
 - iv. The automated dispensing system uses microchip, bar-coding, or other technologies to ensure the containers are accurately loaded in the automated dispensing system; and
 4. Recordkeeping and report procedures that include the following:
 - a. All events involving the access of the automated dispensing system are recorded electronically and maintained for not less than two years;
 - b. The provider pharmacy is capable of producing a report of all transactions of the automated dispensing system including:
 - i. A single drug usage report that complies with R4-23-408(B)(5); and
 - ii. An authorized user history including date and time of access and type of transaction; and
 - c. The provider pharmacy has procedures to safeguard the storage, packaging, and distribution of drugs by monitoring:
 - i. Current inventory;
 - ii. Expiration dates;
 - iii. Controlled substance dispensing;
 - iv. Re-dispense requests; and
 - v. Wastage.
- E. A pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall:
 1. Ensure that an electronic log is kept for each container fill that includes:
 - a. An identification of the container by drug name and strength, and container number;
 - b. The drug's manufacturer or National Drug Code (NDC) number;
 - c. The expiration date and lot number from the manufacturer's stock bottle that is used to fill the container. If multiple lot numbers of the same drug are added to a container, each lot number and expiration date shall be documented;
 - d. The date the container is filled;
 - e. Documentation of the identity of the licensee who placed the drug into the container; and
 - f. If the licensee who filled the container is not a pharmacist, documentation of the identity of the pharmacist who supervised the non-pharmacist licensee; and
 2. Maintain the electronic log for inspection by the Board or its staff for not less than two years.
- F. A pharmacy permittee or pharmacist-in-charge of a provider pharmacy shall:
 1. Implement an ongoing quality assurance program that monitors performance of the automated dispensing system and compliance with the established policies and procedures that includes:
 - a. Training in the use of the automated dispensing system for all authorized users,
 - b. Maintenance and calibration of the automated dispensing system as recommended by the device manufacturer,
 - c. Routine accuracy validation testing no less than every three months, and
 - d. Downtime and malfunction procedures to ensure the timely provision of medication to the long-term care facility resident, and
 2. Maintain documentation of the requirements of subsections (F)(1)(b) and (F)(1)(c) for inspection by the Board or its staff for not less than two years.
- G. The Board may prohibit a pharmacy permittee or pharmacist-in-charge from using an automated dispensing system in a long-term care facility if the pharmacy permittee or the pharmacy permittee's employees do not comply with the requirements of subsections (A) through (F).

Historical Note

New Section made by final rulemaking at 19 A.A.R. 2894, effective November 10, 2013 (Supp. 13-3).

R4-23-702. Hospice Inpatient Facilities

- A. If a pharmacy permittee contracts to provide pharmacy services to the patients of a hospice inpatient facility as defined in R4-23-110, the pharmacy permittee shall ensure that:
 1. A prescription medication is provided only by a valid prescription order for an individual hospice inpatient facility patient, properly labeled for that patient, as specified in this subsection. Nothing in this section shall prevent a provider pharmacy from supplying non-prescription drugs in a manufacturer's unopened container;
 2. A prescription medication label for a hospice inpatient facility patient complies with A.R.S. §§ 32-1968 and 36-2525 and contains:
 - a. The drug name, strength, dosage form, and quantity; and
 - b. The beyond-use date; and
 3. If the label on the hospice inpatient facility patient's drug container becomes damaged or soiled, a pharmacist employed by the pharmacy that dispensed the drug container, through the exercise of professional judgment, may relabel the drug container. Only a pharmacist is permitted to label a drug container or alter the label of a drug container.
- B. A pharmacist may help hospice inpatient facility personnel develop written policies and procedures for the procurement, administration, storage, control, recordkeeping, and disposal of drugs in the facility.
- C. The provider pharmacy may contract with the hospice inpatient facility to provide pharmacist services at the facility that include evaluation of the patient's response to medication therapy, identification of potential adverse drug reactions, and recommended appropriate corrective action.
- D. A provider pharmacy that places an emergency drug supply unit at a hospice inpatient facility shall comply with the requirements of R4-23-701.02.
- E. A pharmacy shall not place an automated dispensing system as defined in R4-23-701.04 in a hospice inpatient facility.
- F. Drugs previously dispensed to a patient of the hospice inpatient facility by another pharmacy, and drugs previously dispensed by the provider pharmacy, shall not be repackaged.

Historical Note

Former Rules 6.8210, 6.8211, 6.8212, 6.8213, 6.8214, 6.8221, 6.8222, 6.8223, 6.8824, 6.8231, 6.8232, 6.8233, 6.8241, 6.8242, and 6.8243; Amended effective August

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10, 1978 (Supp. 78-4). Repealed effective December 18, 1992 (Supp. 92-4). New Section made by final rulemaking at 19 A.A.R. 2894, effective November 10, 2013 (Supp. 13-3).

R4-23-703. Assisted Living Facilities

- A.** Before dispensing, selling, or delivering a prescription or non-prescription drug to an assisted living facility resident, a pharmacy permittee shall verify the assisted living facility has a current and active license issued by the Arizona Department of Health Services.
- B.** A pharmacy permittee shall ensure that, except as provided under subsection (C):
 1. A controlled substance prescription drug is dispensed, sold, or delivered to an assisted living facility resident only after receiving a valid prescription order for the controlled substance prescription drug from the resident's medical practitioner; and
 2. The controlled substance prescription drug is labeled in accordance with A.R.S. §§ 32-1963.01, 32-1968, and 36-2525 and includes the beyond-use date on the label.
- C.** A pharmacy permittee may dispense, sell, or deliver to an assisted living facility resident a Schedule III, IV, or V controlled substance prescription if the pharmacy permittee:
 1. Receives a written or oral prescription order for the Schedule III, IV, or V controlled substance from:
 - a. The resident's medical practitioner,
 - b. An individual licensed by the Arizona Board of Nursing who is acting within the scope of practice of the individual's license, or
 - c. The manager or a caregiver of the assisted living facility if the resident's medical practitioner has a written agreement with the assisted living facility designating a representative of the assisted living facility as an agent of the medical practitioner and a licensed medical practitioner provided the prescription order;
 2. Complies with subsection (D)(2); and
 3. Labels the Schedule III, IV, or V controlled substance as specified under subsection (B)(2).
- D.** A pharmacy permittee may dispense, sell, or deliver to an assisted living facility resident a non-controlled substance prescription or non-prescription drug if the pharmacy permittee:
 1. Receives a written or oral prescription order for the non-controlled substance prescription or non-prescription drug from:
 - a. The resident's medical practitioner,
 - b. An individual licensed by the Arizona Board of Nursing who is acting within the scope of practice of the individual's license, or
 - c. An assisted living facility manager or caregiver acting under the authority of a licensed medical practitioner;
 2. Determines the written or oral prescription order:
 - a. Meets the requirements of R4-23-407, and
 - b. Includes the name and title of the individual transmitting the prescription order; and
 3. Labels the non-narcotic prescription or non-prescription drug in accordance with A.R.S. §§ 32-1963.01 and 32-1968 and includes the beyond-use date on the label.
- E.** If the label on an assisted living facility resident's drug container becomes damaged or soiled, a pharmacist employed by the pharmacy permittee that dispensed the drug container, through the exercise of professional judgment, may relabel the

drug container. Only a pharmacist is permitted to label a drug container or alter the label of a drug container.

- F.** A pharmacist may help assisted living facility personnel develop written policies and procedures regarding procuring, administering, storing, controlling, keeping records, and disposing of drugs in the facility and provide information concerning safe and effective supervision of drug self-administration.
- G.** A pharmacy permittee shall not place an emergency drug supply unit as described in R4-23-701.02 or an automated dispensing system as described in R4-23-701.04 in an assisted living facility.
- H.** A pharmacist shall not repackage a drug previously dispensed to an assisted living facility resident.

Historical Note

Former Rules 6.8310, 6.8320, 6.8330, 6.8340, 6.8350, 6.8360, and 6.8370; Amended effective August 10, 1978 (Supp. 78-4). Amended by final rulemaking at 5 A.A.R. 2561, effective July 16, 1999 (Supp. 99-3). Amended by final rulemaking at 19 A.A.R. 2894, effective November 10, 2013 (Supp. 13-3). Amended by final rulemaking at 23 A.A.R. 2424, effective October 14, 2017 (Supp. 17-3).

R4-23-704. Customized Patient Medication Packages

In lieu of dispensing two or more prescribed drugs in separate containers, a pharmacist may, with the consent of the patient, the patient's caregiver, the prescriber, or the facility caring for the patient, provide a customized patient medication package. The pharmacist preparing a customized patient medication package shall abide by the guidelines set forth in the current edition of the official compendium for labeling, packaging, and recordkeeping, and state and federal law.

Historical Note

Former Rules 6.8410, 6.8411, 6.8412, 6.8413, 6.8414, 6.8415, 6.8416, and 6.8417. Section R4-23-704 repealed by final rulemaking at 5 A.A.R. 862, effective March 3, 1999 (Supp. 99-1). Amended by final rulemaking at 19 A.A.R. 2894, effective November 10, 2013 (Supp. 13-3).

R4-23-705. Repealed**Historical Note**

Former Rules 6.8420, 6.8421, 6.8422, 6.8423, 6.8424, 6.8425, 6.8426, 6.8427, 6.8428, and 6.8429. Amended effective August 10, 1978 (Supp. 78-4). Amended effective August 24, 1992 (Supp. 92-3). Repealed effective December 18, 1992 (Supp. 92-4).

R4-23-706. Repealed**Historical Note**

Former Rules 6.8431, 6.8432, 6.8433, 6.8434, 6.8435, 6.8436, and 6.8437; Amended effective August 10, 1978 (Supp. 78-4). Amended subsections (C), (E), (F), and (G) effective April 20, 1982 (Supp. 82-2). Section R4-23-706 repealed by final rulemaking at 5 A.A.R. 862, effective March 3, 1999 (Supp. 99-1).

R4-23-707. Repealed**Historical Note**

Former Rules 6.8441, 6.8442, 6.8450, 6.8451, 6.8452, 6.8453, 6.8454, 6.8455, 6.8456, and 6.8457. Section R4-23-707 repealed by final rulemaking at 5 A.A.R. 862, effective March 3, 1999 (Supp. 99-1).

R4-23-708. Repealed

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Historical Note

Former Rules 6.8461, 6.8462, 6.8463, and 6.8464.
Section R4-23-708 repealed by final rulemaking at 5
A.A.R. 862, effective March 3, 1999 (Supp. 99-1).

R4-23-709. Repealed**Historical Note**

Former Rules 6.8471, 6.8472, and 6.8473. Section R4-
23-709 repealed by final rulemaking at 5 A.A.R. 862,
effective March 3, 1999 (Supp. 99-1).

ARTICLE 8. DRUG CLASSIFICATION

*Article 8, consisting of Sections R4-23-801 and R4-23-802,
recodified from Article 5 at 9 A.A.R. 4011, effective August 18,
2003 (Supp. 03-3).*

R4-23-801. Repealed**Historical Note**

Former Rules 7.1110, 7.1120, and 7.1130. Repealed
effective November 4, 1998 (Supp. 98-4). Recodified
from R4-23-501 at 9 A.A.R. 4011, effective August 18,
2003 (Supp. 03-3). Repealed by final rulemaking at 26
A.A.R. 223, effective March 14, 2020 (Supp. 20-1).

R4-23-802. Veterinary

Veterinary preparation: A veterinary drug manufacturer or supplier
may distribute:

1. A prescription-only veterinary drug to:
 - a. A veterinary medical practitioner licensed under
A.R.S. Title 32, Chapter 21,
 - b. A full-service drug wholesaler permitted under
A.R.S. Title 32, Chapter 18, or
 - c. A pharmacy permitted under A.R.S. Title 32, Chap-
ter 18, and
2. A nonprescription veterinary drug to:
 - a. A veterinary medical practitioner licensed under
A.R.S. Title 32, Chapter 21,
 - b. A nonprescription drug retailer permitted under
A.R.S. Title 32, Chapter 18,
 - c. A full-service or nonprescription drug wholesaler
permitted under A.R.S. Title 32, Chapter 18, or
 - d. A pharmacy permitted under A.R.S. Title 32, Chap-
ter 18.

Historical Note

Former Rules 7.1210, 7.1220, and 7.1230. Repealed
effective November 4, 1998 (Supp. 98-4). Recodified
from R4-23-502 at 9 A.A.R. 4011, effective August 18,
2003 (Supp. 03-3).

R4-23-803. Repealed**Historical Note**

Former Rules 7.1300, 7.1400, 7.1500, and 7.1000.
Repealed effective November 4, 1998 (Supp. 98-4).

R4-23-804. Repealed**Historical Note**

Former Rules 7.2100, 7.2200, 7.2300, 7.2410, 7.2420,
and 7.2430. Repealed effective November 4, 1998 (Supp.
98-4).

ARTICLE 9. PENALTIES AND MISCELLANEOUS**R4-23-901. Penalty for Violations**

Any person, firm, or corporation violating any provision of 4
A.A.C. 23 is subject to the penalties in A.R.S. § 32-1996. In

addition, a license or permit issued under the provisions of A.R.S.
Title 32, Chapter 18 is subject to suspension or revocation for
violation of 4 A.A.C. 23.

Historical Note

Former Rule 9.0000. Amended by final rulemaking at 6
A.A.R. 3177, effective August 3, 2000 (Supp. 00-3).

R4-23-902. Non-disciplinary Civil Penalties

As authorized under A.R.S. § 32-1904(D), the Board may issue the
following non-disciplinary civil penalties to a licensee or permittee
who engages in the specified acts or omissions without posing an
imminent threat to public health or safety:

1. Failing to submit a remodel application before remodel-
ing a permitted facility: \$250;
2. Failing to provide notice before a business is relocated:
\$500;
3. Failing to update contact information: \$50/occurrence to
a maximum of twice;
4. Failing to update change of employment information:
\$50/occurrence to a maximum of twice;
5. Failing to complete required continuing education:
 - a. Registered pharmacist: \$100/deficient hour of con-
tinuing education for the first occurrence, \$150/defi-
cient hour for second occurrence; and
 - b. Pharmacy technician: \$25/deficient hour of contin-
uing education for the first occurrence, \$37.50/defi-
cient hour for second occurrence;
6. Failing to provide notice of a new pharmacist in charge:
\$100/occurrence to a maximum of twice;
7. Failing to provide notice of a new designated representa-
tive: \$100/occurrence to a maximum of twice;
8. Failing to provide notice of a new criminal charge, arrest,
or conviction in any jurisdiction: \$250/occurrence to a
maximum of twice;
9. Failing to provide notice of disciplinary action taken
against the licensee or permittee by another jurisdiction:
\$250/occurrence to a maximum of twice;
10. Failing to renew a license timely and continuing to work
with an expired license:
 - a. Registered pharmacist: \$100/day worked not to
exceed \$1,000; and
 - b. Pharmacy technician: \$50/day worked not to exceed
\$500;
11. Failing to conduct a controlled substance inventory when
there is a new pharmacist in charge: \$250/occurrence to a
maximum of twice;
12. Failing to obtain a permit before shipping into Arizona
anything for which a permit is required: \$100/item
shipped;
13. Failing to respond timely to a subpoena: \$50;
14. Failing to provide notice before there is a change in own-
ership: \$250; and
15. Failing to conduct required controlled substance invento-
ries: \$250.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 611
(March 18, 2022), effective May 2, 2022 (Supp. 22-1).

**ARTICLE 10. UNIFORM CONTROLLED SUBSTANCES
AND DRUG OFFENSES****R4-23-1001. Repealed**

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Historical Note

Adopted effective August 2, 1982 (Supp. 82-4). Section repealed by final rulemaking at 6 A.A.R. 3177, effective August 3, 2000 (Supp. 00-3).

R4-23-1002. Repealed**Historical Note**

Adopted effective August 2, 1982 (Supp. 82-4). Repealed effective November 4, 1998 (Supp. 98-4).

R4-23-1003. Records and Order Forms**A. Records.**

1. If the pharmacist-in-charge of a pharmacy is replaced by another pharmacist-in-charge, the new pharmacist-in-charge shall complete an inventory of all controlled substances in the pharmacy within 10 days of assuming the responsibility. This inventory and any other required controlled substance inventory shall:
 - a. Include an exact count of all Schedule II controlled substances;
 - b. Include an exact count of all Schedule III through Schedule V controlled substances or an estimated count if the stock container contains fewer than 1001 units;
 - c. Indicate the date the inventory is taken and whether the inventory is taken before opening of business or after close of business for the pharmacy;
 - d. Be signed by:
 - i. The pharmacist-in-charge; or
 - ii. For other required inventories, the pharmacist who does the inventory;
 - e. Be kept separately from all other records; and
 - f. Be available in the pharmacy for inspection by the Board or its designee for not less than three years.
2. A loss of a controlled substance shall be reported:
 - a. Within 10 days of discovery;
 - b. On a DEA form 106;
 - c. By the pharmacist-in-charge of a pharmacy or a manufacturer;
 - d. By the permittee or designated representative of a full-service wholesaler; and
 - e. To the federal Drug Enforcement Administration (DEA), the Narcotic Division of the Department of Public Safety (DPS), and the Board of Pharmacy. A copy of the DEA form 106 shall be kept on file by the pharmacy permittee. The DEA form 106 shall state whether the police investigated the loss.
3. Every person manufacturing any controlled substance, including repackaging or relabeling, shall record and retain for not less than three years the manufacturing, repackaging, or relabeling date for each controlled substance.
4. Every person receiving, selling, delivering, or disposing of any controlled substance shall record and retain for not less than three years the following information:
 - a. The name, strength, dosage form, and quantity of each controlled substance received, sold, delivered, or disposed;
 - b. The name, address, and DEA registration number of the person from whom each controlled substance is received;
 - c. The name, address, and DEA registration number of the person to whom each controlled substance is sold or delivered or who disposes of each controlled substance; and

d. The date of each transaction.

5. A full-service drug wholesale permittee or the designated representative shall complete an inventory of all controlled substances in the manner prescribed in subsection (A)(1). The permittee or designated representative shall conduct this inventory:
 - a. On May 1 of each year or as directed by the Board; and
 - b. If there is a change of ownership, or discontinuance of business, or within 10 days of a change of a designated representative.
6. A drug manufacturer permittee or the pharmacist-in-charge shall complete an inventory of all controlled substances in the manner prescribed in subsection (A)(1). The permittee or pharmacist-in-charge shall conduct this inventory:
 - a. On May 1 of each year or as directed by the Board; and
 - b. If there is a change of ownership, or discontinuance of business, or within 10 days of a change of a pharmacist-in-charge.

- B. Order form.** For purposes of A.R.S. § 36-2524, "Order Form" means DEA Form 222c.

Historical Note

Adopted effective August 2, 1982 (Supp. 82-4). Amended effective November 1, 1993 (Supp. 93-4). Amended effective April 1, 1995; filed January 31, 1995 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 3177, effective August 3, 2000 (Supp. 00-3). Amended by final rulemaking at 12 A.A.R. 1912, effective July 1, 2006 (Supp. 06-2). Amended by final rulemaking at 14 A.A.R. 3670, effective November 8, 2008 (Supp. 08-3).

R4-23-1004. Schedules of Controlled Substances

As of the effective date of this Section and as required under A.R.S. §§ 36-2512 through 36-2516, the Board adopts the following schedules of controlled substances. The schedules adopted include no later amendments. The adopted schedules are available on the Board's website:

1. Schedule I. 21 CFR, Chapter II, Part 1308.11;
2. Schedule II. 21 CFR, Chapter II, Part 1308.12;
3. Schedule III. 21 CFR, Chapter II, Part 1308.13;
4. Schedule IV. 21 CFR, Chapter II, Part 1308.14; and
5. Schedule V. 21 CFR, Chapter II, Part 1308.15.

Historical Note

Adopted effective August 2, 1982 (Supp. 82-4). Repealed effective November 4, 1998 (Supp. 98-4). New Section made by final rulemaking at 28 A.A.R. 611 (March 18, 2022), effective May 2, 2022 (Supp. 22-1).

R4-23-1005. Products Excluded or Exempted from the Schedules of Controlled Substances

The following lists of products are excluded or exempted from the schedules of controlled substances adopted in R4-23-1004. All lists are available on the Board's website and at <https://www.ecfr.gov/current/title-21/chapter-II/part-1308>:

1. Excluded nonnarcotic substances that may be lawfully sold over-the-counter without a prescription order. 21 CFR, Chapter II, Part 1308.22;
2. Exempted chemical preparations and mixtures. 21 CFR, Chapter II, Part 1308.24; and
3. Exempted prescription products containing a nonnarcotic controlled substance. 21 CFR, Chapter II, Part 1308.32.

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Historical Note

Adopted effective August 2, 1982 (Supp. 82-4).
Amended by final rulemaking at 6 A.A.R. 3177, effective August 3, 2000 (Supp. 00-3). Amended by final rulemaking at 18 A.A.R. 2609, effective December 2, 2012 (Supp. 12-4). Amended by final rulemaking at 28 A.A.R. 611 (March 18, 2022), effective May 2, 2022 (Supp. 22-1).

R4-23-1006. Substances Excepted from Drug Offenses

The following materials, compounds, mixtures, or preparations containing any stimulant or depressant substance included in A.R.S. §§ 13-3401(6)(b) or 13-3401(6)(c) are excepted from the definition of dangerous drugs under the authority of A.R.S. § 32-1904(B)(14):

1. Over-the-counter drugs excepted in R4-23-1005(A).
2. Chemical preparations excepted in R4-23-1005(B).
3. Prescription-only drugs excepted in R4-23-1005(C).

Historical Note

Adopted effective August 2, 1982 (Supp. 82-4).
Amended by final rulemaking at 6 A.A.R. 3177, effective August 3, 2000 (Supp. 00-3).

ARTICLE 11. PHARMACY TECHNICIANS

Article 11, consisting of R4-23-1101 through R4-23-1105, made by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1).

R4-23-1101. Licensure and Eligibility

- A.** License required. A person shall not work as a pharmacy technician or pharmacy technician trainee in Arizona, unless the person possesses a pharmacy technician or pharmacy technician trainee license issued by the Board.
- B.** Eligibility.
1. To be eligible for licensure as a pharmacy technician trainee, a person shall:
 - a. Be of good moral character,
 - b. Be at least 18 years of age, and
 - c. Have a high school diploma or the equivalent of a high school diploma.
 2. To be eligible for licensure as a pharmacy technician, a person shall:
 - a. Meet the requirements of subsection (B)(1),
 - b. Complete a pharmacy technician training program that meets the standards prescribed in R4-23-1105, and
 - c. Pass the Pharmacy Technician Certification Board (PTCB) examination or another Board-approved pharmacy technician examination.
- C.** A pharmacy technician delinquent license. Before an Arizona pharmacy technician license will be reinstated, a pharmacy technician whose Arizona pharmacy technician license is delinquent for five or more consecutive years shall furnish to the Board satisfactory proof of fitness to be licensed as a pharmacy technician and pay all past due biennial renewal fees and penalty fees. Satisfactory proof includes:
1. For a person with a delinquent license who is practicing as a pharmacy technician out-of-state with a pharmacy technician license issued by another jurisdiction:
 - a. Proof of current, unrestricted pharmacy technician licensure in another jurisdiction; and
 - b. Proof of employment as a pharmacy technician during the last 12 months; or
 2. For a person with a delinquent license who did not practice as a pharmacy technician within the last 12 months:

- a. Take and pass a Board-approved pharmacy technician examination, and
- b. Complete 20 contact hours or two CEUs of continuing education activity sponsored by an approved provider, including at least two contact hours or 0.2 CEUs of continuing education activity in pharmacy law.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 102, effective March 10, 2013 (Supp. 13-1).

R4-23-1102. Pharmacy Technician Licensure

- A.** Eligibility. An applicant for licensure as a pharmacy technician shall provide the Board proof the applicant is eligible under R4-23-1101(B)(2), including documentation that the applicant:
1. Completed a pharmacy technician training program that meets the standards prescribed in R4-23-1105(B)(2); and
 2. Passed the Pharmacy Technician Certification Board (PTCB) examination or another Board-approved pharmacy technician examination; or
 3. Meets the requirements of R4-23-1105(D)(1) or (2).
- B.** Application.
1. An applicant for licensure as a pharmacy technician shall:
 - a. Submit a completed application electronically or manually on a form furnished by the Board, and
 - b. Submit with the application form:
 - i. The documents specified in the application form,
 - ii. The initial licensure fee specified in R4-23-205, and
 - iii. The wall license fee specified in R4-23-205.
 2. The Board office shall deem an application form received on the date the Board office electronically or manually date-stamps the form.
- C.** Licensure.
1. If an applicant is found to be ineligible for pharmacy technician licensure under statute and rule, the Board office shall issue a written notice of denial to the applicant.
 2. If an applicant is found to be eligible for pharmacy technician licensure under statute and rule, the Board office shall issue a certificate of licensure and a wall license. An applicant who is assigned a license number and who has been granted "open" status on the Board's license verification site may begin practice as a pharmacy technician before receiving the certificate of licensure.
 3. An applicant who is assigned a license number and who has a "pending" status on the Board's license verification site shall not practice as a pharmacy technician until the Board office issues a certificate of licensure as specified in subsection (C)(2).
 4. A licensee shall maintain the certificate of licensure in the practice site for inspection by the Board or its designee or review by the public.
- D.** License renewal.
1. To renew a license, a pharmacy technician shall submit a completed license renewal application electronically or manually on a form furnished by the Board with the biennial renewal fee specified in R4-23-205.
 2. If the biennial renewal fee is not paid by November 1 of the renewal year specified in A.R.S. § 32-1925, the phar-

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macy technician license is suspended and the licensee shall not practice as a pharmacy technician. The licensee shall pay a penalty as provided in A.R.S. § 32-1925 and R4-23-205 to vacate the suspension.

3. A licensee shall maintain the renewal certificate of licensure in the practice site for inspection by the Board or its designee or review by the public.
- E. Time frames for pharmacy technician licensure and license renewal. The Board office shall follow the time frames established in R4-23-202(F).
- F. Verification of license. A pharmacy permittee or pharmacist-in-charge shall not permit a person to practice as a pharmacy technician until the pharmacy permittee or pharmacist-in-charge verifies the person is currently licensed by the Board as a pharmacy technician.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 102, effective March 10, 2013 (Supp. 13-1). Amended by final rulemaking at 19 A.A.R. 2911, effective November 10, 2013 (Supp. 13-3). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).

R4-23-1103. Pharmacy Technician Trainee Licensure

- A. Eligibility. An applicant for licensure as a pharmacy technician trainee shall provide the Board proof the applicant is eligible under R4-23-1101(B)(1).
- B. Application.
 1. An applicant for licensure as a pharmacy technician trainee shall:
 - a. Submit a completed application electronically or manually on a form furnished by the Board, and
 - b. Submit with the application form:
 - i. The documents specified in the application form,
 - ii. The licensure fee specified in R4-23-205, and
 - iii. The wall license fee specified in R4-23-205.
 2. The Board office shall deem an application form received on the date the Board office electronically or manually date-stamps the form.
- C. Licensure.
 1. If an applicant is found to be ineligible for pharmacy technician trainee licensure under statute and rule, the Board office shall issue a written notice of denial to the applicant.
 2. If an applicant is found to be eligible for pharmacy technician trainee licensure under statute and rule, the Board office shall issue a certificate of licensure and a wall license. An applicant who is assigned a license number and who has been granted "open" status on the Board's license verification site may begin practice as a pharmacy technician trainee before receiving the certificate of licensure.
 3. An applicant who is assigned a license number and who has a "pending" status on the Board's license verification site shall not practice as a pharmacy technician trainee until the Board office issues a certificate of licensure as specified in subsection (C)(2).
 4. A licensee shall maintain the certificate of licensure in the practice site for inspection by the Board or its designee or review by the public.
 5. A pharmacy technician trainee license is valid for 36 months from the date issued. A pharmacy technician

trainee who does not complete the prescribed training program and pass a Board-approved pharmacy technician examination before the pharmacy technician trainee's license expires is not eligible for licensure as a pharmacy technician and shall not practice as a pharmacy technician or pharmacy technician trainee. The Board has approved the following pharmacy technician examinations:

- a. Pharmacy Technician Certification Board (PTCB) Exam, and
 - b. Exam for the Certification of Pharmacy Technicians (ExCPT).
- D. Time frames for pharmacy technician trainee licensure. The Board office shall follow the time frames established in R4-23-202(F).
 - E. Verification of license. A pharmacy permittee or pharmacist-in-charge shall not permit a person to practice as a pharmacy technician trainee until the pharmacy permittee or pharmacist-in-charge verifies that the person is currently licensed by the Board as a pharmacy technician trainee.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 2911, effective November 10, 2013 (Supp. 13-3). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2). Amended by final rulemaking at 26 A.A.R. 223, effective March 14, 2020 (Supp. 20-1).

R4-23-1104. Pharmacy Technicians and Pharmacy Technician Trainees

- A. Permissible tasks of a pharmacy technician trainee. Acting in compliance with all applicable statutes and rules and under the supervision of a pharmacist, a pharmacy technician trainee licensed under R4-23-1103 may assist an intern or pharmacist with the following when applicable to the pharmacy practice site:
 1. Record on the original prescription order the serial number of the prescription medication and date dispensed;
 2. Initiate or accept verbal or electronic refill authorization from a medical practitioner or medical practitioner's agent and record, on the original prescription order or by an alternative method approved by the Board or its designee, the medical practitioner's name, patient name, name and quantity of prescription medication, specific refill information, and name of medical practitioner's agent, if any;
 3. Record information in the refill record or patient profile;
 4. Enter information for a new or refill prescription medication as required under A.R.S. § 32-1964;
 5. Type and affix a label for the prescription medication. A pharmacist or intern working under the supervision of a pharmacist shall verify the accuracy of the label as described under R4-23-402(A)(11);
 6. Reconstitute a prescription medication, if a pharmacist checks the ingredients and procedure before reconstitution and verifies the final product after reconstitution;
 7. Retrieve, count, or pour a prescription medication, if a pharmacist verifies the contents of the prescription medication against the original prescription medication container or by an alternative drug identification method approved by the Board or its designee;
 8. Prepackage drugs in accordance with R4-23-402(A); and
 9. Measure, count, pour, or otherwise prepare and package a drug needed for hospital inpatient dispensing, if a phar-

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macist verifies the accuracy, measuring, counting, pouring, preparing, packaging, and safety of the drug before the drug is delivered to a patient care area.

- B.** Permissible tasks of a pharmacy technician. Acting in compliance with all applicable statutes and rules and under the supervision of a pharmacist, a pharmacy technician licensed under R4-23-1102 may:
1. Perform the tasks listed in subsection (A);
 2. After completing a pharmacy technician drug compounding training program developed by the pharmacy permittee or pharmacist-in-charge under R4-23-1105(C), assist a pharmacist or intern in compounding prescription medications and sterile or non-sterile pharmaceuticals in accordance with written policies and procedures, if the preparation, accuracy, and safety of the final product is verified by a pharmacist before dispensing;
 3. Perform a final technology-assisted verification of product if the pharmacy technician is qualified under R4-23-1104.01(D);
 4. If technology-assisted verification is performed, type and affix a label for the prescription medication. A pharmacist or intern shall verify the accuracy of the label as described under R4-23-402(A)(12);
 5. Administer a vaccine when:
 - a. Administration of the vaccine is done under an order that complies with A.R.S. § 32-1974 and R4-23-411;
 - c. Administration of the vaccine is delegated by and done under the supervision of a pharmacist on duty who is certified under A.R.S. § 32-1974 to administer vaccines; and
 - d. There is documentation by the permittee that the pharmacy technician has completed the following:
 - i. A practical training program that is approved by the Accreditation Council for Pharmacy Education and includes hands-on injection technique and recognition and treatment of emergency reactions to vaccines; and
 - ii. Current certification in basic cardiopulmonary resuscitation.
 6. Perform a task not related to professional judgment if the task is delegated to the pharmacy technician by the pharmacist on duty after the pharmacist on duty ensures the pharmacy technician is trained to do the task and there is documentation by the permittee of the training; and
 7. A pharmacist on duty shall not delegate or attempt to delegate the following tasks to a pharmacy technician:
 - a. Administering an emergency medication,
 - b. Counseling a patient,
 - c. Conducting a drug utilization review,
 - d. Performing any task that requires the exercise of clinical judgment,
 - e. Issuing a prescription order,
 - f. Receiving a new prescription order for a controlled substance, or
 - g. Transferring by telephone an existing prescription order for a controlled substance.
- C.** A trained and licensed pharmacy technician or pharmacy technician trainee who performs a task as authorized under subsections (A) and (B) shall ensure the task is performed accurately.
- D.** Prohibited activities. A pharmacy technician or pharmacy technician trainee shall not perform a professional practice reserved for a pharmacist or intern in accordance with R4-23-402 or R4-23-653 unless otherwise allowed by rule.
- E.** A pharmacy technician or pharmacy technician trainee shall wear a badge indicating name and title while on duty.
- F.** Before employing a pharmacy technician or pharmacy technician trainee, a pharmacy permittee or pharmacist-in-charge shall develop, implement, review, and revise in the manner described in R4-23-653(A) and comply with policies and procedures outlined in subsection (G) for pharmacy technician and pharmacy technician trainee tasks.
- G.** A pharmacy permittee or pharmacist-in-charge shall ensure policies and procedures required under subsection (F) include the following:
1. For all practice sites:
 - a. Supervisory controls and verification procedures to ensure the quality and safety of pharmaceutical service;
 - b. Employment performance expectations for a pharmacy technician and pharmacy technician trainee;
 - c. The tasks a pharmacy technician or pharmacy technician trainee may perform as specified under subsections (A) and (B);
 - d. Pharmacist and patient communication;
 - e. Reporting, correcting, and avoiding medication and dispensing errors;
 - f. Security procedures for:
 - i. Confidentiality of patient prescription records, and
 - ii. The pharmacy area;
 - g. Automated medication distribution system;
 - h. Compounding procedures for pharmacy technicians; and
 - i. Brief overview of state and federal pharmacy statutes and rules;
 2. For community and limited-service pharmacy practice sites:
 - a. Prescription dispensing procedures for:
 - i. Accepting a new written prescription order,
 - ii. Accepting a refill request,
 - iii. Selecting a drug product,
 - iv. Counting and pouring,
 - v. Labeling, and
 - vi. Obtaining refill authorization; and
 - b. Computer data-entry procedures for:
 - i. New and refill prescriptions,
 - ii. Patient's drug allergies,
 - iii. Drug-drug interactions,
 - iv. Drug-food interactions,
 - v. Drug-disease state contraindications,
 - vi. Refill frequency,
 - vii. Patient's disease and medical condition,
 - viii. Patient's age or date of birth and gender, and
 - ix. Patient profile maintenance; and
 3. For hospital pharmacy practice sites:
 - a. Medication order procurement and data entry,
 - b. Drug preparation and packaging,
 - c. Outpatient and inpatient drug delivery, and
 - d. Inspection of drug storage and preparation areas and patient care areas.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 19 A.A.R. 102, effective March 10, 2013 (Supp. 13-1). Amended by final rulemaking at 23 A.A.R. 3257,

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effective January 8, 2018 (Supp. 17-4). Amended by final rulemaking at 28 A.A.R. 994 (May 13, 2022), effective July 2, 2022 (Supp. 22-2). Section made by emergency rulemaking at 29 A.A.R. 1196 (May 26, 2023), with an immediate effective date of May 4, 2023; effective for 180 days (Supp. 23-2). Amended by final rulemaking at 29 A.A.R. 2191 (September 22, 2023), with an immediate effective date of September 6, 2023 (Supp. 23-3).

R4-23-1104.01 Technology-assisted Verification of Product

- A.** By complying with this Section, the permittee of a retail, institutional, or limited-service pharmacy may implement a technology-assisted verification of product program that allows a pharmacy technician licensed under R4-23-1102 and qualified under subsection (D) to perform final product verification.
- B.** Written program description required. Before implementing a technology-assisted verification of product program the permittee of a retail, institutional, or limited-service pharmacy shall prepare a written program description that includes the following:
1. Responsibility of both the pharmacist in charge and permittee to ensure compliance with this Section;
 2. Responsibility of the permittee to design, implement, and monitor a process that ensures the accuracy and safety of the product dispensed;
 3. Duties of a verification technician;
 4. The training necessary to qualify and remain qualified as a verification technician;
 5. The monitoring and evaluation procedures to be used to ensure competency of the verification technician; and
 6. Prohibition of a verification technician performing a final accuracy check of a completed prescription label.
- C.** The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall:
1. Post the written program description required under subsection (B) in the pharmacy area;
 2. Provide a copy of the written program description to the pharmacist in charge and verification technician;
 3. Obtain the signature of the pharmacist in charge and verification technician on a copy of the written program description and place the signed copy in the personnel file of the pharmacist in charge and verification technician;
 4. Ensure scanning technology used in the technology-assisted verification program captures both product and patient information; and
 5. Update the written program description as needed and repeat subsections (C)(1) through (4) after each update.
- D.** Verification technician training: The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall ensure a pharmacy technician does not perform the duties of a verification technician unless the pharmacy technician has the following qualifications:
1. Is licensed under R4-23-1102;
 2. Has at least 1,000 hours of pharmacy technician work experience in the same kind of pharmacy practice site in which the technology-assisted verification of product will be performed;
 3. Completes a training program that includes at least the following:
 - a. Role of a verification technician in the dispensing process,
 - b. Legal requirements of a verification technician,
 - c. How to use the technology-assisted verification system,
 - d. Primary causes of medication errors, and
 - e. Identifying and resolving dispensing errors; and
 4. Completes at least four hours of the continuing education required under R4-23-1106 on patient safety.
- E.** The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall ensure the pharmacy practice site has a computer data storage and retrieval system that meets the standards in R4-23-408(B).
- F.** The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall ensure a verification technician verifies only the following:
1. A product with scanning technology that identifies product, or
 2. A robotically prepared unit-dose product.
- G.** The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall ensure a verification technician does not verify the following:
1. A product that involves a combination of drugs resulting from compounding or mixing two or more ingredients or products,
 2. A product that involves or results from an alteration of a drug, or
 3. A DEA schedule II controlled substance.
- H.** The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall perform an unannounced evaluation of the competency of a verification technician at least twice a year and take steps to remediate any deficiencies identified including removing verification duties from the technician.
- I.** The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall maintain the following records:
1. Date the pharmacy technician was designated as a verification technician,
 2. Date the pharmacy technician completed the training required under subsection (D)(3),
 3. Dates and results of the evaluations conducted under subsection (H), and
 4. Date and reason for any disciplinary action against the verification technician arising from performing the duties of a verification technician.
- J.** A verification technician shall wear identification that includes the title "Verification Technician" while on duty.
- K.** As used in this Section, the term "verification technician" means an individual who:
1. Is qualified under subsection (D),
 2. Uses a combination of scanning technology and visual confirmation to verify a product prepared to be dispensed is the product prescribed and indicated on the prescription label, and
 3. Performs verification of work performed by other pharmacy technicians before a pharmacist or graduate or pharmacy intern working under the supervision of a pharmacist performs the final accuracy check required under R4-23-402(A).

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Historical Note

New Section made by final rulemaking at 23 A.A.R. 3257, effective January 8, 2018 (Supp. 17-4).

R4-23-1105. Pharmacy Technician Trainee Training Program, Pharmacy Technician Drug Compounding Training Program, and Alternative Pharmacy Technician Training

- A.** Nothing in this Section prevents additional offsite training of a pharmacy technician.
- B.** Pharmacy technician trainee training program.
1. A pharmacy permittee or pharmacist-in-charge shall develop, implement, review, revise in the same manner described in R4-23-653(A), and comply with a pharmacy technician trainee training program based on the needs of the individual pharmacy.
 2. A pharmacy permittee or pharmacist-in-charge shall ensure the pharmacy technician trainee training program includes training guidelines that:
 - a. Define the specific tasks a pharmacy technician trainee is expected to perform,
 - b. Specify how and when the pharmacist-in-charge will assess the pharmacy technician trainee's competency, and
 - c. Address the policies and procedures specified in R4-23-1104(G) and the permissible activities specified in R4-23-1104(A).
 3. A pharmacist-in-charge shall:
 - a. Document the date a pharmacy technician trainee successfully completed the training program, and
 - b. Maintain the documentation required in this subsection for inspection by the Board or its designee.
 4. A pharmacy technician trainee shall perform only those tasks, listed in R4-23-1104(A), for which training and competency has been demonstrated.
- C.** Pharmacy technician drug compounding training program.
1. A pharmacy permittee or pharmacist-in-charge shall develop, implement, review, revise in the same manner described in R4-23-653(A), and comply with a pharmacy technician drug compounding training program based on the needs of the individual pharmacy;
 2. A pharmacy permittee or pharmacist-in-charge shall ensure the pharmacy technician drug compounding training program includes training guidelines that:
 - a. Define the specific tasks a pharmacy technician is expected to perform,
 - b. Specify how and when the pharmacist-in-charge will assess the pharmacy technician's competency, and
 - c. Address the following procedures and tasks:
 - i. Area preparation,
 - ii. Component preparation,
 - iii. Aseptic technique and product preparation,
 - iv. Packaging and labeling, and
 - v. Area cleanup;
 3. A pharmacist-in-charge shall:
 - a. Document the date a pharmacy technician successfully completed the pharmacy technician drug compounding training program, and
 - b. Maintain the documentation required in this subsection for inspection by the Board or its designee.
- D.** Alternative pharmacy technician training.
1. An individual who has passed the required Board-approved pharmacy technician examination, but has not followed the normal path to pharmacy technician licensure by obtaining a pharmacy technician trainee license and working while completing a pharmacy technician

trainee training program as specified in subsection (B), may obtain a pharmacy technician license, if the individual has employment in pharmacy and completes an on-the-job training program as part of the individual's employment orientation that includes: reading and discussing with the pharmacist-in-charge of the pharmacy where employed, the Board rules concerning pharmacy technicians and pharmacy technician trainees, the pharmacy technician and pharmacy technician trainee job description, and the policies and procedures manual of that pharmacy.

2. An individual who has completed a pharmacy technician certificate program and has passed the required Board-approved pharmacy technician examination, but has not followed the normal path to pharmacy technician licensure by obtaining a pharmacy technician trainee license and working while completing a pharmacy technician trainee training program as specified in subsection (B), may obtain a pharmacy technician license, if the individual has employment in pharmacy and completes an on-the-job training program as part of the individual's employment orientation that includes: reading and discussing with the pharmacist-in-charge of the pharmacy where employed, the Board rules concerning pharmacy technicians and pharmacy technician trainees, the pharmacy technician and pharmacy technician trainee job description, and the policies and procedures manual of that pharmacy.
 3. A pharmacist-in-charge shall:
 - a. Document the date an individual licensed under subsection (D)(1) or (2) successfully completed the on-the-job training program as part of the individual's employment orientation as required under subsection (D)(1) or (2), and
 - b. Maintain the documentation required in this subsection for inspection by the Board or its designee.
- E.** A pharmacy technician shall perform only those tasks, listed in R4-23-1104(B), for which training and competency has been demonstrated.
- F.** If a pharmacy technician leaves a training program described under subsection (B), (C), or (D) before successfully completing the training program, the pharmacist-in-charge shall provide the pharmacy technician with written documentation of the hours of training completed and the tasks for which competence was demonstrated by the pharmacy technician.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 19 A.A.R. 102, effective March 10, 2013 (Supp. 13-1). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).

R4-23-1106. Continuing Education Requirements

- A.** General. According to A.R.S. § 32-1925(H), the Board shall not renew a pharmacy technician license unless the licensee has during the two years preceding the application for renewal:
1. Participated in 20 contact hours or two CEUs of continuing education activity sponsored by an Approved Provider, as defined in R4-23-110, and
 2. A pharmacy technician licensee is exempt from the continuing education requirement in subsection (A)(1) between the time of initial licensure and first renewal.

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- B.** Special continuing education requirement. During each license renewal period, a pharmacy technician shall not administer a vaccine under R4-23-1104(B)(5) unless the pharmacy technician has participated in at least two contact hours of continuing education activity approved by the Accreditation Council for Pharmacy Education and related to administration of vaccines.
- C.** Valid CEUs. The Board shall:
1. Accept CEUs for continuing education activities sponsored only by an Approved Provider;
 2. Accept CEUs accrued during only the two-year period immediately before licensure renewal;
 3. Not allow CEUs accrued in a biennial renewal period to be carried forward to the succeeding biennial renewal period;
 4. Allow a pharmacy technician who leads, instructs, or lectures to a group of health professionals on pharmacy-related topics in a continuing education activity sponsored by an Approved Provider to receive CEUs for a presentation by following the same attendance procedures as any other attendee of the continuing education activity; and
 5. Not accept as a CEU a pharmacy technician's normal teaching duties within a learning institution if the pharmacy technician's primary responsibility is the education of health professionals.
- D.** Continuing education records and reporting CEUs. A pharmacy technician shall:
1. Maintain continuing education records that:
 - a. Verify the continuing education activities the pharmacy technician participated in during the preceding five years; and
 - b. Consist of a statement of credit or a certificate issued by an Approved Provider at the conclusion of a continuing education activity;
 2. At the time of licensure renewal, attest to the number of CEUs the pharmacy technician participated in during the renewal period on the biennial renewal form; and
 3. When requested by the Board office, submit proof of continuing education participation within 20 days of the request.
- E.** The Board shall deem a pharmacy technician's failure to comply with the continuing education participation, recording, or reporting requirements of this Section as unprofessional conduct and grounds for disciplinary action by the Board under A.R.S. § 32-1927.01.
- F.** A pharmacy technician who is aggrieved by any decision of the Board concerning continuing education units may request a hearing before the Board.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 1105, effective April 30, 2005 (Supp. 05-1). Amended by final rulemaking at 26 A.A.R. 223, effective March 14, 2020 (Supp. 20-1). Section made by emergency rulemaking at 29 A.A.R. 1196 (May 26, 2023), with an immediate effective date of May 4, 2023; effective for 180 days (Supp. 23-2). Amended by final rulemaking at 29 A.A.R. 2191 (September 22, 2023), with an immediate effective date of September 6, 2023 (Supp. 23-3).

ARTICLE 12. DONATED MEDICINE PROGRAM**R4-23-1201. Repealed****Historical Note**

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4). Repealed by final rulemaking at 28 A.A.R. 611 (March 18, 2022), effective May 2, 2022 (Supp. 22-1).

R4-23-1202. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4). Repealed by final rulemaking at 28 A.A.R. 611 (March 18, 2022), effective May 2, 2022 (Supp. 22-1).

R4-23-1203. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4). Repealed by final rulemaking at 28 A.A.R. 611 (March 18, 2022), effective May 2, 2022 (Supp. 22-1).

R4-23-1204. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4). Repealed by final rulemaking at 28 A.A.R. 611 (March 18, 2022), effective May 2, 2022 (Supp. 22-1).

R4-23-1205. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4). Repealed by final rulemaking at 28 A.A.R. 611 (March 18, 2022), effective May 2, 2022 (Supp. 22-1).

R4-23-1206. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4). Repealed by final rulemaking at 28 A.A.R. 611 (March 18, 2022), effective May 2, 2022 (Supp. 22-1).

R4-23-1207. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4). Repealed by final rulemaking at 28 A.A.R. 611 (March 18, 2022), effective May 2, 2022 (Supp. 22-1).

R4-23-1208. Handling Fee

- A. The definitions at A.R.S. § 32-1909(U) apply to this Section.
- B. As specified under A.R.S. § 32-1909(N), an authorized recipient shall not sell a medicine received from a donor.
- C. An authorized recipient may charge a fee to an eligible patient to whom a donated medicine is dispensed. The authorized recipient shall ensure any fee charged to an eligible patient:
 1. Does not exceed the reasonable cost of receiving, handling, and dispensing the donated medicine; and
 2. Is consistent with the purpose of the donated medicine program. A fee consistent with the purpose of the donated medicine program includes an adjustment for the quantity and retail cost of the medicine dispensed.
- D. An authorized recipient may charge a fee to a donor or other authorized recipient for usual and customary expenses incurred in receiving and handling donated medicine.

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Historical Note

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4). Amended by final rulemaking at 28 A.A.R. 611 (March 18, 2022), effective May 2, 2022 (Supp. 22-1).

R4-23-1209. Repealed**Historical Note**

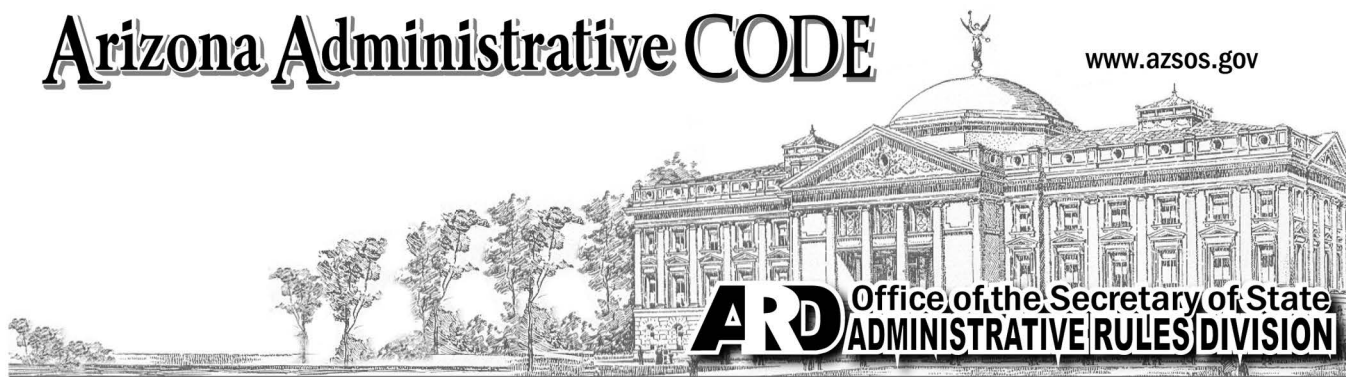
New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4). Repealed by final rulemaking at 28 A.A.R. 611 (March 18, 2022), effective May 2, 2022 (Supp. 22-1).

R4-23-1210. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4). Repealed by final rulemaking at 28 A.A.R. 611 (March 18, 2022), effective May 2, 2022 (Supp. 22-1).

R4-23-1211. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 4320, effective January 3, 2009 (Supp. 08-4). Repealed by final rulemaking at 28 A.A.R. 611 (March 18, 2022), effective May 2, 2022 (Supp. 22-1).



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Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
January 1, 2024 through March 31, 2024

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Questions about these rules? Contact:

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The release of this Chapter in Supp. 24-1 replaces Supp. 23-2, 1-8 pages.

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

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

PERSONAL USE/COMMERCIAL USE

This Chapter is posted as a public courtesy online, and is for private use only. Those who wish to use the contents for resale or profit should contact the Office about Commercial Use fees. For information on commercial use fees review A.R.S. § 39-121.03 and 1 A.A.C. 1, R1-1-113.

Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division

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TITLE 4. PROFESSIONS AND OCCUPATIONS**CHAPTER 25. BOARD OF PODIATRY EXAMINERS**

Authority: A.R.S. § 32-801 et seq.

Supp. 24-1**CHAPTER TABLE OF CONTENTS**

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Former Chapter 25, consisting of Sections R4-25-01 through R4-25-04, R4-25-20, R4-25-30 through R4-25-33, R4-25-40, and R4-25-50 through R4-25-53, renumbered and amended effective November 18, 1986.

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ARTICLE 1. GENERAL PROVISIONS

R4-25-101. Definitions

The following definitions apply in this Chapter unless otherwise specified:

1. "Administer" has the same meaning as in A.R.S. § 32-1901.
2. "Comity" means the procedure for granting an Arizona license to an applicant who is licensed as a podiatrist in another state of the United States.
3. "Controlled substance" has the same meaning as in A.R.S. § 32-1901.
4. "Council" means the Council of Podiatric Medical Education, an organization approved by the American Podiatric Medical Association to govern podiatric education.
5. "Credit hour" means 60 minutes of participation in continuing education.
6. "Day" means calendar day.
7. "DEA" means The Drug Enforcement Administration in the Department of Justice
8. "DEA Registration" means the DEA Controlled Substance Registration required and permitted by 21 U.S.C. 823 of the Controlled Substances Act.
9. "Device" has the same meaning as in A.R.S. § 32-1901 and includes a prescription-only device defined in A.R.S. § 32-1901.
10. "Directly supervise" has the same meaning as "direct supervision" in A.R.S. § 32-871(D).
11. "Dispense" has the same meaning as in A.R.S. § 32-871(F).
12. "Distributor" has the same meaning as in A.R.S. § 32-1901.
13. "Drug" has the same meaning as in A.R.S. § 32-1901 and includes a controlled substance, a narcotic drug defined in A.R.S. § 32-1901, a prescription medication, and a prescription-only drug.
14. "Informed consent" means a document signed by a patient or patient's representative that authorizes treatment to the patient after the treating podiatrist informs the patient or the patient's representative of the following:
 - a. A description of the treatment;
 - b. A description of the expected benefits of the treatment;
 - c. Alternatives to the treatment;
 - d. Associated risks of the treatment, including potential side effects and complications; and
 - e. The patient's right to withdraw authorization for the treatment at any time.
15. "Party" has the same meaning as in A.R.S. § 41-1001.
16. "Patient" means an individual receiving treatment from a podiatrist.
17. "Prescription medication" has the same meaning as in A.R.S. § 32-1901.
18. "Prescription-only device" has the same meaning as in A.R.S. § 32-1901.
19. "Prescription-only drug" has the same meaning as in A.R.S. § 32-1901.
20. "Prescription order" has the same meaning as in A.R.S. § 32-1901.
21. "Regular podiatry license" means a license issued pursuant to the provisions of A.R.S. § 32-826(A).
22. "Representative" means a legal guardian, an individual acting on behalf of another individual under written authorization from the individual, or a surrogate according to A.R.S. § 36-3201.

23. "Treatment" means podiatric medical, surgical, mechanical, manipulative, or electrical treatment according to A.R.S. § 32-801.

Historical Note

Former Section R4-25-06 renumbered and amended as Section R4-25-01 effective August 30, 1978 (Supp. 78-4). Amended effective April 3, 1980 (Supp. 80-2). Former Section R4-25-01 renumbered and amended as Section R4-25-101 effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2). Amended by final rulemaking at 26 A.A.R. 1501, effective September 6, 2020 (Supp. 20-3). Amended by final rulemaking at 29 A.A.R. 1551 (July 14, 2023), effective August 18, 2023 (Supp. 23-2).

R4-25-102. Postdoctoral, or Residency Program Approval

- A. For purposes of satisfying the requirements of A.R.S. § 32-826(A), a postdoctoral or residency program approved by the Council is approved by the Board.
- B. A postdoctoral or residency program provisionally approved or placed on probation by the Council is approved by the Board until the Council makes a final adverse determination of the status of the postdoctoral or residency program.

Historical Note

Adopted effective March 16, 1981 (Supp. 81-2). Former Section R4-25-02 renumbered and amended as Section R4-25-102 effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2). Amended by final rulemaking at 26 A.A.R. 1501, effective September 6, 2020 (Supp. 20-3).

R4-25-103. Fees

The Board shall charge the following fees, which are not refundable unless A.R.S. § 41-1077 applies:

1. Application for license according to A.R.S. §§ 32-822(A) and 32-825, \$450.00.
2. Application for license according to A.R.S. § 32-827, \$450.00.
3. License issuance, \$225.00.
4. Annual renewal, \$325.00.
5. Penalty fee for late renewal after July 30, \$150.00 in addition to the regular renewal fee.
6. Certification of a licensee to authorities of another state or country, \$10.00.
7. For initial registration to dispense drugs and devices, \$200.00.
8. For annual renewal of registration to dispense drugs and devices, \$100.00.
9. Application for temporary license and issuance of license, \$100.00
10. Application for telehealth registration and issuance of registration, \$50.00.

Historical Note

Former Rule 3; Repealed effective August 30, 1978 (Supp. 78-4). Adopted as an emergency effective December 29, 1980, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 80-6). Former emergency adoption now adopted effective April 9, 1981 (Supp. 81-2). Former Section R4-25-03 repealed, new Section R4-25-03 adopted effective April 18, 1984 (Supp. 84-2). Former

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Section R4-25-03 renumbered without change as Section R4-25-103 effective November 18, 1986 (Supp. 86-6). Amended effective May 7, 1990 (Supp. 90-2). Amended effective July 27, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2). Amended by final rulemaking at 12 A.A.R. 479, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 26 A.A.R. 1501, effective September 6, 2020 (Supp. 20-3). Amended by final rulemaking at 29 A.A.R. 1551 (July 14, 2023), effective August 18, 2023 (Supp. 23-2). Fee in subsection (10) as published in the *Register* and in the proposed rulemaking corrected to \$50 as submitted in final rulemaking in file R23-116.

Amended by final rulemaking at 30 A.A.R. 382 (March 1, 2024), effective April 8, 2024 (Supp. 24-1).

R4-25-104. Time-frames for Approvals

- A. The overall time-frame described in A.R.S. § 41-1072(2) for each type of approval granted by the Board is set forth in Table 1. The applicant and the Executive Director of the Board may agree in writing to extend the overall time-frame. The substantive review time-frame may not be extended by more than 25% of the overall time-frame.
- B. The administrative completeness review time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Board is set forth in Table 1.
 1. The administrative completeness review time-frame begins:
 - a. For approval of a podiatry license, when the Board receives the application packet required in R4-25-303;
 - b. For approval of a registration to dispense drugs, when the Board receives the application packet required in R4-25-602;
 - c. For approval of an application for renewal of a license or dispensing registration, when a licensee submits an application packet to the Board; or
 - d. For approval of continuing education, when the Board receives a request for approval.
 2. If the application packet is incomplete, the Board shall send to the applicant a written notice specifying the missing document or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the postmark date of the notice until the date the Board receives a complete application packet from the applicant.
 3. If an application packet is complete, the Board shall send a written notice of administrative completeness to the applicant.
 4. If the Board grants a license or approval during the time provided to assess administrative completeness, the Board shall not issue a separate written notice of administrative completeness.
- C. The substantive review time-frame described in A.R.S. § 41-1072(3) is set forth in Table 1 and begins on the postmark date of the notice of administrative completeness.
 1. During the substantive review time-frame, the Board may make one comprehensive written request for additional

information or documentation. The time-frame for the Board to complete the substantive review is suspended from the postmark date of the comprehensive written request for additional information or documentation until the Board receives the additional information or documentation.

2. The Board shall send a written notice of approval to an applicant who meets the qualifications and requirements in A.R.S. Title 4, Chapter 7 and this Chapter.
3. The Board shall send a written notice of denial to an applicant who fails to meet the qualifications and requirements in A.R.S. Title 4, Chapter 7 and this Chapter.
- D. The Board shall consider an application withdrawn if, within 365 days from the application submission date, the applicant fails to supply the missing information under subsection (B)(2) or (C)(1).
- E. An applicant who does not wish an application withdrawn may request a denial in writing within 365 days from the application submission date.
- F. If a time-frame's last day falls on a Saturday, Sunday, or an official state holiday, the Board considers the next business day the time-frame's last day.

Historical Note

Former Rule 4; Repealed effective August 30, 1978 (Supp. 78-4). Adopted effective March 13, 1986 (Supp. 86-2). Former Section R4-25-04 renumbered without change as Section R4-25-104 effective November 18, 1986 (Supp. 86-6). Section repealed effective July 27, 1995 (Supp. 95-3). New Section adopted by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2). Amended by final rulemaking at 26 A.A.R. 1501, effective September 6, 2020 (Supp. 20-3).

R4-25-105. Repealed

Historical Note

Former Rule 5; Repealed effective August 30, 1978 (Supp. 78-4). Former Section R4-25-05 renumbered without change as Section R4-25-105 effective November 18, 1986 (Supp. 86-6).

R4-25-106. Renumbered

Historical Note

Former Rule 6; Former Section R4-25-06 renumbered and amended as Section R4-25-01 effective August 30, 1978 (Supp. 78-4). Former Section R4-25-06 renumbered without change as Section R4-25-106 effective November 18, 1986 (Supp. 86-6).

R4-25-107. Repealed

Historical Note

Former Rule 7; Repealed effective August 30, 1978 (Supp. 78-4). Former Section R4-25-07 renumbered without change as Section R4-25-107 effective November 18, 1986 (Supp. 86-6).

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Table 1. Time-frames (in days)

| Type of Approval | Statutory Authority | Overall Time-frame | Administrative Completeness Time-frame | Substantive Review Time-frame |
|-------------------------------------------|---------------------|--------------------|----------------------------------------|-------------------------------|
| Regular Podiatry License (R4-25-301) | A.R.S. § 32-826 | 60 | 30 | 30 |
| License by Comity (R4-25-302) | A.R.S. § 32-827 | 60 | 30 | 30 |
| Dispensing Registration (R4-25-602) | A.R.S. § 32-871 | 60 | 30 | 30 |
| License Renewal (R4-25-306) | A.R.S. § 32-829 | 60 | 15 | 45 |
| Registration Renewal (R4-25-605) | A.R.S. § 32-871 | 60 | 30 | 30 |
| Continuing Education Approval (R4-25-502) | A.R.S. § 32-829 | 60 | 15 | 45 |

Historical Note

New Table 1 adopted by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2). Amended by final rulemaking at 26 A.A.R. 1501, effective September 6, 2020 (Supp. 20-3).

ARTICLE 2. EXAMINATIONS**R4-25-201. Examination of Applicants**

- A.** An applicant who does not meet the requirements in A.R.S. § 32-827 for licensure by comity shall pass the National Board Written Examinations with a grade of 75% or more.
- B.** An applicant licensed to practice podiatry in a state other than Arizona who is applying to the Board for a license by comity and who passed The National Board Written Examinations in a state other than Arizona with a score of 75% or more within five years of the application submission date meets the examination requirements of A.R.S. § 32-823.

Historical Note

Adopted as an emergency effective April 21, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-2). Adopted effective August 30, 1978 (Supp. 78-4).

Amended subsection (A) effective March 16, 1981 (Supp. 81-2). Former Section R4-25-20 renumbered and amended as Section R4-25-201 effective November 18, 1986 (Supp. 86-6). Section repealed, new Section adopted effective July 27, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2). Amended by final rulemaking at 26 A.A.R. 1501, effective September 6, 2020 (Supp. 20-3).

R4-25-202. Repealed**Historical Note**

Adopted effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3). Section repealed by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1).

R4-25-203. Repealed**Historical Note**

Adopted effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2). Repealed by final rulemaking at 26 A.A.R. 1501, effective September 6, 2020 (Supp. 20-3).

ARTICLE 3. LICENSES**R4-25-301. Application for a Regular Podiatry License**

- A.** An applicant for a regular license shall submit:
1. An application form approved by the Board, signed and dated by the applicant that contains questions approved by the Board.
 2. Two passport-type photographs of the applicant taken not more than six months before the date of application;
 3. A photocopy of the diploma issued to the applicant upon completion of podiatric school;
 4. A photocopy of the residency certificate issued to the applicant upon completion of residency; and
 5. The fee required in R4-25-103.
- B.** An applicant shall arrange to have a transcript of examination scores of a national board examination in podiatry sent directly to the Board office by the professional examination service preparing the examination.

Historical Note

Adopted effective August 30, 1978 (Supp. 78-4). Amended effective April 3, 1980 (Supp. 80-2). Former Section R4-25-30 renumbered without change as Section R4-25-301 effective November 18, 1986 (Supp. 86-6). Section repealed effective July 27, 1995 (Supp. 95-3). New Section adopted by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1). Amended by final rulemaking at 26 A.A.R. 1501, effective September 6, 2020 (Supp. 20-3). Amended by final rulemaking at 29 A.A.R. 1551 (July 14, 2023), effective August 18, 2023 (Supp. 23-2).

R4-25-302. Application for a Podiatrist's License by Comity

- A.** Under A.R.S. § 32-827, an applicant for a podiatrist's license by comity shall submit to the Board, an application form approved by the Board, signed and dated by the applicant that contains questions approved by the Board and the following:
1. A photocopy of a current podiatric license in good standing issued in another state or jurisdiction;
 2. Written documentation of having been engaged in the practice of podiatric medicine for five of seven years immediately preceding the application;
 3. Two passport-type photographs of the applicant taken not more than six months before the date of application;
 4. The fee required in R4-25-103.
- B.** An applicant shall arrange to have a transcript of examination scores of a national board examination in podiatry sent directly

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to the Board office by the professional examination service preparing the examination.

Historical Note

Adopted effective August 30, 1978 (Supp. 78-4). Former Section R4-25-31 renumbered and amended as Section R4-25-302 effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1). Amended by final rulemaking at 26 A.A.R. 1501, effective September 6, 2020 (Supp. 20-3). Amended by final rulemaking at 29 A.A.R. 1551 (July 14, 2023), effective August 18, 2023 (Supp. 23-2).

R4-25-303. Expired

Historical Note

Adopted effective August 30, 1978 (Supp. 78-4). Amended effective February 5, 1979 (Supp. 79-1). Former Section R4-25-32 renumbered and amended as Section R4-25-303 effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3). former Section R4-25-303 renumbered to R4-25-305, new Section R4-25-303 adopted by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 727, effective November 28, 2013 (Supp. 14-1).

R4-25-304. Repealed

Historical Note

Adopted effective August 30, 1978 (Supp. 78-4). Former Section R4-25-33 renumbered without change as Section R4-25-304 effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3). Section repealed by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1).

R4-25-305. Expired

Historical Note

Adopted effective August 30, 1978 (Supp. 78-4). Amended effective February 5, 1979 (Supp. 79-1). Section R4-25-305 renumbered from R4-25-303 by final rulemaking at 5 A.A.R. 1000, effective March 16, 1999 (Supp. 99-1). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 727, effective November 28, 2013 (Supp. 14-1).

R4-25-306. License Renewal

On or before June 30 of each year, a licensee shall submit the renewal fee required in R4-25-103, and

1. A renewal application approved by the Board that contains questions approved by the Board.
2. The written report required in R4-25-503 for continuing education, including an attestation of attendance signed by the licensee.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2). Amended by final rulemaking at 29 A.A.R. 1551 (July 14, 2023), effective August 18, 2023 (Supp. 23-2).

ARTICLE 4. REHEARING OR REVIEW

R4-25-401. Rehearing or Review

- A. Except as provided in subsection (G), a party who is aggrieved by a decision issued by the Board may file with the Board no later than 30 days after service of the decision, a written motion for rehearing or review of the decision specifying the grounds for rehearing or review. For purposes of this Section, a decision is considered to have been served when personally delivered to the party's last known home or business address or five days after the decision is mailed by certified mail to the party or the party's attorney.
- B. A party filing a motion for rehearing or review may amend the motion at any time before it is ruled upon by the Board. Other parties may file a response within 15 days after the date the motion or amended motion by any other party for rehearing or review is filed. The Board may require a party to file a supplemental memorandum explaining the issues raised in the motion or response and may permit oral argument.
- C. The Board may grant a rehearing or review of the decision for any of the following reasons materially affecting the moving party's rights:
 1. Irregularity in the Board's administrative proceedings or an abuse of discretion that deprived the party of a fair hearing,
 2. Misconduct of the Board or the prevailing party,
 3. Accident or surprise that could not have been prevented by ordinary prudence,
 4. Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing,
 5. Excessive or insufficient penalties,
 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing, or
 7. That the decision is not supported by the evidence or is contrary to law.
- D. The Board may affirm or modify the decision or grant a rehearing or review on all or part of the issues for any of the reasons in subsection (C). An order granting a rehearing or review shall specify the ground for the rehearing or review.
- E. No later than 30 days after a decision is issued by the Board, the Board may, on its own initiative, grant a rehearing or review of its decision for any reason in subsection (C). An order granting a rehearing or review shall specify the grounds for the rehearing or review.
- F. When a motion for rehearing or review is based upon affidavits, a party shall serve the affidavits with the motion. An opposing party may, within 10 days after service, serve opposing affidavits. The Board may extend the time for serving opposing affidavits for no more than 20 days for good cause or by written stipulation of the parties. The Board may permit reply affidavits.
- G. If the Board makes specific findings that the immediate effectiveness of a decision is necessary to preserve the public health and safety and determines that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the Board may issue the decision as a final decision without an opportunity for rehearing or review. If a decision is issued as a final decision without an opportunity for a rehearing or review, an aggrieved party that makes an application for judicial review of the decision shall make the application within the time limits permitted for an application for judicial review of the Board's final decision at A.R.S. § 12-904.

Historical Note

Adopted effective August 30, 1978 (Supp. 78-4). Former Section R4-25-40 renumbered and amended as Section

TITLE 4. PROFESSIONS AND OCCUPATIONS
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R4-25-401 effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2).

ARTICLE 5. CONTINUING EDUCATION

R4-25-501. Continuing Education Hours Required

- A. Unless a licensee obtains a waiver according to R4-25-505, the licensee shall complete 25 hours or more of continuing education credit hours every fiscal year.
- B. A licensee who has been licensed for less than 12 months before license renewal shall complete two continuing education credit hours for each month of licensure.
- C. For a licensee authorized to prescribe schedule II controlled substances and who has a valid DEA registration, at least three hours of the 25 hours required in subsection (A) shall be obtained in the area of opioid-related, substance use disorder-related or addiction-related continuing education.

Historical Note

Adopted effective August 30, 1978 (Supp. 78-4). Former Section R4-25-50 renumbered and amended as Section R4-25-501 effective November 18, 1986 (Supp. 86-6). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2). Amended by final rulemaking at 26 A.A.R. 1501, effective September 6, 2020 (Supp. 20-3).

R4-25-502. Approval of Continuing Education

- A. A licensee may submit a written request to the Board for approval of continuing education before submission of a renewal application.
- B. A request under subsection (A) shall contain:
 1. A brief summary of the continuing education;
 2. The educational objectives of the continuing education;
 3. The date, time, and place of the provision of the continuing education;
 4. The name of the individual providing the continuing education, if available; and
 5. The name of the organization providing the continuing education, if applicable.
- C. In determining whether to approve continuing education, the Board shall consider whether the continuing education:
 1. Is designed to provide current developments, skills, procedures, or treatments related to the practice of podiatry;
 2. Is developed and provided by an individual with knowledge and experience in the subject area; and
 3. Contributes directly to the professional competence of a licensee.
- D. The Board may accept a maximum of 10 continuing education credit hours or less for the following:
 1. Teaching a graduate level course approved by the American Podiatry Medical Association,
 2. Self-study which can include the following:
 - a. Reading educational literature that relates to the practice of podiatry.
 - b. A work or study group that relates to the practice of podiatry.
 - c. Having authored or co-authored a book, book chapter, or article in a peer-reviewed journal that was published within the last year and that relates to the practice of podiatry.
 3. Serving as a Board member or Complaint consultant for the Board.

- E. The Board shall approve or deny a request for approval according to the time-frames set forth in R4-25-104 and Table 1.
- F. According to A.R.S. § 32-829(E), if approval of a continuing education request is denied, a licensee has 60 days from the date of the denial to meet the continuing education requirements.
- G. Any opioid-related course that is approved by the Arizona State Board of Podiatry Examiners, Arizona State Board of Pharmacy, Arizona Board of Osteopathic Examiners, Arizona Medical Board or the Arizona State Board of Nursing is approved by the Board.

Historical Note

Adopted effective August 30, 1978 (Supp. 78-4). Amended effective April 3, 1980 (Supp. 80-2). Former Section R4-25-51 renumbered and amended as Section R4-25-502 effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2). Amended by final rulemaking at 26 A.A.R. 1501, effective September 6, 2020 (Supp. 20-3).

R4-25-503. Documentation

- A. A licensee shall submit a written report of completed continuing education with a renewal application that includes:
 1. The name of the licensee,
 2. The title of each continuing education,
 3. A description of the continuing education's content and educational objectives,
 4. The date of completion of each continuing education,
 5. The number of credit hours of each continuing education, and
 6. A statement signed by the licensee verifying the information in the report.
- B. The Board may audit continuing education reports every 12 months for conformance with A.R.S. § 32-829 and this Article:
 1. Randomly; or
 2. Selectively for licensees who previously submitted reports that did not conform with the requirements in A.R.S. § 32-829 or this Article.

Historical Note

Adopted effective August 30, 1978 (Supp. 78-4). Former Section R4-25-52 renumbered and amended as Section R4-25-503 effective November 18, 1986 (Supp. 86-6). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2).

R4-25-504. Repealed

Historical Note

Adopted effective August 30, 1978 (Supp. 78-4). Former Section R4-25-53 renumbered and amended as Section R4-25-504 effective November 18, 1986 (Supp. 86-6). Amended effective July 27, 1995 (Supp. 95-3). Section repealed by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2).

R4-25-505. Waiver of Continuing Education

- A. A licensee who is unable to complete 25 hours of continuing education for any of the reasons in A.R.S. § 32-829(C) may submit a written request for a waiver to the Board by August 31 that contains:
 1. The name, address, and telephone number of the licensee;
 2. The report required in R4-25-503;

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3. An explanation of why the licensee was unable to meet the Board's continuing education requirements that includes one of the reasons in A.R.S. § 32-829(C); and
 4. The signature of the licensee.
- B.** The Board shall send written notice of approval or denial of the request for waiver within seven days of receipt of the request.
- C.** If the Board denies a request for a waiver, a licensee has 60 days from the date of the denial to meet the requirements for continuing education.

Historical Note

Adopted effective November 18, 1986 (Supp. 86-6).
Amended effective July 27, 1995 (Supp. 95-3). Amended
by final rulemaking at 9 A.A.R. 1846, effective July 19,
2003 (Supp. 03-2).

ARTICLE 6. DISPENSING DRUGS AND DEVICES

R4-25-601. Reserved

R4-25-602. Registration Requirements

An individual currently licensed as a podiatrist in this state who wishes to dispense drugs and devices shall register with the Board by submitting all of the following:

1. The podiatrist's current Drug Enforcement Administration Certificate of Registration issued by the Department of Justice under 21 U.S.C. 801 et seq.;
2. The fee required in R4-25-103; and
3. An application form provided by the Board, signed and dated by the podiatrist, that contains questions approved by the Board.

Historical Note

Adopted effective July 27, 1995 (Supp. 95-3). Amended
by final rulemaking at 5 A.A.R. 1000, effective March
16, 1999 (Supp. 99-1). Amended by final rulemaking at 9
A.A.R. 1846, effective July 19, 2003 (Supp. 03-2).
Amended by final rulemaking at 29 A.A.R. 1551 (July
14, 2023), effective August 18, 2023 (Supp. 23-2).

R4-25-603. Prescribing and Dispensing Requirements

A podiatrist shall:

1. Not dispense schedule II controlled substances that are opioids.
2. Not dispense a drug unless the drug is obtained from a manufacturer or distributor licensed in any state or jurisdiction;
3. Ensure that a drug or device is dispensed only to a patient being treated by the podiatrist;
4. Before dispensing a drug, provide a patient with a written prescription order that:
 - a. Contains the following statement in bold type: "This prescription may be filled by the prescribing podiatrist or by a pharmacy of your choice," and
 - b. Is signed by the podiatrist;
5. Directly supervise each individual involved in preparing a drug that is dispensed;
6. Ensure that a drug is:
 - a. Dispensed in a prepackaged container or in a light resistant container with a consumer safety cap; and
 - b. Labeled with the following information:
 - i. The podiatrist's name, address, and telephone number;
 - ii. The date the drug is dispensed;
 - iii. The patient's name; and

- iv. The name, strength of the drug, and directions for the drug's use;
7. Ensure that the original prescription order for a drug is countersigned and dated by the individual who prepared the drug for dispensing;
 8. Before a drug or device is dispensed to a patient:
 - a. Review the drug or device to ensure compliance with the prescription order;
 - b. Ensure the patient is informed of the following:
 - i. The name of the drug or device,
 - ii. Directions for taking the drug or using the device,
 - iii. Precautions for the drug or device, and
 - iv. Directions for storing the drug or device;
 9. Document in the medical record the following for each patient:
 - a. Name of the drug or device dispensed,
 - b. Strength of the drug dispensed,
 - c. Date the drug or device is dispensed, and
 - d. Therapeutic reasons for dispensing the drug or device;
 10. Maintain an inventory record for each drug that contains:
 - a. Name of the drug,
 - b. Strength of the drug,
 - c. Date the drug was received by the podiatrist,
 - d. Amount of the drug received by the podiatrist,
 - e. Name of the manufacturer and distributor of the drug, and
 - f. A unique identifying number provided by the manufacturer or distributor of the drug;
 11. Store a drug in a locked cabinet or room and:
 - a. Establish a written policy for access to the locked cabinet or room, and
 - b. Make the written policy available to the Board or its authorized agent within 72 hours of a Board request;
 12. Ensure that a drug is stored at temperatures recommended by the manufacturer of the drug; and
 13. Maintain a dispensing log, separate from the inventory record for each drug dispensed that includes the:
 - a. Name of the drug,
 - b. Strength of the drug,
 - c. Amount of the drug,
 - d. Patient's name,
 - e. Date the drug was dispensed, and
 - f. The name and signature of the podiatrist who dispensed the drug.

Historical Note

Adopted effective July 27, 1995 (Supp. 95-3). Amended
by final rulemaking at 9 A.A.R. 1846, effective July 19,
2003 (Supp. 03-2). Amended by final rulemaking at 26
A.A.R. 1501, effective September 6, 2020 (Supp. 20-3).

R4-25-604. Recordkeeping and Reporting Shortages

- A.** A prescription order written by a podiatrist for a drug shall:
1. Contain the:
 - a. Name of the patient,
 - b. Date the prescription order is written, and
 - c. Name and signature of the podiatrist;
 2. Be numbered consecutively; and
 3. Be maintained separately from a medical record.

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CHAPTER 25. BOARD OF PODIATRY EXAMINERS

- B. A podiatrist shall maintain an invoice of a drug purchased from a manufacturer or distributor for three years from the date purchased.
- C. A podiatrist shall maintain the inventory record in R4-25-603(9) and the dispensing log in R4-25-603(12) for seven years from the date of entry.
- D. A podiatrist who discovers that a drug identified in the podiatrist's inventory record cannot be accounted for shall:
 1. Within 48 hours of discovery or the next business day if a weekend or holiday, whichever is later, notify the appropriate law enforcement agency and the federal Drug Enforcement Administration; and
 2. Provide written notification to the Board within seven days from the date of the discovery, including the name of the law enforcement agency notified.
- E. A podiatrist shall report controlled substances dispensing as required per A.R.S. § 36-2608.

Historical Note

Adopted effective July 27, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2). Amended by final rulemaking at 26 A.A.R. 1501, effective September 6, 2020 (Supp. 20-3).

R4-25-605. Registration Renewal

- A. A podiatrist shall renew a registration no later than June 30 of each year by submitting to the Board:
 1. An application form provided by the Board, signed and dated by the podiatrist, that contains questions approved by the Board.
 2. The fee required in R4-25-103.
- B. If a podiatrist fails to submit the information required in subsection (A) and the registration renewal fee required in R4-25-103 by June 30, the podiatrist's registration expires. If a registration expires, the podiatrist shall:
 1. Immediately cease dispensing drugs or devices, and
 2. Register pursuant to R4-25-602 before dispensing drugs and devices.

Historical Note

Adopted effective July 27, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 1846, effective July 19, 2003 (Supp. 03-2). Amended by final rulemaking at 29 A.A.R. 1551 (July 14, 2023), effective August 18, 2023 (Supp. 23-2).

ARTICLE 7. PODIATRIC MEDICAL ASSISTANTS

R4-25-701. Approval of Podiatric Medical Assistant Clinical

Certification and Radiology Certification

- A. For purposes of this Section, a Board-approved clinical certification program is a program accredited by the American Society of Podiatric Medical Assistants.
- B. For purposes of this Section, a Board-approved radiology certification program is a program accredited by the American Society of Podiatric Medical Assistants.

Historical Note

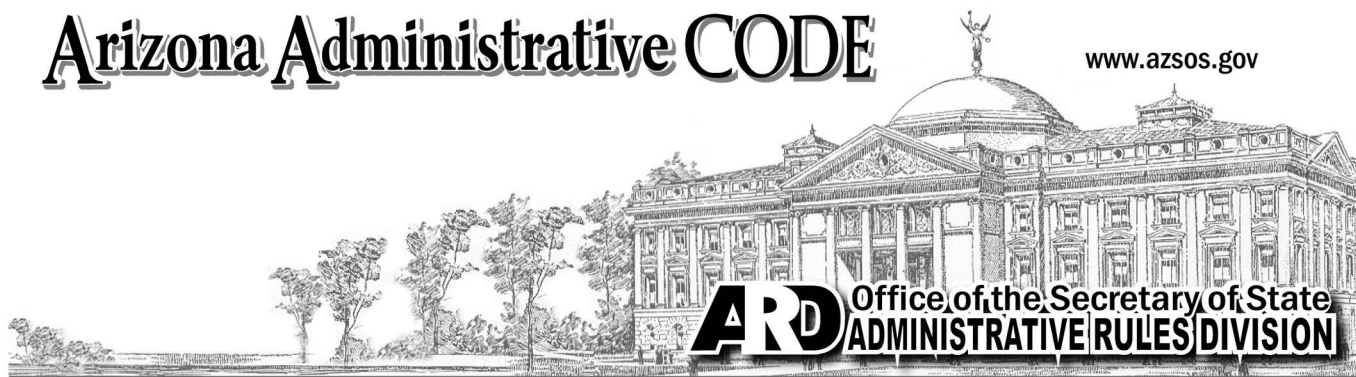
New Section made by final rulemaking at 29 A.A.R. 1551 (July 14, 2023), effective August 18, 2023 (Supp. 23-2).

R4-25-702. Podiatric Medical Assistants – Authorized Procedures

- A. A podiatric medical assistant not working under the direct supervision of a licensed podiatric physician may:
 1. Order supplies, store supplies, stock treatment rooms;
 2. Clean treatment rooms;
 3. Answer phones;
 4. Schedule appointments;
 5. Check patients in.
- B. A podiatric medical assistant working under the direct supervision of a licensed podiatric physician may:
 1. Obtain medical history from a patient;
 2. Obtain and record vital signs of a patient;
 3. Explain treatment procedures to a patient;
 4. Take off a patient's shoes and put the patient's shoes back on;
 5. Clip toenails on a patient;
 6. Apply bandages to the feet of a patient;
 7. Prepare a patient for a procedure;
 8. Take x-rays if the podiatric medical assistant is certified in radiology as described in R4-25-701(B). A podiatric medical assistant shall not take x-rays if the podiatric medical assistant does not meet the requirement of R4-25-701(B);
 9. The supervising licensed podiatric physician shall ensure that the podiatric medical assistant is properly trained and shall be responsible for all acts or missions of a podiatric medical assistant.

Historical Note

New Section made by final rulemaking at 29 A.A.R. 1551 (July 14, 2023), effective August 18, 2023 (Supp. 23-2).



4 A.A.C. 30

Supp. 24-1

TITLE 4. PROFESSIONS AND OCCUPATIONS CHAPTER 30. BOARD OF TECHNICAL REGISTRATION

The table of contents on page one contains links to the referenced page numbers in this Chapter.
Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
January 1, 2024 through March 31, 2024

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The release of this Chapter in Supp. 24-1 replaces Supp. 21-3, 1-25 pages.

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

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division

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TITLE 4. PROFESSIONS AND OCCUPATIONS**CHAPTER 30. BOARD OF TECHNICAL REGISTRATION**

Authority: A.R.S. § 32-101 et seq.

Supp. 24-1

Chapter 30, consisting of Sections R4-30-101 through R4-30-126, R4-30-201 through R4-30-284, and R4-30-301 through R4-30-307, adopted effective August 3, 1983.

Former Chapter 30, consisting of Sections R4-30-01 through R4-30-04, R4-30-13 through R4-30-19, R4-30-27 through R4-30-31, R4-30-41 through R4-30-43, R4-30-52 through R4-30-56, R4-30-66, and R4-30-76, repealed effective August 3, 1983.

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ARTICLE 1. GENERAL PROVISIONS

R4-30-101. Definitions

The following definitions apply in this Chapter unless the context otherwise requires:

1. "Act" means the Technical Registration Act, A.R.S. Title 32, Chapter 1.
2. "Active engagement" means actually practicing or providing architectural, engineering, geological, landscape architectural, or land surveying services.
3. "Bona fide employee" means:
 - a. Any person employed by a town, city, county, state, or federal agency working under the direction or supervision of a registrant;
 - b. Any person employed by a business entity and working under the direct supervision of a registrant who is also employed by the same business entity; or
 - c. Any person working under the direct supervision of a registrant who:
 - i. Receives direct wages from the registrant;
 - ii. Receives contract compensation from the registrant; or
 - iii. Receives direct wages from the project prime professional who has a contract with another registrant and whose work product is the responsibility of the latter registrant.
4. "Branch" means a specialty area within the category of engineering.
5. "Category" means the professions of architecture, geology, engineering, landscape architecture, and land surveying.
6. "De minimis violations" means violations of Board statutes or rules that do not present a threat to public welfare, health, or safety.
7. "Design team" means a group of individuals that includes one or more professional registrants collaborating with any other individuals on a specific project to develop professional documents.
8. "Detached single family dwelling" as used in the Act means a single family dwelling unit such as a house, which is structurally and physically separate from all other family dwelling units. This does not mean any single family dwelling unit which is part of a multiple dwelling unit building such as a duplex, townhouse, apartment building, condominium, or cooperative. The term "detached single family dwelling" also includes all subsidiary buildings, structures and improvements such as garage, storage areas, swimming pool, and landscaping.
9. "Direct supervision" means a registrant's critical examination and evaluation of a bona fide employee's work product, during and after the preparation, for purposes of compliance with applicable laws, codes, ordinances, and regulations pertaining to professional practice.
10. "Experience" is classified as follows:
 - a. "Subprofessional experience" means task work done under direct supervision and not falling within the definition of professional experience, including but not limited to time spent as a rodman, chainman, recorder, instrument technician, survey aide, technician, clerk of the works, or similar work.
 - b. "Professional experience" means a diversity of work calling for substantial technical knowledge, skill, and responsibility as well as a lesser degree of supervision necessary to ensure that good judgment is applied to protect the public during the course and scope of projects.
 - c. "Responsible charge experience" means work in the field or in the office, where the applicant/registrant had responsibility for the direction of the work and its successful accomplishment and where the applicant/registrant had to make professional decisions without relying on advice or instructions from or first referring the decisions for approval to a superior.
 - d. "Design experience" means professional experience, including work defined under "responsible charge experience," where the applicant/registrant must fulfill the requirements of local circumstances and conditions and yet not violate any of the requirements of the profession and ensure that the executed plan meets the purpose for which it was designed.
11. "Federal agency" means the United States or any agency or instrumentality, corporate or otherwise, of the United States.
12. "Good moral character and repute" means that the registration or certification applicant/registrant:
 - a. Has not been convicted of a felony or equivalent offense in another jurisdiction as defined in A.R.S. § 13-601.
 - b. Has not been convicted of misdemeanor or equivalent offense in another jurisdiction if the offense has a reasonable relationship to the functions of the employment or category for which the registration, certification, or designation is sought;
 - c. Has not, within five years of application for registration or certification, committed any act involving dishonesty, fraud, misrepresentation, breach of fiduciary duty, gross negligence, or incompetence reasonably related to the candidate's proposed area of practice;
 - d. Is not currently incarcerated in a penal institution;
 - e. Has not engaged in fraud or misrepresentation in connection with the application for registration, certification, or related examination;
 - f. Has not had a registration or certification revoked or suspended for cause by this state or by any other jurisdiction, or surrendered a professional license in lieu of disciplinary action;
 - g. Has not practiced without the required technical registration or certification in this state or in another jurisdiction within the two years immediately preceding the filing of the application for registration or certification; and
 - h. Has not, within five years of application for registration or certification, committed an act that would constitute unprofessional conduct, as set forth in R4-30-301 or R4-30-301.01.
13. "Gross negligence" means a substantial deviation in professional practice from the standard of professional care exercised by members of the applicant's/registrant's profession, or a substantial deviation from any technical standards issued by a nationally recognized professional organization comprised of members of the applicant's/registrant's profession, or a substantial deviation from requirements contained in state, municipal, and county laws, ordinances, and regulations pertaining to the registrant's professional practice.

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14. "Incompetence" means to lack the professional qualifications, experience, or education to undertake a professional engagement or assignment.
15. "Insufficient evidence to support disciplinary action" means:
 - a. The Board determines there was no evidence to warrant disciplinary action, but believes that continuation of the actions leading to the investigation may result in future Board action against the registrant; or
 - b. The Board determines that there were de minimis violations of Board statutes or rules, but no disciplinary action should be taken against the certification or registration and that a letter of concern would be as effective a resolution as a letter of reprimand in deterring future violations of a like nature.
16. "Other misconduct" means the applicant/registrant:
 - a. Has knowingly acted in violation or knowingly failed to act in compliance with any provisions of the Act, or rules of the Board or any state, municipal, or county law, code, ordinance, or regulation pertaining to the practice of the applicant's/registrant's profession; or
 - b. Has refused to respond fully to a Board inquiry relating to an applicant's/registrant's qualifying experience, or provided the Board with false information relating to an applicant's/registrant's qualifying experience.
17. "Practicing" means offering or performing professional services regulated by the Act within the state of Arizona.
18. "Prepared" means to exercise direct supervision over the preparation of professional documents.
19. "Professional documents" mean the professional work product of a registrant that requires professional judgment, design, analysis, or conclusions, including original plans, drawings, maps, plats, reports, written opinions, specifications, and calculations.
20. "Project Prime Professional" means the registrant is responsible for the coordination, continuity, and compatibility of each collaborating registrant's work (when retained by the project prime professional).
21. "Public works" project means a work or undertaking that is financed, in whole or in part, by a federal agency or by a state public body, as defined in this Article.
22. "Registrant" means a person or firm who has been granted registration or certification to practice any profession regulated pursuant to the Act.
23. "Retired from active practice" means that the registrant no longer performs professional services.
24. "State public body" means the state or a county, city, town, municipal corporation, authority, or any other subdivision, agency, or instrumentality of such an entity, corporate or otherwise.
25. "Structure" as used in the Act means any constructed or designed improvement or improvements to real property including all onsite improvements, fixed equipment, and landscaping, pursuant to an engagement or project.

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4).

Amended effective December 18, 1991 (Supp. 91-4).

Amended effective May 1, 1995 (Supp. 95-2). Amended by final rulemaking at 6 A.A.R. 1018, effective February 25, 2000 (Supp. 00-1). Amended by emergency rulemaking at 8 A.A.R. 1102, effective February 19, 2002 for 180 days (Supp. 02-1). Emergency rulemaking renewed for

an additional 180 days under A.R.S. § 41-1026(D) at 8 A.A.R. 3842, effective August 14, 2002 (Supp. 02-3). Emergency expired; original Section amended by final rulemaking at 9 A.A.R. 791, effective February 12, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Amended by final rulemaking at 13 A.A.R. 968, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

R4-30-102. Home Inspection Definitions

The following definitions apply to home inspection requirements in this Chapter:

1. "Parallel Inspection" means a home inspection completed by an applicant during the application process that is supervised by a certified home inspector acting as the Parallel Inspector, in the presence of no more than three other applicants. The applicant shall produce a written report for each Parallel Inspection, which the supervising certified home inspector, serving as the Parallel Inspector, shall review, analyze, correct, and return to the applicant within 10 calendar days after receiving the written report. The Parallel Inspector shall notate and instruct the applicant so that each report meets the Standards of Professional Practice for Arizona Home Inspectors. The applicant shall not perform any fee-paid Home Inspections during this Parallel Inspection period.
2. "Parallel Inspector" means an Arizona Certified Home Inspector who performs parallel inspections for a home inspector applicant so that the applicant can obtain a certification to conduct home inspections. A Parallel Inspector shall be in good standing with the Board and shall not have received any disciplinary action from the Board within the preceding year. The Parallel Inspector shall have been continuously certified by the Board as a Home Inspector for at least three years and shall have conducted at least 250 fee-paid home inspections in the State of Arizona. The Applicant shall provide a signed affirmation from the Parallel Inspector affirming that the Parallel Inspector has met this criteria to the Board with the application for certification.
3. "Peer Review" means a home inspection performed alongside a supervising Peer Reviewer in order to comply with the terms of Board ordered discipline. The Arizona Certified Home Inspector subject to Board ordered discipline shall, at the conclusion of each Peer Review, submit a written Home Inspection Report to the Peer Reviewer for analysis and review. The Peer Reviewer shall notate and instruct the Arizona Certified Home Inspector subject to Board ordered discipline in order for the report to meet the Standards of Professional Practice for Arizona Home Inspectors. The Arizona Certified Home Inspector subject to Board ordered discipline shall not perform any fee-paid Home Inspections during this Peer Review period.
4. "Peer Reviewer" means an Arizona Certified Home Inspector performing peer review inspections for a home inspector subject to Board ordered discipline so that inspector can fulfill the terms of the ordered discipline. A Peer Reviewer shall be in good standing with the Board and shall not have received any disciplinary action from the Board within the preceding three years. The Peer Reviewer shall have been continuously certified by the Board as a home inspector for at least five years and shall have conducted at least 250 fee-paid home inspections in the State of Arizona. The Arizona Certified Home Inspec-

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tor subject to Board ordered discipline shall provide the Board with a signed affirmation from the Peer Reviewer affirming that the Peer Reviewer has met these criterion at the conclusion of each peer review inspection.

5. "Report Checklist Supplement" a tool designed to assist home inspector applicants, parallel inspectors, peer reviewers, application reviewers, enforcement advisory evaluators and certified home inspectors when reviewing or filling out an application for home inspector certification and a home inspection report. The "Report Checklist Supplement" is not a substitute for the current version of the "Standards of Professional Practice."

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4). Repealed effective December 18, 1991 (Supp. 91-4). New Section made by emergency rulemaking at 8 A.A.R. 1102, effective February 19, 2002 for 180 days (Supp. 02-1). Emergency rulemaking amended and renewed for an additional 180 days under A.R.S. § 41-1026(D) at 8 A.A.R. 3842, effective August 14, 2002 (Supp. 02-3). Emergency expired; new Section made by final rulemaking at 9 A.A.R. 791, effective February 12, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Amended by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2). Amended under A.R.S. § 41-1033(J) at 25 A.A.R. 3323, effective April 24, 2019 (Supp. 19-2). Amended by final rulemaking at 30 A.A.R. 768 (April 19, 2024), effective May 25, 2024 (Supp. 24-1).

R4-30-103. Repealed**Historical Note**

Adopted effective August 3, 1983 (Supp. 83-4). Repealed effective December 18, 1991 (Supp. 91-4). New Section made by exempt rulemaking at 9 A.A.R. 1412, effective April 15, 2003 (Supp. 03-2). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Amended by final rulemaking at 19 A.A.R. 1911, effective October 7, 2013 (Supp. 13-3). Repealed by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

R4-30-104. Repealed**Historical Note**

Adopted effective August 3, 1983 (Supp. 83-4). Repealed effective December 18, 1991 (Supp. 91-4).

R4-30-105. Repealed**Historical Note**

Adopted effective August 3, 1983 (Supp. 83-4). Repealed effective December 18, 1991 (Supp. 91-4).

R4-30-106. Fees

- A. The Board shall charge the following fees:
 1. A computer generated list of registrants for a non-commercial purpose is \$0.25 per name, with a maximum fee of \$300.00.
 2. A computer generated list of registrants for a commercial purpose is \$0.25 per name, with a minimum fee of \$250.00.
 3. The photocopy fee is \$1.00 for up to three pages followed by a \$0.25 fee for each additional page.
 4. The replacement certificate fee for registrants and certificate holders is \$10.00 per certificate.

5. The recording medium copy fee is \$15.00 per recording.
6. The local examination review fee is \$30.00 per hour.
7. The returned check fee is \$25.00 per check.
8. The verification of registration or certification fee is \$25.00 per verification.
9. The laminated pocket card fee is \$10.00 per card.

- B. A person paying fees shall remit them in United States dollars in the form of cash, check, money order, or credit card. If a check is returned for insufficient funds, repayment, including payment of the returned check charge, shall be made in the form of cash, money order, or certified check.
- C. Upon written request, the Board shall waive renewal fees for registrants whose registration is in inactive status.
- D. Application fee refunds are not allowed after the application has been assigned an application number and processing commences.

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4). Emergency amendments adopted effective May 7, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-2). Emergency amendments readopted without change effective August 8, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency expired. Emergency amendments readopted without change effective February 13, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Emergency expired. Emergency amendments readopted without change effective May 31, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency amendments readopted with changes effective October 22, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency amendments permanently adopted with changes effective December 18, 1991 (Supp. 91-4). Amended effective July 6, 1993 (Supp. 93-3). Amended effective May 1, 1995 (Supp. 95-2). Amended effective January 12, 1996 (Supp. 96-1). Amended effective January 15, 1998 (Supp. 98-1). Amended by final rulemaking at 6 A.A.R. 1018, effective February 25, 2000 (Supp. 00-1). Amended by emergency rulemaking at 8 A.A.R. 1102, effective February 19, 2002 for 180 days (Supp. 02-1). Emergency rulemaking renewed for an additional 180 days under A.R.S. § 41-1026(D) at 8 A.A.R. 3842, effective August 14, 2002 (Supp. 02-3). Emergency expired; original Section amended by final rulemaking at 9 A.A.R. 791, effective February 12, 2003 (Supp. 03-1). Amended by exempt rulemaking at 9 A.A.R. 1412, effective April 15, 2003 (Supp. 03-2). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Amended by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

R4-30-107. Registration and Certification Expiration Dates

- A. Registrants with triennial registration have expiration dates based on the date of initial registration. The following table indicates triennial registration renewal periods:

| Initial Registration Granted Date | Initial Triennial Expiration Date |
|--------------------------------------|--------------------------------------|
| Jan. 1 through Mar. 31 | Three years from Mar. 31 |
| Apr. 1 through Jun. 30 | Three years from Jun. 30 |
| Jul. 1 through Sept. 30 | Three years from Sept. 30 |
| Oct. 1 through Dec. 31 | Three years from Dec. 31 |

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- B. Subsequent triennial renewal dates will be three years from the initial triennial renewal expiration date.
- C. All annual registrations and certifications expire one year from the date of issuance.
- D. Alarm business certifications expire three years from the date the certification is granted and subsequently every three years thereafter.
- E. Alarm controlling persons and alarm agent certifications expire three years from the date the certification was granted and subsequently every three years thereafter.

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4).
 Amended effective December 18, 1991 (Supp. 91-4).
 Amended by emergency rulemaking at 8 A.A.R. 1102, effective February 19, 2002 for 180 days (Supp. 02-1).
 Emergency rulemaking renewed for an additional 180 days under A.R.S. § 41-1026(D) at 8 A.A.R. 3842, effective August 14, 2002 (Supp. 02-3). Emergency expired; original Section amended by final rulemaking at 9 A.A.R. 791, effective February 12, 2003 (Supp. 03-1). Amended by exempt rulemaking at 9 A.A.R. 1412, effective April 15, 2003 (Supp. 03-2). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Amended by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

- R4-30-108. **Reserved**
- R4-30-109. **Reserved**
- R4-30-110. **Reserved**
- R4-30-111. **Reserved**
- R4-30-112. **Reserved**
- R4-30-113. **Reserved**
- R4-30-114. **Reserved**
- R4-30-115. **Reserved**
- R4-30-116. **Reserved**
- R4-30-117. **Reserved**
- R4-30-118. **Reserved**
- R4-30-119. **Reserved**

R4-30-120. Complaint Review Process

- A. The Board shall select a pool of volunteers who have submitted resumes and letters of interest to serve on enforcement advisory committees ("EACs"). The Executive Director shall select registrants and public members from the pool of volunteers to serve on the committees as needed. When practicable, each committee shall be comprised of one public member and a minimum of four registrants, at least one of whom is registered in the same category or branch as the respondent. The committee members shall provide technical assistance to Board staff in the evaluation and investigation of complaints. A quorum of three committee members is required for each committee meeting.
- B. During the preliminary informal investigation of a complaint, registrants named as respondents may appear before an enforcement advisory committee ("EAC") relating to the complaint. Respondents may elect to appear with or without counsel. The committee shall attempt to assess the complaint and discuss the complaint with the respondent and others, if

deemed necessary, and prepare a recommendation for disposition of the complaint.

- C. Respondents are not required to participate in the enforcement advisory committee meeting and no inference shall be drawn from a respondent's decision not to attend.
- D. If a respondent chooses not to attend the enforcement advisory committee meeting, the committee may meet and review information presented by staff and others and prepare a recommendation for disposition of the complaint.
- E. The Board shall advise the respondent of the committee recommendation.
- F. After the informal investigation has been completed, if the committee recommendation supports a determination that the complaint is unfounded, the recommendation shall be forwarded to the Board for review and final disposition.
- G. In all cases where the advisory committee finds probable cause to believe that disciplinary action is warranted, the staff will attempt to resolve the complaint informally by obtaining a signed consent agreement from the respondent. The Board shall review the committee recommendation, staff recommendation, consent agreement, and, in the event a signed consent agreement cannot be obtained, any counterproposal from the respondent.

Historical Note

Adopted effective December 18, 1991 (Supp. 91-4).
 Amended effective May 1, 1995 (Supp. 95-2). Amended by final rulemaking at 6 A.A.R. 1018, effective February 25, 2000 (Supp. 00-1). Amended by emergency rulemaking at 8 A.A.R. 1102, effective February 19, 2002 for 180 days (Supp. 02-1). Emergency rulemaking renewed for an additional 180 days under A.R.S. § 41-1026(D) at 8 A.A.R. 3842, effective August 14, 2002 (Supp. 02-3). Emergency expired; original Section amended by final rulemaking at 9 A.A.R. 791, effective February 12, 2003 (Supp. 03-1). Amended by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

R4-30-121. Investigation of Violations

If any information concerning a possible violation of the Act or any of these rules is received or obtained by the Board or Board staff, an investigation shall be conducted prior to the initiation of formal proceedings. Investigative reports, professional assessments, enforcement advisory committee recommendations, and other documents and materials relating to an investigation shall remain confidential until the matter is closed, until the issuance of a hearing notice under A.R.S. § 32-128, or until the matter is settled by consent order; however, the Board shall inform the respondent that an investigation is being conducted and explain the general nature of the investigation. The respondent shall have access to a copy of the complaint and any assessment or EAC reports drafted during the investigation. The public may obtain information that an investigation is being conducted and an explanation of the general nature of the investigation. The Board may refer investigative information to other public agencies as appropriate under the circumstances.

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4).
 Amended effective December 18, 1991 (Supp. 91-4).
 Amended by final rulemaking at 6 A.A.R. 1018, effective February 25, 2000 (Supp. 00-1). Amended by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

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R4-30-122. Issuance of Subpoenas

Any party desiring the Board to issue a subpoena shall make application, stating the substance of the testimony expected of the witness or the relevancy of the evidence to be produced. If the testimony or evidence appears to the Board to be material and necessary, a subpoena shall be supplied. The affixing of the seal of the Board and the signature of the Chairman, Secretary, Executive Director, shall be sufficient attestation of the same. The party applying for the subpoena shall pay for service of the subpoena. A party is considered served at the time of personal service or mailing of the document by certified mail that is addressed to the person's last known address of record on file with the Board.

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).
Amended by final rulemaking at 6 A.A.R. 1018, effective February 25, 2000 (Supp. 00-1). Amended by final rulemaking at 19 A.A.R. 128, effective March 10, 2013 (Supp. 13-1).

R4-30-123. Informal Compliance Procedures

- A. Upon notification of the recommendation of an enforcement advisory committee, a registrant may meet with Board staff. The registrant may appear with or without counsel. The purpose of the meeting is to discuss informal settlement of the investigative matter. Upon completion of the meeting, a Board enforcement officer shall make recommendations to the Board.
- B. At any time either before or after formal disciplinary proceedings have been instituted against a registrant, the registrant may submit to the Board an offer of settlement whereby, in lieu of formal disciplinary action, the registrant agrees to accept certain sanctions such as suspension, civil penalties, enrolling in relevant professional education courses, limiting the scope of practice, submitting work product to professional peer review, or other disciplinary sanctions. If the Board determines that the proposed settlement will adequately protect the public welfare, the Board shall accept the offer and enter a decision consented to by the registrant, incorporating the proposed settlement.

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).
Amended effective May 1, 1995 (Supp. 95-2). Amended by final rulemaking at 6 A.A.R. 1018, effective February 25, 2000 (Supp. 00-1). Amended by final rulemaking at 9 A.A.R. 791, effective February 12, 2003 (Supp. 03-1).
Amended by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

R4-30-124. Repealed**Historical Note**

Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).
Amended by final rulemaking at 6 A.A.R. 1018, effective February 25, 2000 (Supp. 00-1). Section repealed by final rulemaking at 9 A.A.R. 791, effective February 12, 2003 (Supp. 03-1).

R4-30-125. Reserved**R4-30-126. Service of Board Decisions; Rehearing of Board Decisions**

- A. Except as provided in subsection (G), any party to an appealable agency action or contested case before the Board who is

aggrieved by a decision rendered in the matter may file with the Board, not later than 30 calendar days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds for the motion. A decision shall be deemed to have been served on the date when personally delivered or mailed by certified mail to the party's last known address of record with the agency. The filing of a motion for rehearing is a condition precedent to the right of appeal provided in A.R.S. § 32-128(J).

- B. A motion for rehearing under this rule may be amended at any time before it is ruled upon by the Board. A response may be filed within 15 calendar days after service of the motion or amended motion by any other party. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument. The filing of a motion for rehearing or review suspends the operation of the Board's order and allows the registrant to practice in his or her profession pending denial or granting of the motion, and pending the decision of the Board on the rehearing or review if the motion is granted.
- C. A rehearing or review of the decision may be granted for any of the following causes materially affecting the moving party's rights:
 1. Irregularity in the administrative proceedings of the agency, members of the Board or the prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
 2. Misconduct of the Board or the prevailing party;
 3. Accident or surprise which could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
 5. Excessive or insufficient penalties;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing;
 7. The decision is unjustified based upon the evidence or is contrary to law.
- D. The Board may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.
- E. Not later than 30 days after a decision is rendered, the Board may on its own motion order a rehearing or review of its decision for any reason listed in subsection (C). After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case the order granting a rehearing shall specify the grounds for the rehearing.
- F. When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may, within ten days after service, serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.
- G. If the Board makes specific findings that the immediate effectiveness of a decision is necessary for preservation of the public welfare, health or safety and that a rehearing or review of the decision is impracticable, unnecessary or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehear-

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ing, any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Board's final decisions.

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4).

Amended effective December 18, 1991 (Supp. 91-4).

Amended effective May 1, 1995 (Supp. 95-2). Amended by final rulemaking at 6 A.A.R. 1018, effective February 25, 2000 (Supp. 00-1). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2).

Amended by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

ARTICLE 2. REGISTRATION PROVISIONS**R4-30-201. Registration as an Architect, Engineer, Geologist, Landscape Architect, or Land Surveyor**

A. An applicant for registration as an architect, engineer, geologist, landscape architect, or land surveyor shall submit a completed application package for professional registration that contains the following:

1. Evidence of successful completion of the current national professional examination or waiver of the examination pursuant to A.R.S. § 32-126 and R4-30-203 in the category, and branch if applicable, for which registration is sought. Applicants shall arrange to have their examination results sent directly to the Board from the applicable testing agency holding the examination results;
2. Name, residence address, mailing address if different from residence, email and telephone number, of the applicant;
3. Date of birth and social security number of the applicant;
4. Citizenship or legal residence of the applicant;
5. Category, and branch of engineering if applicable, for which the applicant is seeking registration;
6. A detailed explanatory statement and documentation, regarding:
 - a. Any disciplinary action, including suspension and revocation, taken by any state or jurisdiction on any professional or occupational registration, certification, or license held by the applicant in any state or jurisdiction, within five years before the date of application;
 - b. Refusal of any professional or occupational registration, certification, or license to the applicant by any state or jurisdiction, within five years before the date of application;
 - c. Any pending disciplinary action in any state or jurisdiction on any professional or occupational registration, certification, or license held by the applicant;
 - d. Any alias or other name used by the applicant; and
 - e. Any conviction of the applicant for a felony or misdemeanor, other than a minor traffic violation, within five years before the date of application.
7. State or jurisdiction in which the applicant holds any other professional or occupational registration, certification, or license, type of registration, certification or license number, year granted, how registration, certification, or license was granted (by examination, education, experience, or reciprocity);
8. State or jurisdiction in which the applicant has pending an application for any type of professional or occupational license, registration, or certification, type of license, registration or certification being sought, and the status of the application;

9. Name, mailing address, years attended, graduation date, major, and type of degree received from each college, university, or educational institution the applicant attended;
10. Certified transcripts sent directly to the Board from the registrar of each college, university, or educational institution the applicant attended, unless previously provided to the Board pursuant to R4-30-204;
11. Name, current address, and telephone number of the applicant's current and former employers (the names of companies within the last ten-year period) in the category for which registration is sought; dates of employment; applicant's title; description of the work performed; and number of hours worked per week, unless previously provided to the Board pursuant to R4-30-204;
12. Names and addresses of immediate supervisors in past and present employment in the category for which registration is sought. An applicant who has been working in the category for which registration is sought for 10 or more years shall provide the names and address of all immediate supervisors during the most recent ten-year period. If an applicant cannot supply the names and addresses of supervisors for at least three engagements, the applicant shall provide to the Board a written, sworn statement explaining the inability to provide this information, and the names and addresses of three professional references, unrelated to the applicant, at least two of whom are registered in the category for which registration is sought, unless previously provided to the Board pursuant to R4-30-204;
13. A release authorizing the Board to investigate the applicant's education, experience, moral character, and repute;
14. Certificate of Experience Report from the applicant's present and past immediate supervisors. The applicant shall also provide Certificate of Experience Record from additional professional references as required by the Board. The applicant shall provide the name, address, and telephone numbers of all references. The applicant shall ensure that completed reference forms are provided to the Board, but the Board must receive them directly from the reference;
15. Evidence of successful completion, or waiver by the Board, of the applicable fundamentals examination. An applicant for registration who has successfully completed a fundamentals examination in another jurisdiction in the category for which registration is sought equivalent to the examination for that category administered in Arizona shall submit proof of examination directly from the authority that administered the original examination. An applicant seeking professional registration as an engineer, geologist or land surveyor shall pass the applicable fundamentals examination before admission to the professional examination. An applicant seeking professional registration as a geologist may take the fundamentals examination on the same day;
16. Certification that the information provided to the Board is accurate, true and complete; and
17. The applicable fee.

B. If an applicant does not have the required education and experience for registration, the Board may, upon request of the applicant, hold the application for a period of time that does not exceed one year from the date the application is filed with the Board. All time-frames adopted pursuant to Title 41, Chap-

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ter 6, Article 7.1 are suspended during the above-referenced time.

- C. An applicant holding a certificate of qualification issued by one of the national examination councils recognized in R4-30-203(B) shall arrange to have the record forwarded to the Board by the national registration body. If the forms provided by the national examination council contain all the information described in A.R.S. § 32-122.01 and subsection (A), the Board may accept the forms in lieu of requiring the applicant to furnish the information directly to the Board.
- D. The Board staff shall review all applications and, if necessary, refer completed applications to an evaluator deemed qualified by the board and chosen from the pool of enforcement advisory committee members for evaluation. If the application for registration is complete and in the proper form and the Board staff or the evaluator is satisfied that all statements on the application are true and that the applicant is eligible in all other aspects to be registered in the field for which the application was filed, the Board staff or evaluator shall recommend that the Board certify the applicant as eligible for registration. If for any reason the Board staff or the evaluator is not satisfied that all of the statements on the application are true or that the applicant is eligible in all respects for registration, the Board staff shall make a further investigation of the applicant. The Board staff and evaluator shall submit recommendations to the Board for approval. The Board may also require an applicant to submit additional oral or written information if the applicant has not furnished satisfactory evidence of qualifications for registration.
- E. The Board may accept documentation that an applicant has passed a written national examination in the area for which registration is sought from a national council of which the Board is a member.
- F. The Board shall not accept an application for registration renewal unless the applicant has responded to the questions on the application relating to good moral character and other misconduct and signed the application for renewal. The Board shall return an incomplete application to the applicant which may result in assessment of a delinquent renewal fee.
- G. An applicant may withdraw an application for registration by written request to the Board. Any fee paid by the applicant is non-refundable. If an applicant withdraws an application, the Board shall close the file. An applicant whose file has been closed and who later wishes to apply for professional registration shall submit a new application package to the Board pursuant to R4-30-201 and R4-30-202.

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4).
 Amended effective December 18, 1991 (Supp. 91-4).
 Amended effective November 10, 1998 (Supp. 98-4).
 Amended by final rulemaking at 9 A.A.R. 791, effective February 12, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Amended by final rulemaking at 11 A.A.R. 3294, effective October 1, 2005 (05-3). Amended by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2). Amended by final rulemaking at 30 A.A.R. 768 (April 19, 2024), effective May 25, 2024 (Supp. 24-1).

R4-30-202. In-training Designation

- A. An applicant for in-training designation shall submit an original completed in-training application package that contains the following:

1. Category for which the applicant is seeking an in-training designation;
 2. Evidence of successful completion, or waiver by the Board, of the current fundamentals examination in the category for which in-training designation is sought;
 3. Information regarding any conviction for a felony or misdemeanor, other than a minor traffic violation, within five years before the date of application;
 4. Any alias or other name used by the applicant; and
 5. The information set forth in subsections (B)(2) through (9);
- B. An examination applicant who wants to sit for a fundamentals examination who does not possess an educational degree recognized by the applicable national council or who is not in the final year of a degree program recognized by the applicable national council shall submit an original completed exam authorization application to the Board, and provide the following:
 1. Name of the fundamental examination the applicant wishes sit for;
 2. Name, residence address, mailing address if different from residence, email and telephone number of the applicant;
 3. Date of birth and social security number of the applicant;
 4. Citizenship or legal residence;
 5. Name, mailing address, years attended, graduation date, major, and type of degree received from each college, university, or educational institution that the applicant attended;
 6. Certified transcripts sent directly to the Board from the registrar of each college, university, or educational institution the applicant attended;
 7. A release authorizing the Board to investigate the applicant's education, experience, moral character, and repute;
 8. Certification that the information provided to the Board is accurate, true, and complete.
 9. The applicable fees.
 - C. If otherwise qualified, the Board shall permit an applicant for in-training designation to take the fundamentals examination in the final year of a baccalaureate, masters, or other degree program that is not recognized by the applicable national council and accredited in the category for which the application is made. The applicant shall have the application form endorsed by the applicant's college dean or faculty advisor, or, if already a graduate, may arrange to have a final transcript, indicating the degree awarded, sent directly from the registrar to the Board, in lieu of the endorsement.
 - D. The Board shall permit an applicant without an accredited college degree or who is not in the final year of a degree program recognized by the applicable national council to take the fundamentals examination after submitting to the Board evidence of four years of satisfactory experience or education or both. The applicant shall provide the name, current address, and telephone number of all current and former employers; names of all supervisors and their titles; dates of employment; applicant's title, and a description of the work performed. The applicant shall provide Certificate of Experience Record and Reference Forms to immediate supervisors at present and past employers. The applicant shall ensure the completed reference forms are submitted to the Board. The applicant shall meet all other requirements of this Section.

Historical Note

New Section R4-30-202 renumbered from R4-30-203 and amended effective November 10, 1998 (Supp. 98-4).

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Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Amended by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2). Amended by final rulemaking at 30 A.A.R. 768 (April 19, 2024), effective May 25, 2024 (Supp. 24-1).

R4-30-202.01. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 903, effective February 14, 2002 (Supp. 02-1). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Repealed by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

R4-30-203. Waiver of Examination

- A.** The Board shall grant a waiver of the professional examination requirement in A.R.S. § 32-122.01 and R4-30-201 to an applicant for professional registration who holds a valid professional or occupational registration, certification, or license in the category for which registration, certification, or licensure is sought, and is in good standing in another state or U.S. territory provided: The applicant submits verifiable documentation to the Board that the applicant has been actively engaged as a professional or occupational registrant, certificant, or licensee in another state or U.S. territory for at least 10 years in the category for which registration, certification, or licensure is sought. For purposes of this subsection, “actively engaged as a professional registrant” means that the applicant holds a valid professional or occupational registration, certification, or license in good standing, and has been practicing or offering professional services for at least 10 of the last 15 years.
- B.** The Board shall grant a waiver of the professional examination requirement in A.R.S. § 32-122.01 and R4-30-201 to an applicant for professional registration who submits verifiable documentation to the Board that the applicant holds one of the following professional records, issued by a national examination council, and is registered in good standing in another state or U.S. territory and has been actively engaged in the practice of the profession for which the applicant seeks registration. The Board recognizes the following national examination council records:
1. National Council of Architectural Registration Boards’ (“NCARB”) Certificate Record, with design and seismic (lateral forces) qualifications;
 2. National Council of Examiners for Engineers and Surveyors Council (“NCEES”) Record; or
 3. Council of Landscape Architectural Registration Boards Council (“CLARB”) Record and Certification.
- C.** When reviewing an engineering applicant’s experience and examination information, the Board shall take into account the specific branch of engineering in which the applicant is seeking proficiency recognition.
- D.** The Board shall waive the fundamentals examination if an applicant has successfully completed a fundamentals examination in another state or jurisdiction in the category for which registration is sought, which is equivalent to those examinations required in Arizona. The applicant shall ensure that proof of successful completion is forwarded directly from the authority that administered the original examination.
- E.** The Board shall waive the fundamentals examination for an applicant who has a degree listed in R4-30-208(A) or other educational credit approved by the Board in the category, and branch if applicable, for which registration is sought, and meets all other requirements of A.R.S. § 32-126(D).

- F.** All applicants who request a waiver of any examination requirement shall meet all other requirements for professional registration or in-training designation in R4-30-201 and R4-30-202. An applicant applying for a waiver under subsection (B) shall ensure that the required documentation is forwarded directly to the Board from the national examination council.

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4). Amended effective December 18, 1991 (Supp. 91-4). Amended effective May 1, 1995 (Supp. 95-2). R4-30-203 renumbered to R4-30-202; new Section R4-30-203 renumbered from R4-30-207 and amended effective November 10, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 903, effective February 14, 2002 (Supp. 02-1). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Amended by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

R4-30-204. Examinations

- A.** Board Review For Authorization to Test: Applicants who wish to sit for professional examination who do not possess an educational degree recognized by the applicable national council shall submit to the Board the following information for approval:
1. Name, residence address, mailing address if different from residence, email and telephone number;
 2. Date of birth and Social Security number;
 3. Proof of citizenship or legal residence;
 4. Category, and branch of engineering if applicable;
 5. Name, mailing address, years attended, graduation date, major, and type of degree received from each college, university, or educational institution attended;
 6. Certified transcripts sent directly to the Board from the registrar of each college, university, or educational institution attended;
 7. Evidence of at least 60 months of required education or experience, or both, in the category for which registration is sought.
 - a. The name, current address, and telephone number of the applicant’s current and former employers in the category for which registration is sought;
 - b. Dates of employment;
 - c. Applicant’s title;
 - d. Description of work performed; and
 - e. Number of hours worked per week;
 8. Names and current addresses of applicant’s current and former employers (the names of companies within the last ten year period) in the category for which registration is sought. If an applicant cannot supply the names and addresses of supervisors for at least three engagements, the applicant shall provide to the Board a written, sworn statement explaining the inability to provide this information, and the names and addresses of three additional references, unrelated to the applicant, at least two of whom are registered in the category for which registration is sought;
 9. A release authorizing the Board to investigate the applicant’s education and experience;
 10. Certificate of Experience Report from the applicant’s present and past immediate supervisors. The applicant shall also provide Certificate of Experience Record and Reference Forms from additional professional references as required by the Board. The applicant shall provide the

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name, address, and telephone numbers of all references. The applicant shall ensure that the Board receives these Reports directly from the reference;

11. Evidence of successful completion, or waiver by the Board, of the applicable fundamentals examination. An applicant who has successfully completed a fundamentals examination in another state or jurisdiction in the category for which registration is sought equivalent to the examination for that category administered in Arizona shall submit proof of examination directly from the authority that administered the original examination. An applicant seeking professional registration as an engineer, geologist, or land surveyor shall pass the applicable fundamentals examination before admission to the professional examination. An applicant for registration as a geologist may take the in-training examination on the same date as the professional examination;
 12. Certification that the information provided to the Board is accurate, true, and complete; and
 13. The applicable fees.
 14. In addition to the above requirements, an applicant who does not possess education required for direct access to the NCARB Architect Registration Examination (ARE) shall provide the Board with 60 months of a diversity of experience directly related to the practice of architecture and of a character satisfactory to the Board, in each of the following categories, in order to obtain Board authorization to sit for the required registration examination:
 - a. Practice Management. The experience obtained in this category shall demonstrate abilities to manage architectural practice, including professional ethics, fiduciary responsibilities, and the regulations governing the practice of architecture. The experience obtained shall focus on issues related to pre-contract tasks including negotiation, human resource management, and consultant development. Applicants shall demonstrate an understanding of and abilities in business structure, business development, and asset development and protection.
 - b. Project Management. The experience obtained in this category shall demonstrate abilities to manage architectural projects, including organizing principles, contract management, and consultant management. The experience shall focus on issues related to office standards, development of project teams, and overall project control of client, fee, and risk management. Experience shall demonstrate an understanding of and abilities in quality control, project team configuration, and project scheduling. In addition, the experience shall demonstrate the ability to establish and deliver project services per contractual requirements in collaboration with consultants.
 - c. Programming and Analysis. The experience obtained in this category shall demonstrate abilities related to the evaluation of project requirements, constraints, and opportunities. The experience shall focus on issues related to programming, site analysis, and zoning and code requirements and demonstrate an understanding of and abilities in project type analysis, the establishment of qualitative and quantitative project requirements, evaluation of project site and context, and assessment of economic issues.
 - d. Project Planning and Design. The experience obtained in this category shall demonstrate abilities to assess objectives related to the preliminary design of sites and buildings. The experience shall focus on issues related to the generation or evaluation of design alternatives that synthesize environmental, cultural, behavioral, technical and economic issues. The experience shall demonstrate an understanding of and abilities in design concepts, sustainability/environmental design, universal design, and other forms of governing codes and regulations.
 - e. Project Development and Documentation. The experience obtained in this category shall demonstrate objectives related to the integration and documentation of building systems, material selection, and material assemblies into a project. The experience shall focus on issues related to the development of design concepts, evaluation of materials and technologies, selection of appropriate construction techniques, and appropriate construction documentation. The experience shall demonstrate an understanding of and abilities in integration of civil, structural, mechanical, electrical, plumbing, and specialty systems into overall project design and documentation.
 - f. Construction and Evaluation. The experience obtained in this category shall demonstrate objectives related to construction contract administration and post-occupancy evaluation of projects. The experience shall focus on issues related to bidding and negotiation processes, support of the construction process, and evaluation of completed projects. The experience shall demonstrate an understanding of and abilities in construction contract execution, construction support services (including construction observation and shop drawing or submittal review), payment request processing, and project closeout. In addition, candidates shall also demonstrate an understanding and abilities in project evaluation of integrated building systems and their performance.
- B.** The Board staff shall review all applications and, if necessary, refer completed applications to an evaluator who meets qualifications approved by the Board for evaluation. If the application for examination is complete and in the proper form and the Board staff or the evaluator is satisfied that all statements on the application are true and that the applicant is eligible to take the examination, the Board staff or evaluator shall recommend that the Board certify the applicant as eligible to take the examination. If for any reason the Board staff or evaluator is not satisfied that all of the statements on the application are true or that the applicant is eligible in all respects for examination, the Board staff shall make a further investigation of the applicant.
- C.** National Council Examinations:
1. Applicants who wish to sit for a fundamental or professional examination, and who have earned an educational degree recognized by the applicable national council may apply directly to the applicable national council to take that exam. Applicants who wish to sit for a fundamental examination who are in the final year of a degree program recognized by the applicable national council may apply directly to the applicable national council to take that exam.

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2. Applicants not possessing the appropriate degree pursuant to subsection (C)(1) may apply to the Board for examination approval and after Board review, the Board may recommend them to the applicable national council for entry into the applicable national examination. Applicants shall meet all national council requirements for successful completion of applicable examinations.
3. An applicant for examination in any category shall take and pass the examination or at least one division of a multi-divisional examination within one year after receiving approval. If an applicant fails to take and pass an examination within one year after receiving approval, the applicant shall submit a new application for examination authorization to the Board.

D. Board Administered Examinations:

1. An examination administered by the Board shall be given at the times and places determined by the Board. Once the Board approves an applicant to sit for a Board-administered examination, shall take and pass the examination within one year from making the request to test unless the Board grants an extension. The applicant shall communicate all questions and concerns regarding extensions, special accommodations and refunds to the Board. The applicant shall make any request for additional time or other special examination accommodation to the Board within a reasonable time before the examination date.
2. An applicant who fails to achieve a passing grade on any examination administered by the Board may request reexamination by notifying the Board in writing of the applicant's desire to retake the examination and paying the applicable examination fee. An applicant who retakes any examination shall advise the Board of any changes in the information provided under subsection (A) of this Section and R4-30-202(B) within 30 days from the date of the change. The Board shall close an applicant's file if the Board does not receive written confirmation from the applicant of the applicant's desire to retake and pass the Board-administered examination within one year from the request for reexamination. An applicant whose file has been closed and who later wishes to apply for examination shall submit a new examination application package to the Board.
3. An applicant for a Board-administered examination who wishes to review the applicant's examination scores shall file a written request with the Board within 30 days after receiving notification of the failing grade. The applicant may review an examination by making prior arrangements with the staff and paying the applicable fee. The applicant shall complete any review within 60 days of the request for a review. In reviewing multiple choice questions, an applicant may review only those questions that were incorrect.
4. An applicant who desires a regrade of a Board administered examination shall file a written request with the Board within 30 days after receiving notification of the failing grade or within 30 days after reviewing the examination, whichever is applicable, and pay the applicable fee. The applicant shall identify the questions to be reviewed. The applicant shall state why a review of the item is justified. The applicant shall provide specific facts, data, and references to support any assertion that the solution deserves more credit. The Board shall determine whether it will regrade the examination.

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4).
 Amended effective December 18, 1991 (Supp. 91-4).
 Amended effective May 1, 1995 (Supp. 95-2). Amended effective November 10, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Amended by final rulemaking at 11 A.A.R. 3294, effective October 1, 2005 (Supp. 05-3). Amended by final rulemaking at 19 A.A.R. 128, effective March 10, 2013 (Supp. 13-1). Amended by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2). Amended by final rulemaking at 30 A.A.R. 768 (April 19, 2024), effective May 25, 2024 (Supp. 24-1).

R4-30-205. Reserved**R4-30-206. Repealed****Historical Note**

Adopted effective August 3, 1983 (Supp. 83-4).
 Amended effective December 18, 1991 (Supp. 91-4).
 Repealed effective November 10, 1998 (Supp. 98-4).

R4-30-207. Renumbered**Historical Note**

Adopted effective August 3, 1983 (Supp. 83-4).
 Amended effective December 18, 1991 (Supp. 91-4).
 Amended effective May 1, 1995 (Supp. 95-2). Section R4-30-207 renumbered to R4-30-203 effective November 10, 1998 (Supp. 98-4).

R4-30-208. Education and Work Experience**A. Education credit.**

1. The Board shall grant credit according to the following:
 - a. Architectural applicants with National Architectural Accrediting Board accredited degree (NAAB): 60 months
 - b. Architectural applicants with a four-year architectural degree: 48 months
 - c. Landscape Architectural Accrediting Board accredited degree (LAAB): 48 months
 - d. Landscape Architectural applicants with LAAB accredited master's or doctorate degree: 60 months
 - e. Engineering applicants with an Accreditation Board of Engineering and Technology (ABET) accredited bachelor's degree and a (ABET) master's or doctorate degree in the branch of engineering that registration is sought: 60 months
 - f. Engineering applicants with an ABET accredited bachelor's degree or equivalent in the branch of engineering that registration is sought: 48 months
 - g. Engineering applicants with four-year ABET accredited degrees in a branch other than that in which registration is sought: 36 months
 - h. Land Surveying applicants with ABET accredited bachelor degree in land surveying: 48 months
 - i. Land Surveying applicants with a master's degree in land surveying: 60 months
 - j. Geology applicants with bachelor's degree in geology or earth sciences: 48 months
 - k. Geology applicants with a master's or doctorate degree in geology or earth sciences: 60 months
2. The Board shall grant all other education credit according to the following:

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- a. Credit shall not be granted for course work obtained in the United States or its possessions unless attained at an institution of higher education accredited by an accrediting agency recognized by the U.S. Department of Education.
 - b. Pro rata credit shall be granted for successful completion of courses substantially equivalent to the courses contained in the pertinent degree program identified in subsection (A) of this rule.
 - c. Credit shall not be given for general education courses in excess of the number of hours allowed in the pertinent program identified in subsection (A).
 - d. In determining pro rata credit, 30 semester hours or 45 quarter hours shall equal 12 months' credit.
 - e. An applicant shall be granted both education and work experience for the same period provided the total months' credit granted in a period does not exceed the number of months in that period.
 - f. Foreign education evaluation service acceptable to the Board shall be required of foreign-educated applicants and shall be provided at applicants' cost.
- B.** The Board shall credit work experience as follows:
1. One hundred and thirty hours or more of work per month is equal to one month of work experience.
 2. Between 85 hours and 129 hours of work per month is equal to one-half month of work experience.
 3. The Board shall not grant credit for less than 85 hours of work experience in a month.
 4. Experience shall be verified by the employer before the Board grants the credit.
- Historical Note**
 Adopted effective December 18, 1991 (Supp. 91-4).
 Amended effective May 1, 1995 (Supp. 95-2). Amended by final rulemaking at 6 A.A.R. 1018, effective February 25, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 903, effective February 14, 2002 (Supp. 02-1). Amended by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).
- R4-30-209. Time-frames for Professional Registration, Certification, or In-training Designation**
- A.** Within 60 days of receiving the initial application package for professional registration, certification, or in-training designation, the Board shall finish an administrative completeness review.
1. If the application package is complete, the Board shall notify the applicant that the package is complete and that the administrative completeness review is finished.
 2. If the application package is incomplete, the Board shall notify the applicant that the package is deficient and specify the information or documentation that is missing. All time-frames are suspended from the date the notice is mailed to the applicant until the Board receives all missing information or documentation.
 3. An applicant with an incomplete application package shall supply the missing information or documentation within 90 days from the date of the notice of deficiencies. If the applicant fails to supply the missing information or documentation, the Board may close the applicant's application file. Any fee paid by the applicant is Non-refundable. An applicant whose file has been closed and who later wishes to apply for professional registration, certification, or in-training designation shall submit a new application package and pay the applicable fee.
 4. If an applicant requests to sit for the professional, certification, or fundamentals examination, or requests a waiver of examination, the time-frames in R4-30-210 apply until the Board grants or denies the applicant's request.
- B.** The Board shall complete its substantive review of the application package and render a decision no later than 60 days after the date the Board mails the notice of administrative completeness to the applicant.
1. If the Board finds that the applicant meets all requirements in statute and rule, the Board shall approve the applicant for professional registration, certification, or in-training designation.
 2. If the Board finds a deficiency during the substantive review of the application package, the Board shall issue a written request, specifying the additional information or documentation to be submitted and the deadline for submission. The time-frame for substantive review of an application package is suspended from the date the written request for additional information or documentation is mailed until the date that all missing information or documentation is received or the deadline for submission passes.
 3. When the Board and applicant mutually agree in writing, the Board or its designee shall grant extensions of the substantive review time-frame totaling no more than 30 days.
 4. If the applicant fails to supply the missing information or documentation by the deadline date, the Board may close the applicant's application file. Any fee paid by the applicant is non-refundable. An applicant whose file has been closed and who later wishes to apply for professional registration, certification, or in-training designation shall submit a new application package and pay the applicable fee.
 5. If the Board finds that the applicant does not meet all requirements in statute and rule, the Board shall deny the applicant professional registration, certification, or in-training designation. The Board shall provide written notice of the denial. The notice shall include justification for the denial, references to the statutes or rules on which the denial was based, and an explanation of the applicant's right to appeal, including the number of days the applicant has to file an appeal, and the name and telephone number of a Board contact person who will answer questions regarding the appeals process.
- C.** Saturdays, Sundays, and legal holidays are not counted in calculating the number of days under this Section.
- D.** For purposes of A.R.S. § 41-1073, the Board establishes the following time-frames for a candidate applying for professional registration, certification, or in-training designation:
1. Administrative completeness review time-frame: 60 days;
 2. Substantive review time-frame: 60 days; and
 3. Overall time-frame: 120 days. Days during which time is suspended under subsection (A)(2) are not counted in the computation of the overall time-frame.
- Historical Note**
 Adopted effective November 10, 1998 (Supp. 98-4).
 Amended by final rulemaking at 8 A.A.R. 903, effective February 14, 2002 (Supp. 02-1). Amended by emergency rulemaking at 8 A.A.R. 1102, effective February 19, 2002 for 180 days (Supp. 02-1). Emergency rulemaking amended and renewed for an additional 180 days under A.R.S. § 41-1026(D) at 8 A.A.R. 3842, effective August

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14, 2002 (Supp. 02-3). Emergency expired; original Section amended by final rulemaking at 9 A.A.R. 791, effective February 12, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Amended by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

R4-30-210. Time-frames for Approval to Sit for, or for Waiver of, the Professional, Certification, or Fundamentals Examination

- A. Within 60 days of receiving the initial application package to sit for, or for waiver of, the professional, certification, or fundamentals examination, the Board shall finish an administrative completeness review.
1. If the application package is complete, the Board shall notify the applicant that the package is complete and that the administrative completeness review is finished.
 2. If the application package is incomplete, the Board shall notify the applicant that the package is deficient and specify the information or documentation that is missing. All time-frames are suspended from the date the notice is mailed to the applicant until the Board receives all missing information or documentation.
 3. An applicant with an incomplete application package shall supply the missing information or documentation within 90 days from the date of the notice of deficiencies. If the applicant fails to supply the missing information or documentation, the Board may close the applicant's application file. Any fee paid by the applicant is non-refundable. An applicant whose file has been closed and who later wishes to sit for the fundamentals, certification, or professional examination, or who requests a waiver of examination, shall submit a new application package and pay the applicable fee.
- B. The Board shall complete its substantive review of the application package and render a decision no later than 60 days after the date the Board mails the notice of administrative completeness to the applicant.
1. If the Board finds that the applicant meets all requirements in statute and rule, the Board shall either approve the applicant to sit for the next applicable examination, or the Board shall waive the examination requirement.
 2. If the Board finds a deficiency during the substantive review of the application package, the Board shall issue a written request, specifying the additional information or documentation to be submitted and the deadline for submission. The time-frame for substantive review of an application package is suspended from the date the written request for additional information or documentation is mailed until the date that all missing information or documentation is received.
 3. If the Board and applicant mutually agree in writing, the Board or its designee shall grant extensions of the substantive review time-frames totaling not more than 30 days.
 4. If the applicant fails to supply the missing information or documentation by the deadline date, the Board may close the applicant's application file. Any fee paid by the applicant is non-refundable. An applicant whose file has been closed and who later wishes to sit for the applicable examination or request a waiver of examination shall submit a new application package and pay the applicable fee.
- C. Saturdays, Sundays, and legal holidays are not counted in calculating the number of days under this Section.

- D. For the purposes of A.R.S. § 41-1073, the Board establishes the following time-frames for an applicant wishing to sit for the applicable examination or to request a waiver of examination:

1. Administrative completeness review time-frame: 60 days;
2. Substantive review time-frame: 60 days; and
3. Overall time-frame: 120 days.

Historical Note

Adopted effective November 10, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 903, effective February 14, 2002 (Supp. 02-1). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Amended by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

R4-30-211. Repealed

Historical Note

Adopted effective November 10, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 903, effective February 14, 2002 (Supp. 02-1). Section repealed by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2043, effective June 30, 2014 (Supp. 14-3).

R4-30-212. Expired

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4). Amended effective December 18, 1991 (Supp. 91-4). Amended effective May 1, 1995 (Supp. 95-2). Amended by final rulemaking at 6 A.A.R. 1018, effective February 25, 2000 (Supp. 00-1). Amended by final rulemaking at 9 A.A.R. 791, effective February 12, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Amended by final rulemaking at 19 A.A.R. 128, effective March 10, 2013 (Supp. 13-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2043, effective June 30, 2014 (Supp. 14-3).

R4-30-213. Reserved

R4-30-214. Architect Registration

An applicant for architect registration shall complete all of the following:

1. An applicant shall provide evidence of successful completion of the National Council of Architectural Registration Boards' (NCARB) professional experience requirement.
2. An applicant shall successfully complete the professional architect examination designated by the Board and provided by the National Council of Architectural Registration Boards.

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4). Amended effective December 18, 1991 (Supp. 91-4). Correction to subsection (B) (Supp. 96-1). Amended by final rulemaking at 6 A.A.R. 1018, effective February 25, 2000 (Supp. 00-1). Amended by final rulemaking at 9 A.A.R. 791, effective February 12, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Amended by final rulemaking at 11 A.A.R. 3294, effective October 1, 2005 (Supp. 05-3). Amended by final rulemaking at 19 A.A.R. 128, effective March 10, 2013 (Supp. 13-1). Amended by

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final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

R4-30-215. Reserved

R4-30-216. Reserved

R4-30-217. Reserved

R4-30-218. Reserved

R4-30-219. Reserved

R4-30-220. Reserved

R4-30-221. Engineering Branches Recognized

A. The Board shall recognize the branches of engineering described below for review of experience, selection of examination, definition of examination areas, and definition of demonstrated proficiency areas to be inscribed on the registrant's seal. The branches do not limit the areas of a registrant's practice of engineering. (See R4-30-301(18))

1. Agriculture: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for projects concerning agricultural machinery, drainage, irrigation, terracing, farm electricity or water pumps and wells for the maintenance of adequate potable water supplies for crops, people, animals, or industry.
2. Architectural: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for projects concerning building mechanical, acoustical, electrical, lighting, or structural systems.
3. Chemical: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for projects concerning chemical enterprises, chemical and biological processes, plant layout, production of pilot plants, water, wastewater and pollution control plants, piping and distribution systems, heat exchanges, energy production management and distribution systems, process instrumentation and control systems, biomedical equipment, mining and minerals beneficiation, corrosion retardation, heat, mass and momentum transfer systems, reaction kinetics, thermodynamics, quality assurance controls, or systems for heat transmission.
4. Civil: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for projects concerning highways, streets, transportation systems, drainage and flood control structures, surface and subsurface hydrologics, sewers, tunnels, railroads, geotechnical analysis, waterfronts, water and wastewater systems, water power and supply apparatus, wells, pumps, bridges, dams, irrigation structures, water purification apparatus, incinerators, or site fire protection systems.
5. Control Systems: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for projects concerning control systems and their constituent devices including, but not limited to, dynamic stability and the application of instrumentation and feedback control principles to regulate and operate chemical plants, petroleum refineries, food processing plants, water and waste treatment plants, power plants, pollution abatement systems, transportation systems, or other dynamic processes and systems.
6. Electrical: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for projects concerning power systems, electronic and transmission equipment, electric service and supply systems, lighting systems, communication service and supply systems, fire alarm and detection systems, control systems, or electrical installations.

7. Environmental: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for projects concerning water and wastewater systems, domestic and process (industrial/commercial) solid waste and hazardous materials systems, air quality systems, or health, safety, and environmental protection including, but not limited to systems relating to emergency response, risk analysis, radiation protection, noise toxicology, or industrial hygiene.
8. Fire Protection: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for projects concerning building exiting and life safety systems, fire suppression systems and devices, fire detection and alarm systems and devices, smoke exhaust and smoke management systems, fire resistance for building components and assemblies, water supplies and pumping systems for fire protection, including the hydraulic analysis of such systems, and the reduction and control of fire hazards due to processes subject to fire or explosion.
9. Geological: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for projects concerning geological studies related to surface and subsurface excavations and foundations, stability of slopes, groundwater locations, geological material age and strength determinations near surface or deep subsurface geological structures or geophysical mapping of geological formations and groundwater locations.
10. Industrial: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for projects concerning factory layouts, tools and fixtures, factory planning, time and motion study systems, rate plans, production plans, quality control systems and analysis, work simplification systems, methods studies and cost, production control, organizational, operational and labor needs, or safety analysis.
11. Mechanical: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for projects concerning air conditioning, refrigeration, ventilation, combustion, heat transfer, energy, power, fuels, propulsion, machinery, tools, manufacturing, fluids, plumbing, fire suppression systems and devices, water supplies and pumping systems for fire protection, including the hydraulic analysis of such systems.
12. Metallurgical: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for projects concerning the production of metals or metal objects, testing procedures, metal processing, failure analysis procedures, mining and mineral beneficiation, or the development of metal alloys.
13. Mining: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for projects concerning the construction of plants, shaft and bottom layouts, ventilation and hoisting systems, head frames, washery or concentration mills, mining methods and testing procedures, or metallurgical works and production procedures.

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14. Nuclear: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for projects concerning nuclear waste management, alternative waste management systems, disposal criteria and risk evaluation, transportation, packaging, decontamination, handling, welding evaluation, site stabilization, recovery techniques, water and air quality control systems, waste volume management, evaporation systems, reactor safety methods, health safety systems, cycle analysis, or nuclear fuels.
15. Petroleum: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for projects concerning drilling equipment, pipelines, refinery plants, gathering systems, handling and storage systems, exploitation and selection methods, gas measurement and core analysis, phase behavior studies, reserve calculations, or the development of petroleum products.
16. Sanitary: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for projects concerning water treatment and sewage disposal plants, water systems, sewers, incinerators, distribution systems, sewage and industrial waste treatment plants, pollution reduction systems, sanitary facilities, or public health systems.
17. Structural: Consultation, investigation, evaluation, planning, design, location, development, and review of construction for projects concerning force-resisting and load-bearing members and their connections for structures such as foundations, bridges, walls, columns, slabs, beams, trusses, or similar members used singly or as part of a larger structure.

- B.** An applicant shall submit to the Board a separate application and application fee for each branch for which application is made. An applicant who wishes to change the branch of application after notification by the Board that the application has been evaluated by the Board shall submit the request in writing and pay an additional application fee.

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4).
 Amended effective December 18, 1991 (Supp. 91-4).
 Amended effective July 6, 1993 (Supp. 93-3). Amended effective May 1, 1995 (Supp. 95-2). Amended effective December 18, 1997 (Supp. 97-4). Amended by final rulemaking at 6 A.A.R. 1018, effective February 25, 2000 (Supp. 00-1). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Amended by final rulemaking at 12 A.A.R. 1606, effective July 1, 2006 (Supp. 06-2).

R4-30-222. Engineer-In-Training Designation

- A.** To qualify for admission to the fundamentals examination solely on the basis of education, an applicant shall be a graduate of a four-year engineering degree program accredited at the time of graduation by the Accreditation Board for Engineering and Technology (ABET) or an equivalent predecessor organization.
- B.** To qualify for admission to the fundamentals examination, an applicant who is not a graduate of a four-year ABET-accredited engineering degree program shall have at least four years of education or experience or a combination of both directly related to the practice of engineering. Experience directly related to the practice of engineering of a character satisfactory

to the Board includes but is not limited to the following in the candidate's branch of engineering:

1. Consultation: The active involvement in meetings, discussions or development of reports intended to provide information, facts or advice regarding the application of the accepted engineering principles to fulfill the client's specific requirements.
2. Research investigation: The search, examination or study to determine the practicality or effectiveness of accepted principles for adaptation and application to novel situations or the development of new or alternative solutions to solve problems.
3. Evaluation: The analysis, testing or study to determine or estimate the merit, effect, efficiency or practicality of approaches, methods, designs, structures or materials for use in a given situation or to achieve a specific result.
4. Planning: The preliminary development of objectives, statements, outlines, drafts, drawings or diagrams showing the arrangement, scheme, schedule, program or procedure for determining the most effective solution to a problem.
5. Design: Design, development and location experience.
6. Construction review: The review or supervision of construction projects in the candidate's branch of engineering to determine conformance with contract documents and design specifications (maximum 12 months' credit).
7. Administration: Administrative experience in the candidate's branch of engineering, including office and field administration, field or laboratory testing, quotation requests, change orders, bidding procedures, cost accounting and project closeouts maximum 12 months' credit).
8. Surveying: The measurement, using accepted methods of surveying, of units of space, water, land or structures to determine boundaries, areas, shapes, slopes, distances, angles or other calculations (maximum 12 months' credit).
9. Editing or writing: The editing or writing for publication of articles, books, newsletters or other written materials directly relating to the candidate's branch of engineering (maximum six months' credit).
10. Other engineering experience: Experience of a nature set forth in this subsection but in other recognized branches of engineering (maximum six months' credit).
11. Subprofessional experience: As defined in rule R4-30-101 (maximum six months' credit).

- C.** An applicant for Engineer In-Training Designation shall successfully complete the fundamentals examination designated by the Board and provided by the National Council of Examiners for Engineers and Surveyors.

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4).
 Amended effective December 18, 1991 (Supp. 91-4).
 Amended by final rulemaking at 6 A.A.R. 1018, effective February 25, 2000 (Supp. 00-1). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Amended by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

R4-30-223. Reserved**R4-30-224. Engineer Registration**

- A.** Work experience credited toward the eight-year active engagement requirement shall be directly related to the applicant's branch of engineering and of a character satisfactory to the

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Board and attained as described in R4-30-222, except that work experience for specific branches of engineering as described in R4-30-221 shall be for the purpose of qualifying an applicant for registration only and shall not be construed to restrict or confine the work practices of or engineering engagements accepted by a registrant.

- B. An applicant shall successfully complete the professional engineer examinations offered in the applicant's branch of engineering designated by the Board.

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4).

Amended effective December 18, 1991 (Supp. 91-4).

Amended effective July 6, 1993 (Supp. 93-3). Amended effective May 1, 1995 (Supp. 95-2). Amended by final rulemaking at 6 A.A.R. 1018, effective February 25, 2000 (Supp. 00-1). Amended by final rulemaking at 9 A.A.R. 791, effective February 12, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2).

R4-30-225. Reserved

R4-30-226. Reserved

R4-30-227. Reserved

R4-30-228. Reserved

R4-30-229. Reserved

R4-30-230. Reserved

R4-30-231. Reserved

R4-30-232. Reserved

R4-30-233. Reserved

R4-30-234. Reserved

R4-30-235. Reserved

R4-30-236. Reserved

R4-30-237. Reserved

R4-30-238. Reserved

R4-30-239. Reserved

R4-30-240. Reserved

R4-30-241. Reserved

R4-30-242. Geologist-in-training Designation

- A. To qualify for admission to the fundamentals examination solely on the basis of education, an applicant shall be a graduate or be in the final year of a four-year degree program with a major in geology or earth science at an accredited college or university.

- B. To qualify for admission to the fundamentals examination, an applicant who is not a graduate of a four-year degree program as specified in subsection (A) shall have at least four years of education or experience or both directly related to the practice of geology. Experience directly related to the practice of geology of a character satisfactory to the Board shall include the following:

1. Consultation: The active involvement in meetings, discussions and development of reports intended to provide information, facts or advice regarding natural resources and surface and subsurface geological conditions and the preparation of geological maps for use in consultations with clients.

2. Evaluation: The evaluation of mining and petroleum properties, groundwater resources, unconsolidated earth materials, mineral fuels, natural hazards and land use limitations.

3. Supervision of exploration: The supervision of the geological phases of engineering investigation, exploration for mineral and natural resources, metallic and nonmetallic ores, petroleum and groundwater resources.

4. Administration: Administrative experience, including office and field administration, field or laboratory testing, quotation requests, change orders, cost accounting, bidding procedures and project closeouts (maximum 12 months' credit).

5. Editing or writing: The editing or writing for publication of articles, books, newsletters or other written materials on geological subjects (maximum six months' credit).

6. Engineering: Experience in related branches of engineering (maximum six months' credit).

7. Subprofessional experience: As defined in rule R4-30-101 (maximum six months' credit).

- C. An applicant for geologist in-training designation shall successfully complete the fundamentals examination designated by the Board and provided by the Association of State Boards of Geology.

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4).

Amended effective December 18, 1991 (Supp. 91-4).

Amended effective May 1, 1995 (Supp. 95-2). Amended by final rulemaking at 6 A.A.R. 1018, effective February 25, 2000 (Supp. 00-1). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Amended by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

R4-30-243. Reserved

R4-30-244. Geologist Registration

An applicant shall successfully complete the professional geologist examination designated by the Board and provided by the Association of State Boards of Geology.

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4).

Amended effective December 18, 1991 (Supp. 91-4).

Amended effective May 1, 1995 (Supp. 95-2). Amended by final rulemaking at 6 A.A.R. 1018, effective February 25, 2000 (Supp. 00-1). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2).

R4-30-245. Reserved

R4-30-246. Reserved

R4-30-247. Home Inspector Certification

- A. An applicant for certification as a home inspector shall submit an original completed application package that contains the following:

1. Evidence of successful completion, within two years before the date of application, of the National Home Inspector Examination as administered by the Examination Board of Professional Home Inspectors;
2. The information in subsection (B);
3. A completed fingerprint card;
4. Applicable fees;
5. Evidence of successful completion of 84 hours of classroom training or an equivalent course conducted by an educational facility that is licensed by the Arizona State

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Board for Private Postsecondary Education, or accredited by the Distance Education Accrediting Commission, or by an accrediting agency approved by the United States Department of Education. The course of study shall encompass all of following major content areas:

- a. Structural Components,
 - b. Exterior,
 - c. Roofing,
 - d. Plumbing,
 - e. Heating,
 - f. Cooling,
 - g. Electrical,
 - h. Insulation and Ventilation,
 - i. Interiors,
 - j. Fireplaces and Solid Fuel-Burning Devices,
 - k. Swimming Pools and Spas, and
 - l. Professional Practice;
6. Evidence of completion of 30 parallel inspections. The 30 parallel inspections and home inspection report shall meet the standards in R4-30-301.01 and be retained by the applicant for at least two years from the date of application. The applicant shall conduct these inspections on separate residential dwelling units and shall list them on a log provided by the Board. The log shall include, with respect to each inspection, the address of the property, the date of the inspection, and the name and certification number of the supervising home inspector. The Board may hold the applicant's package for a period of one year based solely on the need for time to permit the applicant to complete the required parallel inspections. All time frames promulgated under A.R.S. Title 41, Chapter 6, Article 7.1 are suspended during this period.
- B.** The application package shall contain the following:
1. Name, residence address, mailing address if different from residence address, email and telephone number;
 2. Date of birth and Social Security number of the applicant;
 3. Citizenship or legal residence;
 4. A detailed explanatory statement regarding:
 - a. Any disciplinary action, including suspension and revocation, taken by any state or jurisdiction on any professional or occupational registration, license, or certification held by the applicant in any state or jurisdiction, within five years before the date of application;
 - b. Refusal of any professional or occupational registration, license, or certification by any state or jurisdiction, within five years before the date of application;
 - c. Any pending disciplinary action in any state or jurisdiction on any professional or occupational registration, license, or certification held by the applicant;
 - d. Any alias or other name used by the applicant;
 - e. Any conviction for a felony or misdemeanor, other than a minor traffic violation, within five years before the date of application.
 5. Documentation of absolute discharge from sentence at least five years before the date of application if an applicant has been convicted of one or more felonies; evidence of having a valid fingerprint clearance card issued pursuant to Title 41, Chapter 12, Article 3.1;
 6. State or jurisdiction in which any professional or occupational registration, license or certification is held; type of registration, license, or certification; number; year granted, and how registration, license, or certification was granted (that is, by examination, education, experi-

ence, or reciprocity), 4 A.A.C. 30, Supp. 18-2, released June 30, 2018, page 18;

7. A release authorizing the Board to investigate the applicant's education, experience, criminal and disciplinary action history;
 8. Certification that the information provided to the Board is accurate, true, and complete;
 9. Copy of one home inspection report that meets the standards in R4-30-301.01 and reports on at least one immediate major repair as defined in the standards, along with the Report Checklist Supplement; and
 10. Sworn statement or statements by the supervising certified home inspector or inspectors that the parallel inspections conducted by the applicant meet the standards in R4-30-301.01.
- C.** The Board staff shall review all applications and, if necessary, refer completed applications to the Home Inspector Rules and Standards Committee or a certified home inspector evaluator for evaluation. If the application is complete and in the proper form, the Board staff, committee, or evaluator is satisfied that all statements on the application are true, and the applicant is eligible in all other aspects to be certified as a home inspector, the Board staff, committee, or evaluator shall recommend that the Board certify the applicant. If the evidence is not clear and convincing of qualification for certification, the matter shall be reviewed by the committee and the committee may request additional information regarding any issue upon which the applicant has not established qualification by clear and convincing evidence.
- D.** A certified home inspector shall notify the Board in writing within five business days of any loss of, or change in, financial assurance. The Board shall suspend the certificate holder's certification immediately and prohibit further home inspections until current proof of financial assurance is provided to the Board. The Board shall revoke a certificate if the certificate holder fails to provide proof of financial assurance within 90 days of loss of financial assurance or lapse of policy. All certified home inspectors shall provide proof of financial assurance at the time of each annual certification renewal. The Board shall not renew a home inspector certification unless the financial assurance is in full force and effect.
- E.** A home inspector who places a home inspector certificate on inactive status shall retain the proof of financial assurance for at least two years after the date that the certificate becomes inactive. A home inspector who fails to retain financial assurance for the required two years is subject to suspension and revocation of the home inspection certificate as per subsection (D). In order to reactivate an inactive home inspection certificate, a home inspector shall provide proof of financial assurance to the Board with the application for reactivation. An inactive home inspector certification shall not qualify for reactivation until proof of financial assurance has been submitted to the Board.
- F.** In order to reactivate an inactive home inspector certificate, a home inspector who has not practiced as a certified home inspector during that time in another state requiring registration for the previous five years shall take and pass the National Home Inspector Examination.

Historical Note

New Section made by emergency rulemaking at 8 A.A.R. 1102, effective February 19, 2002 for 180 days (Supp. 02-1). Emergency rulemaking amended and renewed for an additional 180 days under A.R.S. § 41-1026(D) at 8 A.A.R. 3842, effective August 14, 2002 (Supp. 02-3).

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Emergency expired; new Section made by final rulemaking at 9 A.A.R. 791, effective February 12, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Amended by final rulemaking at 19 A.A.R. 713 (Supp. 13-2). Amended by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2). Amended by final rulemaking at 27 A.A.R. 93, effective March 9, 2021 (Supp. 20-1). Amended by final rulemaking at 30 A.A.R. 768 (April 19, 2024), effective May 25, 2024 (Supp. 24-1).

R4-30-248. Reserved

R4-30-249. Reserved

R4-30-250. Reserved

R4-30-251. Reserved

R4-30-252. Repealed

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).
Amended effective May 1, 1995 (Supp. 95-2). Amended by final rulemaking at 6 A.A.R. 1018, effective February 25, 2000 (Supp. 00-1). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2).
Repealed by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

R4-30-253. Reserved

R4-30-254. Landscape Architect Registration

- A. To qualify for landscape architect registration, an applicant shall provide proof to the Board of the successful completion of 96 months of landscape architecture education or experience or both. To satisfy the education requirement, an applicant must be a graduate of a four- or five-year landscape architectural degree program accredited at the time of graduation by the Landscape Architectural Accreditation Board (LAAB) or an equivalent predecessor organization.
- B. To satisfy the experience requirement, an applicant who is a graduate of a five-year landscape architectural degree program shall demonstrate successful completion of at least three years of experience directly related to the practice of landscape architecture. An applicant who is a graduate of a four-year landscape architectural degree program shall demonstrate successful completion of at least four years of experience directly related to the practice of landscape architecture. Experience directly related to the practice of landscape architecture shall demonstrate an applicant's dedication to the protection of the public's health, safety and welfare and shall include the following:
 1. Consultation: The active involvement in meetings, discussions and development of reports intended to provide information, facts or advice regarding the application of landscape architectural principles to fulfill the client's specific requirements.
 2. Investigation, reconnaissance and research: The search, examination or study to determine the practicality or effectiveness of accepted landscape architectural principles to novel situations or the development of new or alternative solutions to landscape architectural problems.
 3. Planning: The preliminary development of objectives, statements, outlines, drafts, drawings, maps or diagrams showing the arrangement, scheme, schedule, program or

procedure for determining the most effective solution to a landscape architectural problem.

4. Design: The preparation and use of sketches, plans, drawings, specifications, contracts, outlines, models or schemes to convey the use and development of land, plantings, landscapings, settings, approaches to buildings, structures or facilities, traffic patterns and drainage or erosion patterns.
 5. Supervision of development: The supervision of the development of land and incidental water areas for the preservation, enhancement or determination of proper land uses, natural land features, ground cover and planting, naturalistic and aesthetic values, settings and approaches, natural drainage and the consideration and determination of inherent problems of the land, including erosion, wear and tear, light and other hazards, including storm water quality.
 6. Administration: Administrative experience, including office and field administration, field testing, quotation requests, change orders, cost accounting, bidding procedures and project closeouts (maximum 12 months' credit).
 7. Subprofessional experience: As defined in rule R4-30-101 (maximum six months' credit).
- C. An applicant shall successfully complete the professional landscape architect examination designated by the Board and provided by the Council of Landscape Architectural Registration Boards.

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).
Amended effective May 1, 1995 (Supp. 95-2). Amended by final rulemaking at 6 A.A.R. 1018, effective February 25, 2000 (Supp. 00-1). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2).
Amended by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

R4-30-255. Reserved

R4-30-256. Reserved

R4-30-257. Reserved

R4-30-258. Reserved

R4-30-259. Reserved

R4-30-260. Reserved

R4-30-261. Reserved

R4-30-262. Repealed

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).
Amended by final rulemaking at 6 A.A.R. 1018, effective February 25, 2000 (Supp. 00-1). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Repealed by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

R4-30-263. Reserved

R4-30-264. Repealed

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).

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Amended by final rulemaking at 6 A.A.R. 1018, effective February 25, 2000 (Supp. 00-1). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Repealed by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

- R4-30-265. Reserved**
R4-30-266. Reserved
R4-30-267. Reserved
R4-30-268. Reserved
R4-30-269. Reserved
R4-30-270. Repealed

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 1412, effective April 15, 2003 (Supp. 03-2). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Repealed by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

- R4-30-271. Repealed**

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 1412, effective April 15, 2003 (Supp. 03-2). Amended by exempt rulemaking at 9 A.A.R. 2111, effective June 2, 2003 (Supp. 03-2). Amended by exempt rulemaking at 9 A.A.R. 3514, effective July 17, 2003 (Supp. 03-3). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Amended by final rulemaking at 19 A.A.R. 128, effective March 10, 2013 (Supp. 13-1). Repealed by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

- R4-30-272. Repealed**

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 1412, effective April 15, 2003 (Supp. 03-2). Amended by exempt rulemaking at 9 A.A.R. 2111, effective June 2, 2003 (Supp. 03-2). Amended by exempt rulemaking at 9 A.A.R. 3514, effective July 17, 2003 (Supp. 03-3). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Amended by final rulemaking at 19 A.A.R. 128, effective March 10, 2013 (Supp. 13-1). Repealed by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

- R4-30-273. Reserved**
R4-30-274. Reserved
R4-30-275. Reserved
R4-30-276. Reserved
R4-30-277. Reserved
R4-30-278. Reserved
R4-30-279. Reserved
R4-30-280. Reserved
R4-30-281. Reserved

- R4-30-282. Land Surveyor-in-training Designation**

A. To qualify for admission to the fundamentals examination solely on the basis of education, an applicant shall be a gradu-

ate of a four-year land surveying degree program accredited at the time of graduation by the Accreditation Board for Engineering and Technology (ABET) or an equivalent predecessor organization.

- B. To qualify for admission to the fundamentals examination, an applicant who is not a graduate of a four-year ABET-accredited land surveying degree program shall have at least four years of education or experience or both directly related to the practice of land surveying. Experience directly related to the practice of land surveying of a character satisfactory to the Board shall include the following:
1. The measurement of space, water, land or structures located or to be located upon or within them, to determine boundaries, areas or other necessary calculations through the use of any mechanical, physical, electric or electronic equipment or devices commonly used by registered professional land surveyors.
 2. The analysis of measurement data through the use of professional knowledge or education or practical experience in the mathematical and physical sciences and in the principles of land surveying.
 3. The location or relocation, establishment or re-establishment of boundaries, easements, rights-of-way, bench marks or corners.
 4. Consultation with clients to determine the necessity of land surveying services and the determination of the correct type of services necessary to fulfill the client's needs and objectives.
 5. The search of any source of public or private records for the purpose of performing a survey or to determine and, if necessary, to reconcile differences between the surveyor's collected data and such records.
 6. The platting or subdividing of land or the planning and design of parcels of land for development purposes.
 7. The preparation and maintenance of survey records.
 8. Other land surveying activities, analyses or investigations defined in the Act.
 9. The participation in office and field administration, quotation requests, bidding procedures, cost accounting and project closeouts (maximum 12 months' credit).
 10. Construction staking (maximum 12 months' credit).
 11. Subprofessional experience as defined in R4-30-101 (maximum six months' credit).
- C. The applicant for land surveyor in-training designation shall apply to the Board and provide proof of successful completion of the fundamentals of surveying examination designated by the Board and provided by the National Council of Examiners for Engineers and Surveyors.

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4).
 Amended effective December 18, 1991 (Supp. 91-4).
 Amended by final rulemaking at 6 A.A.R. 1018, effective February 25, 2000 (Supp. 00-1). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Amended by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

- R4-30-283. Reserved**

- R4-30-284. Land Surveyor Registration**

The candidate shall first successfully complete the fundamentals of surveying examination. Second, the candidate shall successfully complete the professional land surveyor examination provided by the National Council of Examiners for Engineers and Surveyors.

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Third, the candidate shall successfully complete the Arizona State Specific Examination provided by the Board.

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4).

Amended effective December 18, 1991 (Supp. 91-4).

Amended effective May 1, 1995 (Supp. 95-2). Amended by final rulemaking at 6 A.A.R. 1018, effective February 25, 2000 (Supp. 00-1). Amended by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

ARTICLE 3. REGULATORY PROVISIONS**R4-30-301. Rules of Professional Conduct**

All registrants shall comply with the following rules of professional conduct:

1. A registrant shall not submit any materially false statements or fail to disclose any material facts requested in connection with an application for registration or certification, or in response to a subpoena.
2. A registrant shall not engage in fraud, deceit, misrepresentation or concealment of material facts in advertising, soliciting, or providing professional services to members of the public.
3. A registrant shall not commit bribery of a public servant as proscribed in A.R.S. § 13-2602, commit commercial bribery as proscribed in A.R.S. § 13-2605, or violate any federal statute concerning bribery.
4. A registrant shall comply with state, municipal, and county laws, codes, ordinances, and regulations pertaining to the registrant's area of practice.
5. If a registrant violates any state or federal criminal statute, the Board may take action against a registrant's license or certificate if a violation of the law is reasonably related to a registrant's area of practice.
6. A registrant shall apply the technical knowledge and skill that would be applied by other qualified registrants who practice the same profession in the same area and at the same time.
7. A registrant shall not accept an engagement if the duty to a client or the public would conflict with the registrant's personal interest or the interest of another client without making a full written disclosure of all material facts of the conflict to each person who might be related to or affected by the engagement.
8. A registrant shall not accept compensation for services related to the same engagement from more than one party without making a full written disclosure of all material facts to all parties and obtaining the express written consent of all parties involved.
9. A registrant shall make full disclosure to all parties concerning:
 - a. Any transaction involving payments to any person for the purpose of securing a contract, assignment, or engagement, except payments for actual and substantial technical assistance in preparing the proposal; or
 - b. Any monetary, financial, or beneficial interest the registrant holds in a contracting firm or other entity providing goods or services, other than the registrant's professional services, to a project or engagement.
10. A registrant shall not solicit, receive, or accept compensation from material, equipment, or other product or services suppliers for specifying or endorsing their products,

goods or services to any client or other person without full written disclosure to all parties.

11. If a registrant's professional judgment is overruled or not adhered to under circumstances where a serious threat to the public health, safety, or welfare may result, the registrant shall immediately notify the responsible party appropriate building official, or agency, and the Board of the specific nature of the public threat.
12. If called upon or employed as an arbitrator to interpret contracts, to judge contract performance, or to perform any other arbitration duties, the registrant shall render decisions impartially and without bias to any party.
13. To the extent applicable to the professional engagement, a registrant shall conduct a land survey engagement in accordance with the April 12, 2001 Arizona Professional Land Surveyors Association (APLS) Arizona Boundary Survey Minimum Standards, available at www.azpls.org. The Board of Technical Registration adopted the standards on June 15, 2001, and incorporated them into this subsection by reference. This incorporation by reference does not include any later amendments or editions and is available at the office of the Board of Technical Registration.
14. A registrant shall comply with any subpoena issued by the Board or its designated administrative law judge.
15. A registrant shall update the registrant's address, email and telephone number of record with the Board within 30 days of the date of any change.
16. A registrant shall not sign, stamp, or seal any professional documents not prepared by the registrant or a bona fide employee of the registrant.
17. Except as provided below and in subsections (18) and (19), a registrant shall not accept any professional engagement or assignment outside the registrant's professional registration category unless:
 - a. The registrant is qualified by education, technical knowledge, or experience to perform the work; and
 - b. The work is exempt under A.R.S. § 32-143.
18. A registered professional engineer may accept professional engagements or assignments in branches of engineering other than that branch in which the registrant has demonstrated proficiency by registration but only if the registrant has the education, technical knowledge, or experience to perform such engagements or assignments.
19. Except as otherwise provided by law, a registrant may act as the prime professional for a given project and select collaborating professionals; however, the registrant shall perform only those professional services that the registrant is qualified by registration to perform and shall seal and sign only the work prepared by the registrant or by the registrant's bona fide employee.
20. A registrant who is designated as a responsible registrant shall be responsible for the firm or corporation. The Board may impose disciplinary action on the responsible registrant for any violation of Board statutes or rules that is committed by a non-registrant employee, firm, or corporation.
21. A registrant shall not enter into a contract for expert witness services on a contingency fee basis or any other arrangement in a disputed matter where the registrant's fee is directly related to the outcome of the dispute.

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4).

Amended effective December 18, 1991 (Supp. 91-4).

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Amended effective May 1, 1995 (Supp. 95-2). Amended by final rulemaking at 6 A.A.R. 1018, effective February 25, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 903, effective February 14, 2002 (Supp. 02-1). Amended by final rulemaking at 9 A.A.R. 791, effective February 12, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Amended by final rulemaking at 12 A.A.R. 1609, effective July 1, 2006 (Supp. 06-2). Amended by final rulemaking at 19 A.A.R. 128, effective March 10, 2013 (Supp. 13-1). Amended by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2). The website address to the Arizona Professional Land Surveyors (APLS) referenced in subsection (13) has been corrected at the request of the Board (Supp. 21-3). Amended by final rulemaking at 30 A.A.R. 768 (April 19, 2024), effective May 25, 2024 (Supp. 24-1).

R4-30-301.01. Home Inspector Rules of Professional Conduct

- A.** A certified home inspector shall conduct a home inspection in accordance with the “Standards of Professional Practice” adopted by the Arizona Chapter of the American Society of Home Inspectors, Inc. on October 27, 2023, the provisions of which are incorporated by reference. This rule does not include any later amendments or editions of the incorporated matter. Copies of these standards are available electronically on the Board’s website.
- B.** A certified home inspector is not required to inspect a pool and/or spa as part of a home inspection. If a certified home inspector conducts a pool and/or spa inspection, it shall be conducted in accordance with the “Arizona Home Inspector Pools and Spas Standards of Professional Practice” (“Standards”) adopted by the Board at its April 25, 2023 meeting, the provisions of which are incorporated by reference. This rule does not include any later amendments or editions of the incorporated matter. Copies of the Standards are available electronically on the Board’s website.
- C.** A Certified Home Inspector shall not:
 1. Pay, directly or indirectly, in full or in part, a commission or compensation as a referral or finder’s fee to a real estate company, real estate office, real estate broker/salesperson(s), real estate employees or real estate independent contractors in order to obtain referrals for home inspection business. This prohibition includes, but is not limited to, participation in pay-to-play programs by any name (e.g. “preferred vendor,” “approved vendor,” “marketing partner,” “marketing services agreement”);
 2. Pay or receive, directly or indirectly, in full or in part, a commission or compensation as a referral or finder’s fee related to the correction of defects found within the scope of the home inspection;
 3. Perform, or offer to perform, for an additional fee, or have any financial interest in the performance of any repairs to the property that has been inspected by that inspector or the inspector’s firm for a period of 24 months following the inspection; or
 4. Be accompanied by more than four home inspector candidates while conducting any parallel home inspection.;
 5. Perform, or offer to perform, a home inspection on a home while acting in the capacity of a licensed real estate salesperson or licensed real estate broker with any financial interest in the sale of the home.

Historical Note

New Section made by emergency rulemaking at 8 A.A.R.

1102, effective February 19, 2002 for 180 days (Supp. 02-1). Emergency rulemaking amended and renewed for an additional 180 days under A.R.S. § 41-1026(D) at 8 A.A.R. 3842, effective August 14, 2002 (Supp. 02-3). Emergency expired; new Section made by final rulemaking at 9 A.A.R. 791, effective February 12, 2003 (Supp. 03-1). Amended by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2). Amended by final rulemaking at 30 A.A.R. 768 (April 19, 2024), effective May 25, 2024 (Supp. 24-1).

R4-30-302. Electrical Plans

- A.** A registrant shall prepare and submit drawings and specifications for a new electrical system or an addition or modification to an existing electrical system provided the service and associated electrical feeders exceeds 600 amperes 120/240 volts, single phase or 225 amperes 120/208 volts, three phase and the fault current exceeds 10,000 amperes.
- B.** In all cases a registrant shall design:
 1. Electrical installations in hospitals or other buildings with surgical operating rooms regulated by Article 517 of the National Electrical code (1990 edition) incorporated herein by reference and on file with the Office of the Secretary of State.
 2. Electrical installations in locations classified as hazardous in Article 500 of the National Electrical Code (1990 edition) incorporated herein by reference and on file with the Office of the Secretary of State.
 3. Electrical installations in locations classified as hazardous in Article 500 of the National Electrical Code (1990 edition) with the exception of gasoline dispensing or repair garages.
 4. A registrant shall design an alarm or signaling system that is required for life safety or code compliance.

Historical Note

Adopted effective December 18, 1991 (Supp. 91-4).
Heading amended by final rulemaking at 9 A.A.R. 791, effective February 12, 2003 (Supp. 03-1).

R4-30-303. Securing Seals

- A.** Each registrant required to use a seal shall secure and use an ink seal 1 1/2 inches in diameter and identical in style, size, and appearance to the sample shown in Appendix A. The upper portion of the annular space between the second and third circles shall bear whichever of the following phrases is applicable to the registrant:
 1. “Registered Architect”; “Registered Professional Engineer” together with the branch of engineering in which registered; “Registered Professional Geologist”; “Registered Professional Landscape Architect”; or “Registered Land Surveyor.”
 2. The inscription “Arizona U.S.A.” shall appear at the bottom of the annular space between the second and third circles; the inner circle shall contain the name of the registrant, registration number, and the words “date signed.”
- B.** The registrant may order the seal through any vendor and shall pay the cost of its manufacture. Immediately upon receipt of the seal and before using the seal for any purpose, the registrant shall file with the Board, for its records, on a form provided by the Board, an imprint of the seal with an original signature superimposed over it and an affidavit regarding the use of the seal. The Board, within 10 working days of receipt of the form from the registrant, shall disapprove any seal that does not meet the exact specifications of subsection (A) and require that the registrant obtain and pay for another seal that

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meets those specifications before sealing any work. Engineers registered in more than one branch shall secure and use a seal for each branch of engineering in which registration has been granted.

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).
Amended effective May 1, 1995 (Supp. 95-2). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Amended by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

R4-30-304. Use of Seals

- A.** A registrant shall place a permanently legible imprint of the registrant's seal and signature on the following:
1. Each sheet of drawings or maps;
 2. Each of the master sheets when reproduced into a single set of finished drawings or maps;
 3. Either the cover, title, index, or table of contents page, first sheet of each set of project specifications;
 4. Either the cover, index page, or first sheet of each addenda or change order to plans, contract documents or specifications;
 5. Either the cover, index page, or first sheet of bound details when prepared to supplement project drawings or maps;
 6. Either the cover, title, index, or table of contents page, or first sheet of any report, specification, or other professional document prepared by a registrant or the registrant's bona fide employee;
 7. The signature line of any letter or other professional document prepared by a registrant, or the registrant's bona fide employee; and
 8. Shop drawings that require professional services or work as described in the Act. Examples of shop drawings that do not require a seal include drawings that show only:
 - a. Sizing and dimensioning information for fabrication purposes;
 - b. Construction techniques or sequences;
 - c. Components with previous approvals or designed by the registrant of record; or
 - d. Modifications to existing installations that do not affect the original design parameters and do not require additional computations.
 9. Public Works projects which require the signature of each professional involved in the project.
- B.** A registrant shall apply a label that describes the name of the project and an original imprint of the registrant's seal and signature on all video cassettes that contain copies of professional documents.
- C.** In the event that a copy of a professional document is provided to a client, regulatory body, or any other person for any reason by computer disk, tape, CD, or any other electronic form, and the document does not meet the requirements of subsection (D), the registrant shall mark the copy of the professional document: "Electronic copy of final document; sealed original document is with (identify the registrant's name and registration number)."
- D.** A registrant shall sign, date, and seal a professional document:
1. Before the document is submitted to a client, contractor, any regulatory or review body, or any other person, unless the document is marked "preliminary," "draft," or "not for construction" except when the document is work

product intended for use by other members of a design team; and

2. In all cases, if the document is prepared for the purpose of dispute resolution, litigation, arbitration, or mediation.
- E.** For purposes of subsection (A), all original documents shall include:
1. An original seal imprint or a computer-generated seal that matches the seal on file at the Board's office;
 2. An original signature that does not obscure either the registrant's printed name or registration number; and
 3. The date the document was sealed.
- F.** Methods of transferring a seal other than an original seal imprint or a computer-generated seal are not acceptable.
- G.** An electronic signature, as an option to a permanently legible signature, in accordance with A.R.S. Title 41 and Title 44, is acceptable for all professional documents. The registrant shall provide adequate security regarding the use of the seal and signature.

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).
Amended effective May 1, 1995 (Supp. 95-2). Amended by final rulemaking at 6 A.A.R. 1018, effective February 25, 2000 (Supp. 00-1). Amended by final rulemaking at 9 A.A.R. 791, effective February 12, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Amended by final rulemaking at 13 A.A.R. 1084, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 14 A.A.R. 282, effective March 8, 2008 (Supp. 08-1). Amended by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

R4-30-305. Repealed**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 1412, effective April 15, 2003 (Supp. 03-2). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Amended by final rulemaking at 19 A.A.R. 1911, effective October 7, 2013 (Supp. 13-3). Repealed by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

R4-30-306. Securing and Using Identifying Markers

- A.** Registered land surveyors shall obtain at their expense identifying markers such as tags, caps, or embossed nails which shall show the registrant's Arizona Registration Number as issued by the Board, and each registration number shall be prefixed by the letters L.S.
- B.** Registered land surveyors shall securely attach an identifying marker to every permanent survey point set when making land boundary surveys.

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).

R4-30-307. Repealed**Historical Note**

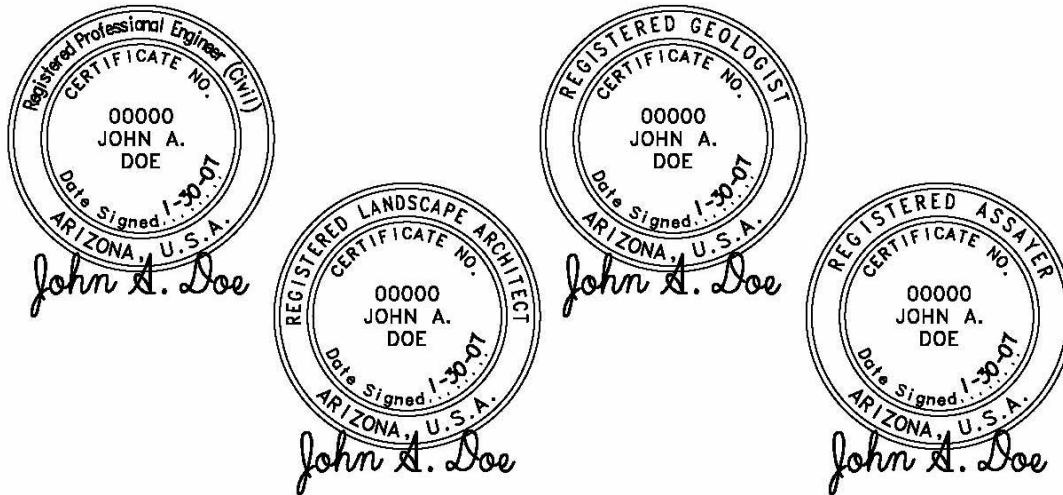
Adopted effective August 3, 1983 (Supp. 83-4). Repealed effective December 18, 1991 (Supp. 91-4).

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Appendix A. Sample Seals

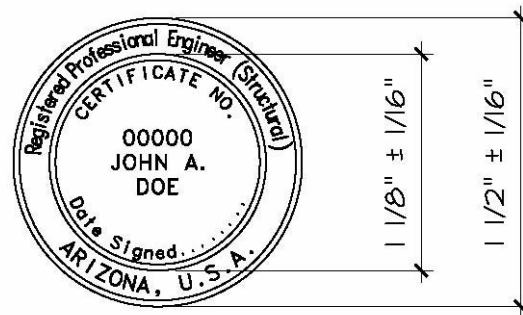
Samples:

Sign your name across lower portion of the seal. Do not cover your name or registration number with your signature.



** ENGINEERS MUST LIST BRANCH – Agriculture, Architectural, Chemical, Civil, Control Systems, Electrical, Environmental, Fire Protection, Geological, Industrial, Mechanical, Mining, Metallurgical, Nuclear, Petroleum, Sanitary, or Structural. The original seal must be the following size:

Outer circle shall be $1\frac{1}{2}'' \pm \frac{1}{16}''$
Inner circle shall be $1\frac{1}{8}'' \pm \frac{1}{16}''$



Historical Note

Adopted effective August 3, 1983 (Supp. 83-4). Amended effective December 18, 1991 (Supp. 91-4). Appendix repealed by final rulemaking at 9 A.A.R. 791, effective February 12, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 2798, effective August 7, 2004 (Supp. 04-2). Amended by final rulemaking at 14 A.A.R. 282, effective March 8, 2008 (Supp. 08-1). Amended by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

Appendix B. Repealed

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4). Amended effective December 18, 1991 (Supp. 91-4). Appendix repealed by final rulemaking at 9 A.A.R. 791, effective February 12, 2003 (Supp. 03-1). New Appendix made by final rulemaking at 14 A.A.R. 282, effective March 8, 2008 (Supp. 08-1). Repealed by final rulemaking at 24 A.A.R. 1785, effective August 5, 2018 (Supp. 18-2).

Appendix C. Repealed

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4). Appendix repealed by final rulemaking at 9 A.A.R. 791, effective February 12, 2003 (Supp. 03-1).

Appendix D. Repealed

Historical Note

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Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).
Appendix repealed by final rulemaking at 9 A.A.R. 791,
effective February 12, 2003 (Supp. 03-1).

Appendix E. Repealed

Historical Note

Adopted effective August 3, 1983 (Supp. 83-4).
Amended effective December 18, 1991 (Supp. 91-4).

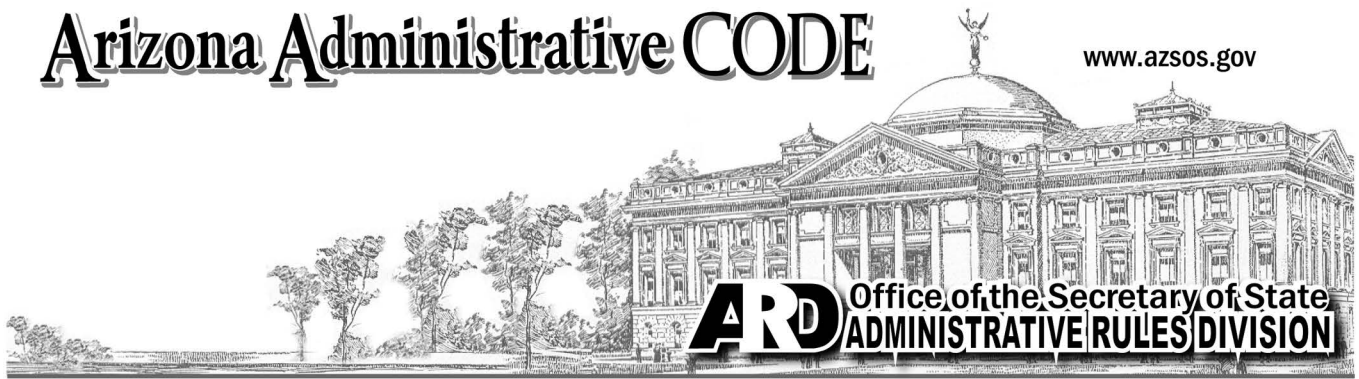
Appendix repealed by final rulemaking at 9 A.A.R. 791,
effective February 12, 2003 (Supp. 03-1).

Appendix F. Repealed

Historical Note

Adopted effective December 18, 1991 (Supp. 91-4).
Appendix repealed by final rulemaking at 9 A.A.R. 791,
effective February 12, 2003 (Supp. 03-1).

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6 A.A.C. 17

Supp. 24-1

TITLE 6. ECONOMIC SECURITY

CHAPTER 17. EXPIRED

The table of contents on page one contains links to the referenced page numbers in this Chapter.

Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains historical notes about the Department of Economic Security, General Assistance Program rules that expired on June 1, 2023. The Notice of Rule Expiration was filed by the Governor's Regulatory Review Council on March 5, 2024 (Supp. 24-1).

The release of this Chapter in Supp. 24-1 replaces Supp. 14-1, 1-12 pages.

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

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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TITLE 6. ECONOMIC SECURITY

CHAPTER 17. EXPIRED

Authority: A.R.S. § 41-1056(J)

Supp. 24-1

Editor's Note: This Chapter expired under A.R.S. § 41-1056(J) at 30 A.A.R. 505 (March 22, 2024), effective June 1, 2023 (Supp. 24-1).

Editor's Note: 6 A.A.C. 17 made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

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Article 1, consisting of Sections R6-17-101 and R6-17-102, made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

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Article 2, consisting of Sections R6-17-201 through R6-17-203, expired at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

Article 2, consisting of Sections R6-17-201 through R6-17-203, made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

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Sections R6-17-301 through R6-17-305 and R6-17-308 expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

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Article 6, consisting of Sections R6-17-601 through R6-17-606, expired at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

Article 6, consisting of Sections R6-17-601 through R6-17-606, made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

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TITLE 6. ECONOMIC SECURITY

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Article 9, consisting of Sections R6-17-901 through R6-17-919, expired under A.R.S. § 41-1056(J) at 30 A.A.R. 505 (March 22, 2024), effective June 1, 2023 (Supp. 24-1).

Article 9, consisting of Sections R6-17-901 through R6-17-919, made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3).

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TITLE 6. ECONOMIC SECURITY

CHAPTER 17. EXPIRED

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New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 30 A.A.R. 505 (March 22, 2024), effective June 1, 2023 (Supp. 24-1).

R6-17-102. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Amended by final rulemaking at 14 A.A.R. 3891, effective September 24, 2008 (Supp. 08-3). Section expired under A.R.S. § 41-1056(J) at 30 A.A.R. 505 (March 22, 2024), effective June 1, 2023 (Supp. 24-1).

ARTICLE 2. EXPIRED**R6-17-201. Expired****Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

R6-17-202. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

R6-17-203. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

ARTICLE 3. EXPIRED**R6-17-301. Expired****Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

R6-17-302. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

R6-17-303. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

R6-17-304. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

R6-17-305. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

R6-17-306. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 30 A.A.R. 505 (March 22, 2024), effective June 1, 2023 (Supp. 24-1).

R6-17-307. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 30 A.A.R. 505 (March 22, 2024), effective June 1, 2023 (Supp. 24-1).

R6-17-308. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

ARTICLE 4. EXPIRED**R6-17-401. Expired****Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

R6-17-402. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

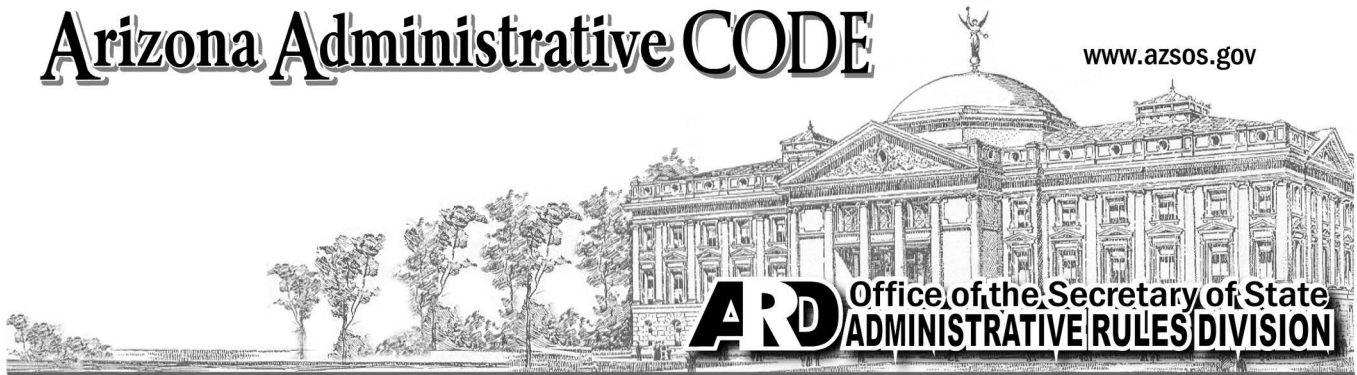
R6-17-403. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

R6-17-404. Expired**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3970, effective October 20, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 463, effective October 31, 2013 (Supp. 14-1).

CHAPTER 17. EXPIRED



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TITLE 9. HEALTH SERVICES

CHAPTER 2. DEPARTMENT OF HEALTH SERVICES - TOBACCO-RELATED PROGRAMS

The table of contents on page one contains links to the referenced page numbers in this Chapter.

Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
January 1, 2024 through March 31, 2024

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Questions about these rules? Contact:

Name: Jennifer Botsford, Office Chief Senior
Address: Department of Health Services
Division of Public Health Services,
Public Health Preparedness
Office of Environmental Health
150 N. 18th Ave., Suite 220
Phoenix, AZ 85007-3248
Telephone: (602) 364-3142
Fax: (602) 364-3146
Email: Jennifer.Botsford@azdhs.gov

The release of this Chapter in Supp. 24-1 replaces Supp. 07-2, 1-9 pages.

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

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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TITLE 9. HEALTH SERVICES

CHAPTER 2. DEPARTMENT OF HEALTH SERVICES - TOBACCO-RELATED PROGRAMS

Authorizing statute: A.R.S. §§ 36-132(A)(1) and A.R.S. § 36-136(G)

Implementing statute: A.R.S. § 36-136(Q), as amended by Laws 2021, Ch. 118

Supp. 24-1

Editor's Note: The Office of the Secretary of State publishes all Chapters on white paper (Supp. 01-3).

Editor's Note: This Chapter contains rules which were adopted and amended under an exemption from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1995, Ch. 275, Section 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department of Health Services did not submit these rules to the Governor's Regulatory Review Council for review; the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department was not required to hold public hearings on these rules; and the Attorney General did not certify these rules. Because this Chapter contains rules which are exempt from the regular rulemaking process, the Chapter is being printed on blue paper.

Editor's Note: This Chapter contains rules which were repealed under an exemption from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1992, Ch. 301, § 61. Exemption from A.R.S. Title 41, Chapter 6 means that the Department of Health Services did not submit these rules to the Governor's Regulatory Review Council for review; the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department was not required to hold public hearings on these rules; and the Attorney General did not certify these rules. Because this Chapter contains rules on which exempt rulemaking occurred, the Chapter is being printed on blue paper.

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Article 1, consisting of Sections R9-2-101 through R9-2-112, made by exempt rulemaking at 13 A.A.R. 1512, effective May 1, 2007 (Supp. 07-2).

Article 1, consisting of Sections R9-2-101, adopted effective December 18, 1995 (Supp. 95-4).

Article 1, consisting of Sections R9-2-101 through R9-2-111, repealed effective September 30, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1992, Ch. 301, § 61; received by the Office of the Secretary of State October 1, 1993.

New Article 1 consisting of Sections R9-2-101 through R9-2-111 adopted effective January 6, 1989.

Former Article 1 consisting of Sections R9-2-111 through R9-2-113, R9-2-211, R9-2-311, R9-2-312, R9-2-411 through R9-2-413, R9-2-511, R9-2-611, and R9-2-612 repealed effective January 6, 1989.

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ARTICLE 2. EXPIRED

Article 2, consisting of R9-2-201 through R9-2-203, expired under A.R.S. § 41-1056(E) at 7 A.A.R. 3844, effective July 30, 2001 (Supp. 01-3).

Article 2, consisting of R9-2-201 through R9-2-205 adopted effective August 30, 1995, under an exemption from A.R.S. Title 41, Chapter 6.

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Article 3, consisting of R9-2-301 through R9-2-303, expired under A.R.S. § 41-1056(E) at 7 A.A.R. 3844, effective July 30, 2001 (Supp. 01-3).

Article 3, consisting of R9-2-301 through R9-2-303, adopted effective September 20, 1996, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 96-3).

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Article 4, consisting of R9-2-401 through R9-2-411, expired under A.R.S. § 41-1056(E) at 7 A.A.R. 3844, effective July 30, 2001 (Supp. 01-3).

Article 4, consisting of R9-2-401 through R9-2-411, adopted effective February 10 1997, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 97-1).

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Article 7, consisting of Sections R9-2-701 through R9-2-714, repealed effective September 30, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1992, Ch. 301, § 61; received by the Office of the Secretary of State October 1, 1993.

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ARTICLE 1. SMOKE-FREE ARIZONA

R9-2-101. Definitions

In addition to the definitions in A.R.S. § 36-601.01(A), the following definitions apply in this Article unless otherwise specified:

1. "Adult day care" means "adult day health care facility" as defined in A.R.S. § 36-401.
2. "Ashtray" means any receptacle that is designed for disposing of the debris from smoking materials such as ash, cigarette butts or filters, or cigar stubs.
3. "Calendar quarter" means a period from:
 - a. January 1 through March 31,
 - b. April 1 through June 30,
 - c. July 1 through September 30, or
 - d. October 1 through December 31.
4. "Child care facility" has the meaning in A.R.S. § 36-881.
5. "Child care group home" has the meaning in A.R.S. § 36-897.
6. "Complaint" means a written or oral statement of a possible violation of A.R.S. § 36-601.01.
7. "Contiguous area" means a place that:
 - a. Is physically attached to a public place or non-vehicle place of employment; or
 - b. Is separated from the public place or non-vehicle place of employment only by other places controlled by the proprietor.
8. "Controlled" means under the authority and responsibility of a proprietor.
9. "Department" means the Arizona Department of Health Services.
10. "Department's designee" means a state agency or political subdivision to which the Department delegates any functions, powers, or duties under A.R.S. § 36-601.01.
11. "Drift" means the physical movement of tobacco smoke, regardless of cause, into any area where smoking is prohibited by A.R.S. § 36-601.01.
12. "Emergency exit" means a doorway in a building or facility used for egress to the outdoors only when there is an immediate threat to the health or safety of an individual.
13. "Entering" means an individual going into or leaving a building or facility.
14. "Entrance" means a doorway in a building or facility that:
 - a. Is used by an individual for ingress from the outdoors or egress to the outdoors, and
 - b. Excludes:
 - i. An emergency exit, and
 - ii. A doorway for outdoor patio patrons.
15. "Health care institution" means a building or facility regulated under A.R.S. Title 36, Chapter 4.
16. "Health care professional" means one of the following individuals regulated under A.R.S. Title 32 or A.R.S. Title 36, Chapter 6, Article 7 or Chapter 17, including:
 - a. A podiatrist;
 - b. A doctor of chiropractic or chiropractic assistant;
 - c. A dentist, dental consultant, dental hygienist, or dentist;
 - d. A doctor of medicine;
 - e. A doctor of naturopathic medicine or naturopathic medical assistant;
 - f. A registered nurse practitioner, registered nurse, practical nurse, registered or practical nurse licensed by a state other than Arizona and practicing in Arizona according to the Nurse Licensure Compact, A.R.S. § 32-1660, or nursing assistant;
 - g. A dispensing optician;
 - h. An optometrist;
 - i. A doctor of osteopathic medicine;
 - j. A pharmacist, pharmacy intern, pharmacy technician, or pharmacy technician trainee;
 - k. A physical therapist or physical therapist assistant;
 - l. A psychologist;
 - m. A veterinarian or veterinary technician;
 - n. A physician assistant;
 - o. A radiologic technologist, including a practical radiologic technologist in podiatry, unlimited practical radiologic technologist, nuclear medicine technologist, or practical technologist in bone densitometry;
 - p. A homeopathic physician or a medical assistant employed by a homeopathic physician;
 - q. A behavioral health professional, including a baccalaureate social worker, master social worker, clinical social worker, professional counselor, associate counselor, marriage and family therapist, associate marriage and family therapist, associate substance abuse counselor, independent substance abuse counselor, or substance abuse technician;
 - r. An occupational therapist or occupational therapy assistant;
 - s. A respiratory therapist or respiratory therapy technician;
 - t. An acupuncturist;
 - u. An athletic trainer;
 - v. A massage therapist;
 - w. A midwife;
 - x. A hearing aid dispenser;
 - y. An audiologist; or
 - z. A speech-language pathologist or speech-language pathology assistant.
17. "Open to the general public" means when the proprietor of a veterans or fraternal club permits an individual who is not a member, an employee, or a bona fide guest as defined in A.R.S. § 4-101 to be present in the veterans or fraternal club.
18. "Outdoor patio" means an area designated by a proprietor according to R9-2-108(A).
19. "Outdoor patio patron" means an individual who is occupying an outdoor patio.
20. "Permeable" means permitting tobacco smoke to pass through.
21. "Private residence" means a structure, other than a health care institution, where an individual lives and sleeps.
22. "Proprietor" means an owner, operator, manager or other person in control of a public place or a place of employment.
23. "Reasonable distance" means the distance that meets the requirements in R9-2-102(A).
24. "Tobacco products and accessories" means:
 - a. Smoking materials such as cigars, cigarettes, or pipe tobacco; and
 - b. Smoking-related materials such as lighters, humidor, pipes, or cigarette cases.
25. "Vehicle" means motor vehicle as defined in A.R.S. § 28-101.
26. "Ventilation system" means the natural or mechanical means of supplying air to, or removing air from a space.

Historical Note

Adopted effective January 6, 1989 (Supp. 89-1).

Repealed effective September 30, 1993, under an exemp-

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tion from the provisions of the Administrative Procedure Act pursuant to Laws 1992, Ch. 301, § 61; received in the Office of the Secretary of State October 1, 1993 (Supp. 93-4). New Section adopted effective December 18, 1995 (Supp. 95-4). Section repealed by final rulemaking at 12 A.A.R. 4002, effective December 4, 2006 (Supp. 06-4). New Section made by exempt rulemaking at 13 A.A.R. 1512, effective May 1, 2007 (Supp. 07-2). Amended by final expedited rulemaking at 30 A.A.R. 233 (February 2, 2024), with an immediate effective date of January 10, 2024 (Supp. 24-1).

R9-2-102. Reasonable Distance

- A. Except as permitted in R9-2-108(D) or R9-2-108(E), a public place or non-vehicle place of employment shall have a distance where outside smoking is prohibited of at least 20 feet in all directions measured from each outer edge of an entrance, an open window, or a ventilation system.
- B. A proprietor of a public place or non-vehicle place of employment shall not permit tobacco smoke to drift into the area where smoking is prohibited as described in subsection (A).

Historical Note

Adopted effective January 6, 1989 (Supp. 89-1). Repealed effective September 30, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1992, Ch. 301, § 61; received in the Office of the Secretary of State October 1, 1993 (Supp. 93-4). New Section made by exempt rulemaking at 13 A.A.R. 1512, effective May 1, 2007 (Supp. 07-2).

R9-2-103. Individual Responsibilities

- A. An individual shall not smoke tobacco in an area of a public place or place of employment where smoking is prohibited by A.R.S. § 36-601.01 or R9-2-102(A).
- B. An individual in an area of a public place or place of employment where smoking is prohibited by A.R.S. § 36-601.01 or R9-2-102(A) shall stop smoking immediately when requested to stop smoking by the proprietor of the public place or a place of employment.

Historical Note

Adopted effective January 6, 1989 (Supp. 89-1). Repealed effective September 30, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1992, Ch. 301, § 61; received in the Office of the Secretary of State October 1, 1993 (Supp. 93-4). New Section made by exempt rulemaking at 13 A.A.R. 1512, effective May 1, 2007 (Supp. 07-2).

R9-2-104. Proprietor Responsibilities

- A. A proprietor shall:
 - 1. Not permit smoking in a public place, a place of employment, or within the distance required in R9-2-102(A) except according to this Article and the exceptions listed in A.R.S. § 36-601.01(B);
 - 2. Not permit tobacco smoke to drift into a building or facility through an entrance, a window, a ventilation system, or other means;
 - 3. Post signs according to A.R.S. § 36-601.01(E)(1) and R9-2-105;
 - 4. Remove all ashtrays from all areas where smoking is prohibited; and
 - 5. Communicate that smoking is prohibited in places of employment to:
 - a. All existing employees by the effective date of this Article, and

- b. An applicant for employment at the time of the application for employment.

- B. If a building or facility that is controlled by a proprietor contains several places of employment or public places that are controlled by other proprietors:
 - 1. The proprietor of the entire building or facility shall comply with the requirements in subsection (A) for the area controlled by the proprietor of the entire building or facility, and
 - 2. The proprietor of each place of employment or public place shall comply with the requirements in subsection (A) for the area controlled by the proprietor of the place of employment or public place.
- C. If an individual in an area controlled by a proprietor is smoking in violation of A.R.S. § 36-601.01, the proprietor shall:
 - 1. Inform the individual that the individual is in violation of A.R.S. § 36-601.01, and
 - 2. Request that the individual stop smoking immediately.
- D. A proprietor of a veterans or fraternal club shall not permit smoking in an area of the veterans or fraternal club that is open to the general public.
- E. A proprietor of a retail tobacco store where smoking is permitted shall comply with R9-2-107.
- F. A proprietor of an outdoor patio where smoking is permitted shall comply with R9-2-108.
- G. A proprietor may declare that smoking is prohibited in an entire establishment, facility, or outdoor area.
- H. In a vehicle owned and operated by a proprietor during working hours, the proprietor shall:
 - 1. Not permit smoking in the vehicle when:
 - a. More than one individual occupies the vehicle, and
 - b. The vehicle is used for business purposes; and
 - 2. Post signs according to A.R.S. § 36-601.01(E)(1), A.R.S. § 36-601.01(E)(2), and R9-2-105(C).

Historical Note

Adopted effective January 6, 1989 (Supp. 89-1). Repealed effective September 30, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1992, Ch. 301, § 61; received in the Office of the Secretary of State October 1, 1993 (Supp. 93-4). New Section made by exempt rulemaking at 13 A.A.R. 1512, effective May 1, 2007 (Supp. 07-2).

R9-2-105. Sign Requirements

- A. To meet the requirements of A.R.S. §§ 36-601.01(E)(1) and 36-601.01(E)(2), a proprietor of a public place or non-vehicle place of employment shall post signs that:
 - 1. Are no smaller than four inches by six inches; and
 - 2. Contain:
 - a. The international no smoking symbol or the words "No Smoking";
 - b. The telephone number designated by the Department for making complaints;
 - c. The web site address designated by the Department for making complaints; and
 - d. Letters, numbers, and symbols of sufficient size to be clearly legible to an individual of normal vision from a distance of five feet; and
 - 3. Include a citation to A.R.S. § 36-601.01.
- B. A proprietor of a public place or non-vehicle place of employment shall post a sign that meets the requirements in subsection (A):
 - 1. At every entrance,

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2. At a height and location easily seen by an individual entering the public place or non-vehicle place of employment, and
 3. So that the sign is not obscured in any way.
- C. A proprietor of a vehicle described in A.R.S. § 36-601.01(A)(7) shall:
1. Post at least one sign that:
 - a. Is no smaller than two inches by three inches;
 - b. Meets the requirements in subsections (A)(2)(a) through (A)(2)(c); and
 - c. Contains letters, numbers, and symbols of sufficient size to be clearly legible to an individual of normal vision from a distance of three feet;
 2. Include a citation to A.R.S. § 36-601.01 on the sign; and
 3. Firmly affix the sign to:
 - a. A vehicle door window,
 - b. The vehicle dashboard, or
 - c. Another area in the vehicle that is visible to each occupant in the vehicle.

Historical Note

Adopted effective January 6, 1989 (Supp. 89-1).
 Repealed effective September 30, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1992, Ch. 301, § 61; received in the Office of the Secretary of State October 1, 1993 (Supp. 93-4). New Section made by exempt rulemaking at 13 A.A.R. 1512, effective May 1, 2007 (Supp. 07-2).

R9-2-106. Private Residence

- A. Smoking is prohibited in a private residence licensed or certified by the Department or in areas of a private residence licensed or certified by the Department as:
1. An adult day care,
 2. A child care facility,
 3. A child care group home, or
 4. A health care institution other than an adult day care.
- B. Smoking is prohibited in a health care professional's private residence:
1. In an area where the health care professional provides services to an individual, and
 2. When the health care professional is providing services to an individual.
- C. A.R.S. § 36-601.01 does not apply to the private residence of an individual who is receiving services from a health care professional in the individual's private residence.

Historical Note

Adopted effective January 6, 1989 (Supp. 89-1).
 Repealed effective September 30, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1992, Ch. 301, § 61; received in the Office of the Secretary of State October 1, 1993 (Supp. 93-4). New Section made by exempt rulemaking at 13 A.A.R. 1512, effective May 1, 2007 (Supp. 07-2).

R9-2-107. Retail Tobacco Store

- A. A proprietor may permit smoking in a retail tobacco store only if the retail tobacco store meets the definition in A.R.S. § 36-601.01(A)(10) and the requirements in A.R.S. § 36-601.01(B)(3) and this Section.
- B. The proprietor of a retail tobacco store where smoking is permitted and that begins operating after January 1 of a calendar year shall complete, by the retail tobacco store's first day of operation, an affidavit that contains:
1. The name of the proprietor of the retail tobacco store,

2. The name and address of the retail tobacco store,
 3. A statement that the proprietor of the retail tobacco store has personal knowledge of the facts supporting the affidavit,
 4. A statement that the retail tobacco store expects to derive at least 51 percent of its gross income during each calendar year from the sale of tobacco products and accessories as required by A.R.S. § 36-601.01,
 5. A statement describing the documents that contain the facts supporting the statement in subsection (B)(4),
 6. The signature of the proprietor of the retail tobacco store,
 7. An Arizona notary's signature certifying that the proprietor swore to or affirmed the truthfulness of the statements in the affidavit, and
 8. The date of the Arizona notary's signature.
- C. The proprietor of a retail tobacco store where smoking is permitted and that has been in operation for at least an entire calendar year shall complete, by January 31 of each year, an affidavit that contains:
1. The name of the proprietor of the retail tobacco store;
 2. The name and address of the retail tobacco store;
 3. A statement that the proprietor of the retail tobacco store has personal knowledge of the facts supporting the affidavit;
 4. A statement that the retail tobacco store derived at least 51 percent of its gross income during the previous calendar year from the sale of tobacco products and accessories;
 5. A statement describing the documents that contain the facts supporting the statement in subsection (C)(4), supporting documentation may include sales slips, invoices, receipts, and deposit slips;
 6. The signature of the proprietor of the retail tobacco store;
 7. An Arizona notary's signature certifying that the proprietor swore to or affirmed the truthfulness of the statements in the affidavit; and
 8. The date of the Arizona notary's signature.
- D. If the Department or the Department's designee receives a complaint under R9-2-109(A) about a retail tobacco store where smoking is permitted, the proprietor of the retail tobacco store shall provide to the Department or the Department's designee:
1. The affidavit under subsection (B) or the most current affidavit under subsection (C), whichever is appropriate; and
 2. Documents that enable the Department or the Department's designee to determine the percent of gross income derived from the sale of tobacco products and accessories:
 - a. For the calendar quarter immediately preceding the date of the complaint; or
 - b. If the retail tobacco store was not in operation for the entire calendar quarter immediately preceding the date of the complaint, for the period beginning on the date the retail tobacco store opened and ending on the date of the complaint.
- E. The proprietor of a retail tobacco store where smoking is permitted shall retain on the premises of the retail tobacco store and make available to the Department or the Department's designee upon request:
1. The affidavit under subsection (B) or the most current affidavit under subsection (C), whichever is appropriate; and
 2. The documents:

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- a. Identified under subsection (B)(5) or subsection (C)(5), whichever is appropriate; and
- b. Required under subsection (D)(2).

Historical Note

Adopted effective January 6, 1989 (Supp. 89-1).
 Repealed effective September 30, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1992, Ch. 301, § 61; received in the Office of the Secretary of State October 1, 1993 (Supp. 93-4). New Section made by exempt rulemaking at 13 A.A.R. 1512, effective May 1, 2007 (Supp. 07-2).
 Amended by final expedited rulemaking at 30 A.A.R. 233 (February 2, 2024), with an immediate effective date of January 10, 2024 (Supp. 24-1).

R9-2-108. Outdoor Patio

- A. A proprietor may designate an area as an outdoor patio where smoking is permitted only if the area:
 - 1. Is a contiguous area of a place of employment or public place;
 - 2. Is controlled by the proprietor of the place of employment or public place; and
 - 3. Has:
 - a. At least one side that consists of:
 - i. Open space;
 - ii. Permeable material;
 - iii. A combination of open space and permeable material; or
 - iv. A combination of open space, permeable material, and a non-permeable wall that is not higher than three and one-half feet or the minimum height required by an applicable local ordinance or building code, whichever is greater; or
 - b. No overhead covering or an overhead covering that consists of:
 - i. Permeable material, or
 - ii. A combination of open space and permeable material.
- B. If an outdoor patio where smoking is permitted has a doorway for outdoor patio patrons and does not have a wall that prevents individuals from entering the outdoor patio, the proprietor shall:
 - 1. Inform individuals that the doorway:
 - a. Is not an entrance, and
 - b. Is a doorway for outdoor patio patrons; and
 - 2. Direct individuals who are not outdoor patio patrons to an entrance.
- C. If a proprietor designates an area as an outdoor patio where smoking is permitted, the proprietor shall not permit tobacco smoke to drift into areas where smoking is prohibited through entrances, windows, ventilation systems, or other means.
- D. The reasonable distance required in R9-2-102(A) does not apply to a doorway for outdoor patio patrons, a window, or a ventilation system located in an area designated as an outdoor patio where smoking is permitted.
- E. If an outdoor patio is located less than 20 feet from any entrance of a public place or non-vehicle place of employment, a proprietor may permit smoking on the outdoor patio only if the proprietor uses a method that:
 - 1. Permits an individual to avoid breathing tobacco smoke when using the entrance at the public place or non-vehicle place of employment, and
 - 2. Does not permit tobacco smoke to drift into the public place or non-vehicle place of employment through

entrances, open windows, ventilation systems, or other means.

- F. A proprietor may designate an outdoor patio as an area where smoking is prohibited.

Historical Note

Adopted effective January 6, 1989 (Supp. 89-1).
 Repealed effective September 30, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1992, Ch. 301, § 61; received in the Office of the Secretary of State October 1, 1993 (Supp. 93-4). New Section made by exempt rulemaking at 13 A.A.R. 1512, effective May 1, 2007 (Supp. 07-2).

R9-2-109. Complaint; Observation; Notification; Inspection

- A. When a person makes a complaint to the Department or the Department's designee under A.R.S. § 36-601.01, the complaint shall include:
 - 1. The name and address of the public place or place of employment that is the subject of the complaint;
 - 2. The date and approximate time of the occurrence that gave rise to the complaint;
 - 3. A description of the occurrence that gave rise to the complaint; and
 - 4. Any other information relevant to the occurrence that gave rise to the complaint.
- B. An individual shall make a complaint according to subsection (A) if the individual:
 - 1. Conducted an inspection pursuant to:
 - a. A.R.S. Title 36, Chapter 4 or Chapter 7.1; or
 - b. A.R.S. § 36-136(D) and 9 A.A.C. 8; and
 - 2. During the inspection, observed a possible violation of A.R.S. § 36-601.01.
- C. Within 15 days after receipt of a complaint made according to subsection (A), the Department or the Department's designee shall:
 - 1. Notify the proprietor at the public place or place of employment about the complaint; or
 - 2. Conduct an inspection, for compliance with A.R.S. § 36-601.01, of the public place or place of employment.
- D. If a complaint made according to subsection (A) is not resolved under subsection (C)(1), the Department or the Department's designee shall conduct an inspection, for compliance with A.R.S. § 36-601.01, of the public place or place of employment that is the subject of the complaint.

Historical Note

Adopted effective January 6, 1989 (Supp. 89-1).
 Repealed effective September 30, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1992, Ch. 301, § 61; received in the Office of the Secretary of State October 1, 1993 (Supp. 93-4). New Section made by exempt rulemaking at 13 A.A.R. 1512, effective May 1, 2007 (Supp. 07-2).

R9-2-110. Determination of Violation

In determining whether a violation of A.R.S. § 36-601.01 has occurred, the Department or the Department's designee shall consider the following:

- 1. The presence of an ashtray in an area where smoking is prohibited;
- 2. The lack of a sign that is required under A.R.S. § 36-601.01(E) or the presence of a sign that does not meet the requirements of R9-2-105;

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3. The presence of smoking in an area where smoking is prohibited;
4. The presence of tobacco ashes, cigarette butts or filters, or cigar stubs in an area where smoking is prohibited;
5. The presence of tobacco smoke that drifts into a place of employment or public place through entrances, windows, ventilation systems, or other means; and
6. Except as provided in R9-2-108(D) and R9-2-108(E), the presence of tobacco smoke within a reasonable distance from entrances, open windows, or ventilation systems.

Historical Note

Adopted effective January 6, 1989 (Supp. 89-1).
 Repealed effective September 30, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1992, Ch. 301, § 61; received in the Office of the Secretary of State October 1, 1993 (Supp. 93-4). New Section made by exempt rulemaking at 13 A.A.R. 1512, effective May 1, 2007 (Supp. 07-2).
 Amended by final expedited rulemaking at 30 A.A.R. 233 (February 2, 2024), with an immediate effective date of January 10, 2024 (Supp. 24-1).

R9-2-111. Notice of Violation; Notice of Assessment

- A. After the Department or the Department's designee determines that a violation of A.R.S. § 36-601.01 has occurred, and based on the criteria in R9-2-112, the Department or the Department's designee may send to the proprietor at the place of employment or public place a written notice of violation that includes:
 1. The nature of the violation;
 2. The date and time that the violation occurred;
 3. The name, telephone number, and e-mail address of the Department contact person or the contact person of the Department's designee; and
 4. If a civil penalty is being assessed, a notice of assessment.
- B. If the Department or the Department's designee issues a notice of violation or a notice of assessment, a person to whom the notice is issued may appeal the determination that a violation has occurred or assessment of a civil penalty:
 1. According to A.R.S. Title 41, Chapter 6, Article 10, if the Department made the determination or assessment; or
 2. According to procedures of the Department's designee that are consistent with A.R.S. Title 41, Chapter 6, Article 10, if the Department's designee made the determination or assessment.

Historical Note

Adopted effective January 6, 1989 (Supp. 89-1).
 Repealed effective September 30, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1992, Ch. 301, § 61; received in the Office of the Secretary of State October 1, 1993 (Supp. 93-4). New Section made by exempt rulemaking at 13 A.A.R. 1512, effective May 1, 2007 (Supp. 07-2).

R9-2-112. Criteria for Issuing a Notice of Violation or Notice of Assessment

In determining whether to issue a notice of violation under A.R.S. § 36-601.01(G)(5), whether to issue a notice of assessment under A.R.S. § 36-601.01(G)(6), or the amount of a civil penalty that is being assessed, the Department or the Department's designee shall consider:

1. The seriousness of the violation;
2. Any economic benefit that results from the violation;
3. The duration of the violation;

4. The previous violations of A.R.S. § 36-601.01 at the place of employment or public place, including:
 - a. The type and severity of any previous violation,
 - b. The number of individuals affected by the previous violations,
 - c. The total number of previous violations, and
 - d. The length of time from the first violation to the current violation;
5. Any good faith efforts to comply with the requirements of A.R.S. § 36-601.01, including:
 - a. Reporting violations to the Department or the Department's designee; and
 - b. Meeting the requirements of A.R.S. § 36-601.01(I) by:
 - i. Informing an individual who is smoking that smoking is illegal, and
 - ii. Requesting that the individual immediately stop the illegal smoking; and
6. Other factors affecting the public health and safety the Department or the Department's designee deems relevant.

Historical Note

New Section made by exempt rulemaking at 13 A.A.R. 1512, effective May 1, 2007 (Supp. 07-2).

ARTICLE 2. EXPIRED

Editor's Note: The following Section was adopted and amended under an exemption from the provisions of the Administrative Procedure Act which means that these rules were not reviewed by either the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and the agency was not required to hold public hearings on these rules.

R9-2-201. Expired**Historical Note**

Adopted effective August 30, 1995, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 275, § 9. (Supp. 95-3). Amended effective October 20, 1995, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 275, § 9 (Supp. 95-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 3844, effective July 30, 2001 (Supp. 01-3).

Editor's Note: The following Section was adopted, repealed, renumbered, and amended under an exemption from the provisions of the Administrative Procedure Act which means that these rules were not reviewed by either the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and the agency was not required to hold public hearings on these rules.

R9-2-202. Expired**Historical Note**

Adopted effective August 30, 1995, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 275, § 9. (Supp. 95-3). Former Section R9-2-202 repealed, new Section R9-2-202 renumbered from R9-2-204 and amended effective October 20, 1995, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 275, § 9 (Supp. 95-4). Section expired

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under A.R.S. § 41-1056(E) at 7 A.A.R. 3844, effective July 30, 2001 (Supp. 01-3).

Editor's Note: The following Section was adopted, repealed, renumbered, and amended under an exemption from the provisions of the Administrative Procedure Act which means that these rules were not reviewed by either the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and the agency was not required to hold public hearings on these rules.

R9-2-203. Expired**Historical Note**

Adopted effective August 30, 1995, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 275, § 9. (Supp. 95-3). Former Section R9-2-203 repealed, new Section R9-2-203 renumbered from R9-2-205 and amended effective October 20, 1995, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 275, § 9 (Supp. 95-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 3844, effective July 30, 2001 (Supp. 01-3).

Editor's Note: The following Section was adopted and renumbered under an exemption from the provisions of the Administrative Procedure Act which means that these rules were not reviewed by either the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and the agency was not required to hold public hearings on these rules.

R9-2-204. Renumbered**Historical Note**

Adopted effective August 30, 1995, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 275, § 9. (Supp. 95-3). Former Section R9-2-204 renumbered to R9-2-202 effective October 20, 1995, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 275, § 9. (Supp. 95-4).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act which means that these rules were not reviewed by either the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and the agency was not required to hold public hearings on these rules.

R9-2-205. Renumbered**Historical Note**

Adopted effective August 30, 1995, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 275, § 9. (Supp. 95-3). Former Section R9-2-205 renumbered to R9-2-203 effective October 20, 1995, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 275, § 9. (Supp. 95-4).

ARTICLE 3. EXPIRED

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act which means these rules were not reviewed by the Governor's Regulatory Review Council; and the agency did not submit notice of proposed rulemaking to the Secretary of State for publication

in the Arizona Administrative Register. As determined by the agency, public hearings were conducted before adoption pursuant to A.R.S. § 36-2907.08.

R9-2-301. Expired**Historical Note**

Adopted effective September 20, 1996, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to A.R.S. § 36-2907.08 (Supp. 96-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 3844, effective July 30, 2001 (Supp. 01-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act which means these rules were not reviewed by the Governor's Regulatory Review Council; and the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register. As determined by the agency, public hearings were conducted before adoption pursuant to A.R.S. § 36-2907.08.

R9-2-302. Expired**Historical Note**

Adopted effective September 20, 1996, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to A.R.S. § 36-2907.08 (Supp. 96-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 3844, effective July 30, 2001 (Supp. 01-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act which means these rules were not reviewed by the Governor's Regulatory Review Council; and the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register. As determined by the agency, public hearings were conducted before adoption pursuant to A.R.S. § 36-2907.08.

R9-2-303. Expired**Historical Note**

Adopted effective September 20, 1996, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to A.R.S. § 36-2907.08 (Supp. 96-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 3844, effective July 30, 2001 (Supp. 01-3).

ARTICLE 4. EXPIRED

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act which means these rules were not reviewed by the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and there were no public hearings conducted on the Section.

R9-2-401. Expired**Historical Note**

Adopted effective February 10, 1997, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 275, § 9 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 3844, effective July 30, 2001 (Supp. 01-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure

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Act which means these rules were not reviewed by the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and there were no public hearings conducted on the Section.

R9-2-402. Expired**Historical Note**

Adopted effective February 10, 1997, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 275, § 9 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 3844, effective July 30, 2001 (Supp. 01-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act which means these rules were not reviewed by the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and there were no public hearings conducted on the Section.

R9-2-403. Expired**Historical Note**

Adopted effective February 10, 1997, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 275, § 9 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 3844, effective July 30, 2001 (Supp. 01-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act which means these rules were not reviewed by the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and there were no public hearings conducted on the Section.

R9-2-404. Expired**Historical Note**

Adopted effective February 10, 1997, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 275, § 9 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 3844, effective July 30, 2001 (Supp. 01-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act which means these rules were not reviewed by the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and there were no public hearings conducted on the Section.

R9-2-405. Expired**Historical Note**

Adopted effective February 10, 1997, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 275, § 9 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 3844, effective July 30, 2001 (Supp. 01-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act which means these rules were not reviewed by the Governor's Regulatory Review Council; the agency did not submit notice of

proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and there were no public hearings conducted on the Section.

R9-2-406. Expired**Historical Note**

Adopted effective February 10, 1997, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 275, § 9 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 3844, effective July 30, 2001 (Supp. 01-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act which means these rules were not reviewed by the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and there were no public hearings conducted on the Section.

R9-2-407. Expired**Historical Note**

Adopted effective February 10, 1997, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 275, § 9 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 3844, effective July 30, 2001 (Supp. 01-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act which means these rules were not reviewed by the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and there were no public hearings conducted on the Section.

R9-2-408. Expired**Historical Note**

Adopted effective February 10, 1997, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 275, § 9 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 3844, effective July 30, 2001 (Supp. 01-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act which means these rules were not reviewed by the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and there were no public hearings conducted on the Section.

R9-2-409. Expired**Historical Note**

Adopted effective February 10, 1997, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 275, § 9 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 3844, effective July 30, 2001 (Supp. 01-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act which means these rules were not reviewed by the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and there were no public

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hearings conducted on the Section.

R9-2-410. Expired**Historical Note**

Adopted effective February 10, 1997, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 275, § 9 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 3844, effective July 30, 2001 (Supp. 01-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act which means these rules were not reviewed by the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and there were no public hearings conducted on the Section.

R9-2-411. Expired**Historical Note**

Adopted effective February 10, 1997, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 275, § 9 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 3844, effective July 30, 2001 (Supp. 01-3).

ARTICLE 5. RESERVED**ARTICLE 6. RESERVED****ARTICLE 7. REPEALED****R9-2-701. Repealed****R9-2-702. Repealed****R9-2-703. Repealed****R9-2-704. Repealed****R9-2-705. Repealed****R9-2-706. Repealed****R9-2-707. Repealed****R9-2-708. Repealed****R9-2-709. Repealed****R9-2-710. Repealed**

The following Section was repealed effective September 30, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1992, Ch. 301, § 61; received by the Office of the Secretary of State October 1, 1993.

R9-2-711. Repealed**Historical Note**

Adopted effective November 28, 1977 (Supp. 77-6). Repealed effective September 30, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1992, Ch. 301, § 61; received in the Office of the Secretary of State October 1, 1993 (Supp. 93-4).

The following Section was repealed effective September 30, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1992, Ch. 301, § 61; received by the Office of the Secretary of State October 1, 1993.

R9-2-712. Repealed**Historical Note**

Adopted effective November 28, 1977 (Supp. 77-6). Repealed effective September 30, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1992, Ch. 301, § 61; received in the Office of the Secretary of State October 1, 1993 (Supp. 93-4).

The following Section was repealed effective September 30, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1992, Ch. 301, § 61; received by the Office of the Secretary of State October 1, 1993.

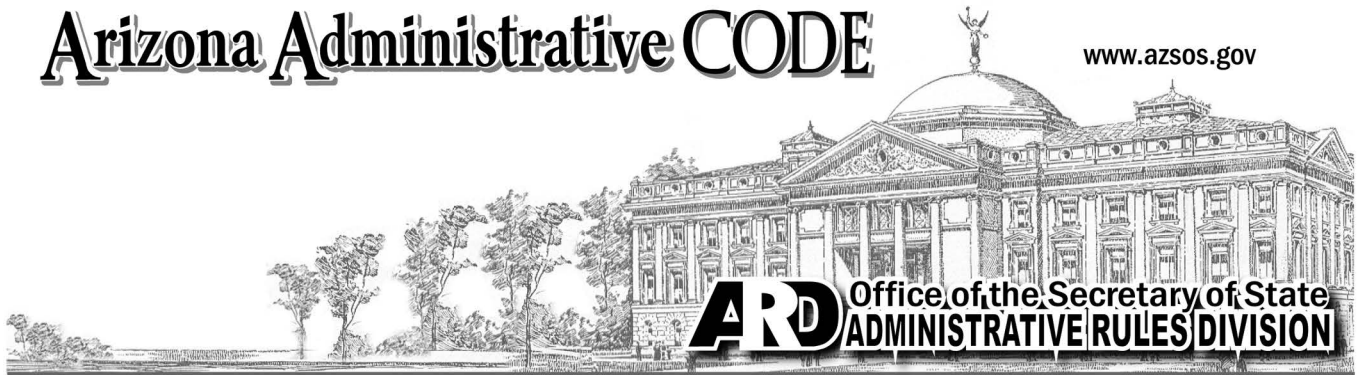
R9-2-713. Repealed**Historical Note**

Adopted effective November 28, 1977 (Supp. 77-6). Repealed effective September 30, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1992, Ch. 301, § 61; received in the Office of the Secretary of State October 1, 1993 (Supp. 93-4).

The following Section was repealed effective September 30, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1992, Ch. 301, § 61; received by the Office of the Secretary of State October 1, 1993.

R9-2-714. Repealed**Historical Note**

Adopted effective November 28, 1977 (Supp. 77-6). Repealed effective September 30, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1992, Ch. 301, § 61; received in the Office of the Secretary of State October 1, 1993 (Supp. 93-4).



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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

The table of contents on page one contains links to the referenced page numbers in this Chapter.

Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
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Questions about these rules? Contact:

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The release of this Chapter in Supp. 24-1 replaces Supp. 22-4, 1-271 pages.

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

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided under A.R.S. § 41-1001. “*Rule*’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

PERSONAL USE/COMMERCIAL USE

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division

The Arizona Secretary of State electronically publishes each A.A.C. Chapter with a digital certificate. The certificate-based signature displays the date and time the document was signed and can be validated in Adobe Acrobat Reader.

TITLE 9. HEALTH SERVICES

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Authority: A.R.S. §§ 30-654(B)(5) and 36-136(G)

Supp. 24-1

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Laws 1980, Chapter 206, abolished the Commission, and created the Arizona Radiation Regulatory Agency (ARRA) and the Radiation Regulatory Hearing Board.

Laws 2017, Ch. 313, transferred the Radiation Regulatory Agency to the Arizona Department of Health Services and renamed it the Bureau of Radiation Control. The rules in this Chapter (9 A.A.C. 7) were originally promulgated under 12 A.A.C. 1 and were recodified at 24 A.A.R. 813 with Section and agency references revised under Laws 2017, Ch. 313. The historical notes of the rules as codified in 12 A.A.C. 1 remain in the Chapter; therefore 12 A.A.C. 1 as released in Supp. 18-1 should be archived with this Chapter (Supp. 18-1).

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ARTICLE 1. GENERAL PROVISIONS

R9-7-101. Scope and Incorporated Materials

- A. Except as otherwise specifically provided, this Chapter applies to all persons who receive, possess, use, transfer, own, or acquire any source of radiation.
- B. This Chapter does not apply to any person that is subject to regulation by the Nuclear Regulatory Commission.
- C. State control of source material, byproduct material, and special nuclear material in quantities not sufficient to form a critical mass is subject to the provisions of the agreement between the state and the U.S. Nuclear Regulatory Commission, signed March 30, 1967 and incorporated by reference. This incorporated material contains no later editions or amendments, and together with all other incorporated materials in this Chapter, is available on the Arizona Department of Health Services, Bureau of Radiation Control website at <https://www.azdhs.gov/documents/licensing/radiation-regulatory/arizona-agreement.pdf>.
- D. Federal regulations incorporated by reference in this Chapter are available from the U.S. Government Publishing Office, P.O. Box 979050, St. Louis, MO 63197-9000 and <https://www.govinfo.gov/app/collection/CFR>.

Historical Note

New Section R9-7-101 recodified from R12-1-101 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-102. Definitions

Terms defined in A.R.S. § 30-651 have the same meanings when used in this Chapter, unless the context otherwise requires. Additional subject-specific definitions are used in other Articles.

“A1” means the maximum activity of special form radioactive material permitted in a type A package. These values are either listed in 10 CFR 71, Appendix A, Table A-1, or may be derived in accordance with the procedures prescribed in 10 CFR 71, Appendix A.

“A2” means the maximum activity of radioactive material, other than special form radioactive material, low specific activity (LSA) material, and surface contaminated object (SCO) material, permitted in a Type A package. These values are either listed in 10 CFR 71, Appendix A, Table A-1, or may be derived in accordance with the procedure prescribed in 10 CFR 71, Appendix A.

“Absorbed dose” means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

“Accelerator” means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of 1 MeV. For purposes of this definition, “particle accelerator” is an equivalent term.

“Accelerator produced material” means any material made radioactive by irradiating it in a particle accelerator.

“Act” means A.R.S. Title 30, Chapter 4.

“Activity” means the rate of disintegration, transformation, or decay of radioactive material. The units of activity are the becquerel (Bq) and the curie (Ci).

“Adult” means an individual 18 or more years of age.

“Agreement State” means any state with which the United States Nuclear Regulatory Commission has entered into an effective agreement under Section 274(b) of the Atomic Energy Act of 1954, as amended (73 Stat. 689). “Nonagreement State” means any other state.

“Airborne radioactive material” means any radioactive material dispersed in the air in the form of aerosols, dusts, fumes, mists, vapors, or gases.

“Airborne radioactivity area” means a room, enclosure, or area in which airborne radioactive materials, composed wholly or partly of licensed radioactive material, exist in concentrations:

In excess of the derived air concentrations (DACs) specified in Appendix B, Table I of Article 4; or

That an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is pre-sent in a week, an intake of 0.6 percent of the annual limit on intake (ALI) or 12 DAC-hours.

“ALARA” means as low as is reasonably achievable, making every reasonable effort to maintain exposures to radiation as far below the dose limits in these rules as is practical, consistent with the purpose for which the licensed or registered activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed or registered sources of radiation in the public interest.

“Analytical x-ray equipment” means equipment used for x-ray diffraction or x-ray-induced fluorescence analysis.

“Analytical x-ray system” means a group of components utilizing x-rays to determine the elemental composition or to examine the micro-structure of materials.

“Annual” means done or performed yearly. For purposes of Chapter 1, any required activity done or performed within plus or minus two weeks of the annual due date is considered done or performed in a timely manner.

“Approved individual” means an individual whom the licensee has determined to be trustworthy and reliable for unescorted access in accordance with subpart B of this part and who has completed the training required by 10 CFR 37.43(c).

“Associate Radiation Safety Officer” means an individual who:

Meets the requirements in 10 CFR 35.50 and 10 CFR 35.59; and

Is currently identified as an Associate Radiation Safety Officer for the types of use of byproduct material for which the individual has been assigned duties and tasks by the Radiation Safety Officer on:

A specific medical use license issued by the NRC or an Agreement State; or

A medical use permit issued by a NRC master material licensee.

“Authorized medical physicist” means an individual who meets the requirements in R9-7-711; or is identified as an authorized medical physicist or teletherapy physicist on:

A specific medical use license issued by the Department, the NRC, or another Agreement State;

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A medical use permit issued by a NRC master material licensee;

A permit issued by the Department, the NRC, or another Agreement State broad scope medical use licensee; or

A permit issued by a NRC master material license broad scope medical use permittee.

“Authorized nuclear pharmacist” means a pharmacist who meets the requirements in R9-7-712; or is:

Identified as an authorized nuclear pharmacist on a specific license issued by the Department, the NRC, or another Agreement State that authorizes medical use or the practice of nuclear pharmacy;

Identified as an authorized nuclear pharmacist on a permit issued by a NRC master material licensee that authorizes medical use or the practice of nuclear pharmacy;

Identified as an authorized nuclear pharmacist on a permit issued by the Department, the NRC, or another Agreement State broad scope medical use licensee that authorizes medical use or the practice of nuclear pharmacy; or

Identified as an authorized nuclear pharmacist on a permit issued by a NRC master material license broad scope medical use permittee that authorizes medical use or the practice of nuclear pharmacy; or

Identified as an authorized nuclear pharmacist by a commercial nuclear pharmacy that has been authorized to identify authorized nuclear pharmacists; or

Designated as an authorized nuclear pharmacist in accordance with R9-7-311(G).

“Authorized user” means a physician, dentist, or podiatrist who meets the requirements in R9-7-719, R9-7-723, R9-7-727, R9-7-728, or R9-7-744; or is identified as an authorized user on:

The Department, NRC, or another Agreement State license that authorizes the medical use of radioactive material;

A permit issued by a NRC master material licensee that is authorized to permit the medical use of radioactive material;

A permit issued by the Department, the NRC, or another Agreement State specific licensee of broad scope that is authorized to permit the medical use of radioactive material; or

A permit issued by a NRC master material license broad scope permittee that is authorized to permit the medical use of radioactive material.

“Background investigation” means an assessment of an individual’s prior actions and experience conducted by a licensee or applicant, to support the determination of the individual’s trustworthiness and reliability in accordance with 10 CFR 37.25.

“Background radiation” means radiation from cosmic sources; not technologically enhanced naturally occurring radioactive material, including radon (except as a decay product of source or special nuclear material); and global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents, such as Chernobyl, that contribute to background radiation and are not under the control of

a licensee. “Background radiation” does not include sources of radiation regulated by the Department.

“Becquerel” (Bq) means the International System (SI) unit for activity and is equal to 1 disintegration per second (dps or tps).

“Bioassay” means the determination of kinds, quantities, or concentrations, and in some cases, the locations of radioactive material in the human body, whether by direct measurement, in vivo counting, or by analysis and evaluation of materials excreted or removed from the human body. For purposes of these rules, “radiobioassay” is an equivalent term.

“Brachytherapy” means a method of radiation therapy in which an encapsulated source or group of sources is utilized to deliver beta or gamma radiation at a distance of up to a few centimeters, by surface, intracavitary or interstitial application.

“Byproduct material” means:

Any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material;

The tailings or wastes produced by the extraction or concentration of uranium or thorium from ore processed primarily for its source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute “byproduct material” within this definition;

Any discrete source of radium-226 that is produced, extracted, or converted after extraction, for use for a commercial, medical, or research activity; or any material that, has been made radioactive by use of a particle accelerator; and is produced, extracted, or converted after extraction, for use for a commercial, medical, or research activity; and

Any discrete source of naturally occurring radioactive material, other than source material, that the NRC, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security and; before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity.

“Calendar quarter” means not less than 12 consecutive weeks nor more than 14 consecutive weeks. The first calendar quarter of each year shall begin in January and subsequent calendar quarters shall be so arranged such that no day is included in more than one calendar quarter and no day in any one year is omitted from inclusion within a calendar quarter. A licensee or registrant shall not change the method of determining calendar quarters for purposes of this Chapter except at the beginning of a calendar year.

“Calibration” means the determination of:

The response or reading of an instrument relative to a series of known radiation values over the range of the instrument, or

The strength of a source of radiation relative to a standard.

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“Carrier” means a person engaged in the transportation of passengers or property by land or water as a common, contract, or private carrier, or by civil aircraft.

“Certifiable cabinet x-ray system” means an existing uncertified x-ray system that meets or has been modified to meet the certification requirements specified in 21 CFR 1020.40, revised April 1, 2019, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

“Certificate holder” means a person who has been issued a certificate of compliance or other package approval by the Department or NRC.

“Certificate of Compliance” (CoC) means the certificate issued by the NRC under 10 CFR 71, Subpart D, which authorizes the design of a package for the transportation of radioactive material.

“Certified cabinet x-ray system” means an x-ray system that has been certified in accordance with 21 CFR 1010.2, as being manufactured and assembled on or after April 10, 1975, in accordance with the provisions of 21 CFR 1020.40, both sections revised April 1, 2019, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

“CFR” means Code of Federal Regulations.

“Chelating agent” means amine polycarboxylic acids, hydroxycarboxylic acids, gluconic acid, and polycarboxylic acids.

“Civil penalty” means the monetary fine which may be imposed on licensees by the Department, pursuant to A.R.S. § 30-687, for violations of the Act, this Chapter, or license conditions.

“Collective dose” means the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

“Committed dose equivalent” (HT,50) means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.

“Committed effective dose equivalent” (HE,50) is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues ($HE,50 = \sum w_T HT,50$).

“Consortium” means an association of medical use licensees and a PET radionuclide production facility in the same geographical area that jointly own or share in the operation and maintenance cost of the PET radionuclide production facility that produces PET radionuclides for use in producing radioactive drugs within the consortium for noncommercial distributions among its associated members for medical use. The PET radionuclide production facility within the consortium must be located at an educational institution or a federal facility or a medical facility.

“Contamination” means the presence of a radioactive substance on a surface in quantities in excess of 0.4 Bq/cm² (1×10^{-5} µCi/cm²) for beta and gamma emitters and low toxicity alpha emitters, or 0.04 Bq/cm² (1×10^{-6} µCi/cm²) for all other alpha emitters.

“Fixed contamination” means contamination that cannot be removed from a surface during normal conditions of transport.

“Non-fixed contamination” means contamination that can be removed from a surface during normal conditions of transport.

“Criticality Safety Index (CSI)” means the dimensionless number (rounded up to the next tenth) assigned to and placed on the label of a fissile material package, to designate the degree of control of accumulation of packages, overpacks or freight containers containing fissile material during transportation. Determination of the criticality safety index is described in 10 CFR 71.22, 10 CFR 71.23, and 10 CFR 71.59. The criticality safety index for an overpack, freight container, consignment or conveyance containing fissile material packages is the arithmetic sum of the criticality safety indices of all the fissile material packages contained within the overpack, freight container, consignment or conveyance.

“Curie” means a unit of quantity of radioactivity. One curie (Ci) is that quantity of radioactive material which decays at the rate of 3.7×10^{10} transformations per second (tps).

“Current license or registration” means a license or registration issued by the Department and for which the licensee has paid the license or registration fee for the current year according to R9-7-1304.

“Deep-dose equivalent” (Hd), which applies to external whole body exposure, is the dose equivalent at a tissue depth of 1 centimeter (1000 mg/cm²).

“Depleted uranium” means the source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium does not include special nuclear material.

“Discrete source” means a radionuclide that has been processed so that its concentration within a material has been purposely increased for use for commercial, medical, or research activities.

“Dose” is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, total organ dose equivalent, or total effective dose equivalent. For purposes of these rules, “radiation dose” is an equivalent term.

“Dose equivalent” (HT) means the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the sievert (Sv) and rem.

“Dose limits” means the permissible upper bound of radiation doses established in accordance with these rules. For purposes of these rules, “limits” is an equivalent term.

“Dosimeter” (See “Individual monitoring device”)

“Effective dose equivalent” (HE) means the sum of the products of the dose equivalent to each organ or tissue (HT) and the weighting factor (wT) applicable to each of the body organs or tissues that are irradiated ($HE = \sum w_T HT$).

“Effluent release” means any disposal or release of radioactive material into the ambient atmosphere, soil, or any surface or subsurface body of water.

“Embryo/fetus” means the developing human organism from conception until the time of birth.

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“Enclosed beam x-ray system” means an analytical x-ray system constructed in such a way that access to the interior of the enclosure housing the x-ray source during operation is precluded except through bypassing of interlocks or other safety devices to perform maintenance or servicing.

“Enclosed radiography” means industrial radiography conducted by using cabinet radiography or shielded room radiography.

“Cabinet radiography” means industrial radiography conducted by using an x-ray machine in an enclosure not designed for human admittance and which is so shielded that every location on the exterior meets the conditions for an “unrestricted area.”

“Shielded room radiography” means industrial radiography conducted using an x-ray machine in an enclosure designed for human admittance and which is so shielded that every location of the exterior meets the conditions for an “unrestricted area.”

“Entrance or access point” means any opening through which an individual or extremity of an individual could gain access to radiation areas or to licensed radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

“Exhibit” for purposes of these rules, is equivalent in meaning to the word “Schedule” as found in previously issued rules, current license conditions, and regulation guide.

“Explosive material” means any chemical compound, mixture, or device which produces a substantial instantaneous release of gas and heat spontaneously or by contact with sparks or flame.

“Exposure” means:

Being subjected to ionizing radiation or radioactive materials.

The quotient of dQ by dm where “ dQ ” is the absolute value of the total charge of the ions of one sign produced in air when all the electrons (negatrons and positrons) liberated by photons in a volume element of air having mass “ dm ” are completely stopped in air. The special unit of exposure is the roentgen (R).

“Exposure rate” means the exposure per unit of time.

“External dose” means that portion of the dose equivalent received from any source of radiation outside the body.

“Extremity” means the hand, elbow, arm below the elbow, foot, knee, and leg below the knee.

“Fail-safe characteristics” means a design feature which causes beam port shutters to close, or otherwise prevents emergence of the primary beam, upon the failure of a safety or warning device.

“FDA” means the United States Food and Drug Administration.

“Field radiography” means industrial radiography, utilizing a portable or mobile x-ray system, which is not conducted in a shielded enclosure.

“Field station” means a facility where radioactive sources may be stored or used and from which equipment is dispatched to temporary job sites.

“Former U.S. Atomic Energy Commission (AEC) or U.S. Nuclear Regulatory Commission (NRC) licensed facilities” means nuclear reactors, nuclear fuel reprocessing plants, uranium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

“Generally applicable environmental radiation standards” means standards issued by the U.S. Environmental Protection Agency (EPA), 40 CFR 190, revised December 1, 1979, and 40 CFR 191, revised December 20, 1993, incorporated by reference, and available under R9-7-101, under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material. This incorporated material contains no future editions or amendments.

“Gray” (Gy) means the International System (SI) unit of absorbed dose and is equal to 1 joule per kilogram. One gray equals 100 rad.

“Hazardous waste” means those wastes designated as hazardous in A.R.S. § 49-921(5).

“Healing arts” means the practice of medicine, dentistry, osteopathy, podiatry, chiropractic, and veterinary medicine.

“Health care institution” means every place, institution, or building which provides facilities for medical services or other health-related services, not including private clinics or offices which do not provide overnight patient care.

“High radiation area” means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving a dose equivalent in excess of 1 mSv (0.1 rem) in one hour at 30 centimeters from the radiation source or 30 centimeters from any surface that the radiation penetrates.

“Human use” means the internal or external administration of radiation or radioactive materials to human beings.

“Impound” means to abate a radiological hazard. Actions which may be taken by the Department in impounding a source of radiation include seizing the source of radiation, controlling access to an area, and preventing a radiation machine from being utilized.

“Indian Tribe” means an Indian or Alaska native Tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

“Individual” means any human being.

“Individual monitoring” means the assessment of:

Dose equivalent

By the use of individual monitoring devices, or

By the use of survey data, or

Committed effective dose equivalent

By bioassay; or

By determination of the time-weighted air concentrations to which an individual has been exposed, that is, DAC-hours. (See the definition of DAC-hours in Article 4).

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“Individual monitoring device” means a device designed to be worn by a single individual for the assessment of dose equivalent. For purposes of this Chapter, “dosimeter” and “personnel dosimeter,” are equivalent terms. Examples of individual monitoring devices are film badges, thermoluminescence dosimeters (TLDs), pocket ionization chambers, optical stimulation devices, and personnel (“lapel”) air sampling devices.

“Individual monitoring equipment” means one or more individual monitoring devices. For purposes of this Chapter, “personnel monitoring equipment” is an equivalent term.

“Industrial radiography” means the examination of the macroscopic structure of materials by non-destructive methods utilizing sources of ionizing radiation.

“Injection tool” means a device used for controlled subsurface injection of radioactive tracer material.

“Inspection” means an examination or observation by a representative of the Department, including but not limited to tests, surveys, and monitoring to determine compliance with rules, orders, requirements and conditions of the License or certificate of registration.

“Interlock” means a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

“Internal dose” means that portion of the dose equivalent received from radioactive material taken into the body.

“Irradiate” means to expose to radiation.

“Laser” (light amplification by the stimulated emission of radiation) means any device which can produce or amplify electromagnetic radiation with wavelengths in the range of 180 nanometers to 1 millimeter primarily by the process of controlled stimulated emission.

“Lens dose equivalent” (LDE) means the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 centimeters (300 mg/cm²).

“License” means the grant of authority, issued pursuant to Articles 3 and 14 of this Chapter and A.R.S. §§ 30-671, 30-672, and 30-721 et seq., to acquire, possess, transfer, and use sources of radiation. The types of licenses issued by the Department are described in R9-7-1302.

“Licensed material” means radioactive material received, possessed, used, transferred, or disposed of under a general or specific license issued by the Department.

“Licensed practitioner” means a person licensed or otherwise authorized by law to practice medicine, dentistry, osteopathy, chiropractic, podiatry, or naturopathy in this state.

“Licensee” means any person who is licensed by the Department under this Chapter to acquire, possess, transfer, or use sources of radiation.

“Licensing State” means any state having regulations equivalent to this Chapter relating to, and an effective program for the regulation of, naturally occurring and accelerator-produced radioactive material (NARM).

“Limits” (See “Dose limits”)

“Local components” means those parts of an analytical x-ray system that are struck by x-rays, including radiation source housings, port and shutter assemblies, collimator, sample holders, cameras, goniometer, detectors and shielding but not

including power supplies, trans-formers, amplifiers, readout devices, and control panels.

“Logging supervisor” means the individual who provides personal supervision of the utilization of sources of radiation at the well site.

“Logging tool” means a device used subsurface to perform well logging.

“Lost or missing licensed or registered source of radiation” means licensed or registered source of radiation the location of which is unknown. Included are licensed radioactive material or a registered radiation source that has been shipped but has not reached its planned destination and whose location cannot be readily traced or ascertained in the transportation system.

“Low-level waste” means waste material which contains radioactive nuclides in concentrations or quantities which exceed applicable standards for unrestricted release but does not include:

High-level waste, such as irradiated reactor fuel, liquid waste from reprocessing irradiated reactor fuel, or solids into which any such liquid waste has been converted;

Waste material containing transuranic elements with contamination levels greater than 10 nanocuries per gram (370 kilobecquerels per kilogram) of waste material; or

The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

“Low Specific Activity (LSA) material” means radioactive material with limited specific activity which is nonfissile or is excepted under 10 CFR 71.15, and which satisfies the descriptions and limits set forth in the following section. Shielding materials surrounding the LSA material may not be considered in determining the estimated average specific activity of the package contents. The LSA material must be in one of three groups:

LSA—I.

Uranium and thorium ores, concentrates of uranium and thorium ores, and other ores containing naturally occurring radionuclides that are intended to be processed for the use of these radionuclides;

Natural uranium, depleted uranium, natural thorium or their compounds or mixtures, provided they are unirradiated and in solid or liquid form;

Radioactive material other than fissile material, for which the A2 value is unlimited; or

Other radioactive material in which the activity is distributed throughout and the estimated average specific activity does not exceed 30 times the value for exempt material activity concentration determined in accordance with appendix A.

LSA—II.

Water with tritium concentration up to 0.8 TBq/liter (20.0 Ci/liter); or

Other radioactive material in which the activity is distributed throughout and the estimated average specific activity does not exceed 10–4 A2/g for solids and gases, and 10–5 A2/g for liquids.

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LSA—III. Solids (e.g., consolidated wastes, activated materials), excluding powders, that satisfy the requirements of 10 CFR 71.77, in which:

The radioactive material is distributed throughout a solid or a collection of solid objects, or is essentially uniformly distributed in a solid compact binding agent (such as concrete, bitumen, ceramic, etc.);

The radioactive material is relatively insoluble, or it is intrinsically contained in a relatively insoluble material, so that even under loss of packaging, the loss of radioactive material per package by leaching, when placed in water for 7 days will not exceed 0.1 A2; and

The estimated average specific activity of the solid, excluding any shielding material, does not exceed 2×10^{-3} A2/g.

“Major processor” means a user processing, handling, or manufacturing radioactive material exceeding Type A quantities as unsealed sources or material or exceeding four times Type B quantities as sealed sources but does not include nuclear medicine programs, universities, industrial radiographers, or small industrial programs. Type A and B quantities are defined in 10 CFR 71.4.

“Medical dose” means a radiation dose intentionally delivered to an individual for medical examination, diagnosis, or treatment.

“Member of the public” means any individual except when that individual is receiving an occupational dose.

“MeV” means Mega Electron Volt which equals 1 million volts (106 eV).

“Mineral logging” means any well logging performed in a borehole drilled for the purpose of exploration for minerals other than oil or gas.

“Minor” means an individual less than 18 years of age.

“Monitoring” means the measurement of radiation, radioactive material concentrations, surface area activities, or quantities of radioactive material, and the use of the results of these measurements to evaluate potential exposures and doses. For purposes of these rules, “radiation monitoring” and “radiation protection monitoring” are equivalent terms.

“Multiplier” means a letter representing a number. The use of a multiplier is based on the code given below:

| <i>Prefix</i> | <i>Multiplier Symbol</i> | <i>Value</i> |
|---------------|--------------------------|--------------|
| eka | E | 10^{18} |
| peta | P | 10^{15} |
| tera | T | 10^{12} |
| giga | G | 10^9 |
| mega | M | 10^6 |
| kilo | k | 10^3 |
| milli | m | 10^{-3} |
| micro | u | 10^{-6} |
| nano | n | 10^{-9} |
| pico | p | 10^{-12} |
| femto | f | 10^{-15} |
| atto | a | 10^{-18} |

“NARM” means any naturally occurring or accelerator-produced radioactive material. It does not include byproduct, source, or special nuclear material. This term should not be confused with “NORM” which is defined as naturally occurring radioactive material.

“Natural radioactivity” means the radioactivity of naturally occurring radioactive substances.

“Normal operating procedures” means the entire set of instructions necessary to accomplish the intended use of the source of radiation. These procedures shall include, but are not limited to, sample insertion and manipulation, equipment alignment, routine maintenance by the licensee, and data recording procedures which are related to radiation safety.

“NRC” means Nuclear Regulatory Commission, the U.S. Nuclear Regulatory Commission, or its duly authorized representatives.

“NRC Document Control Desk” means the Nuclear Regulatory Document Control Desk. ATTN: Document Control Desk, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

“Nuclear waste” means any highway route controlled quantity (defined in 49 CFR 173.403, revised January 8, 2015, incorporated by reference, available under R9-7-101, and containing no future editions or amendments) of source, byproduct, or special nuclear material required to be in NRC-approved packaging while transported to, through, or across state boundaries to a disposal site, or to a collection point for transport to a disposal site. Additional requirements associated with transportation of radioactive material can be found in Article 15.

“Occupational dose” means the dose received by an individual in the course of employment in which the individual’s assigned duties involve exposure to sources of radiation, whether in the possession of a licensee, registrant, or other person. Occupational dose does not include a dose received from background radiation, medical administration of radiation to the individual, exposure to an individual who has been administered radioactive material and released in accordance with R9-7-717, voluntary participation in a medical research program, or as a member of the public.

“Open beam system” means an analytical x-ray system in which an individual could place some body part in the primary beam path during normal operation.

“Ophthalmic physicist” means an individual who:

Meets the requirements in 10 CFR 35.433(a)(2) and 10 CFR 35.59; and

Is identified as an ophthalmic physicist on a:

Specific medical use license issued by the Department, the NRC, or another Agreement State;

Permit issued by a Department, NRC, or another Agreement State broad scope medical use licensee;

Medical use permit issued by a NRC master material licensee; or

Permit issued by a NRC master material license broad scope medical use permittee.

“Package” means the packaging together with its radioactive contents as presented for transport.

“Particle accelerator” (See “Accelerator”)

“Permanent radiographic installation” means a fixed, shielded installation or structure designed or intended for industrial radiography and in which industrial radiography is regularly performed.

“Personnel dosimeter” (See “Individual monitoring device”)

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“Personnel monitoring equipment” (See “Individual monitoring device”)

“Personal supervision” means supervision in which the supervising individual is physically present at the site where sources of radiation and associated equipment are being used, watching the performance of the supervised individual and in such proximity that immediate assistance can be given if required.

“PET” (See Positron Emission Tomography (PET))

“Pharmacist” means an individual licensed by this state to compound and dispense drugs, prescriptions, and poisons.

“Physician” means an individual licensed pursuant to A.R.S. Title 32, Chapters 13 or 17.

“Positron Emission Tomography (PET)” means an imaging technique using radionuclides to produce high resolution images of the body’s biological functions.

“Positron Emission Tomography radionuclide production facility” means a facility operating a cyclotron or accelerator for the purpose of producing PET radionuclides.

“Preceptor” means an individual who provides, directs, or verifies training and experience required for an individual to become an authorized user, an authorized medical physicist, an authorized nuclear pharmacist, a Radiation Safety Officer, or an Associate Radiation Safety Officer.

“Primary beam” means radiation which passes through an aperture of the source housing by a direct path from the x-ray tube or a radio-active source located in the radiation source housing.

“Promptly” means with little or no delay.

“Public dose” means the dose received by a member of the public from radiation from radioactive material released by a licensee or registrant, or exposure to a source of radiation used in a licensed or registered operation. It does not include an occupational dose or a dose received from background radiation, medical administration of radiation to the individual, exposure to an individual who has been administered radioactive material and released in accordance with R9-7-717, or voluntary participation in a medical research program.

“Pyrophoric liquid” means any liquid that ignites spontaneously in dry or moist air at or below 130° F (54.4° C).

“Pyrophoric solid” means any solid material, other than one classed as an explosive, which under normal conditions is liable to cause fires through friction, retained heat from manufacturing or processing, or which can be ignited readily and, when ignited, burns so vigorously and persistently that it creates a serious transportation, handling, or disposal hazard. Included are spontaneously combustible and water-reactive materials.

“Qualified expert” means an individual certified in the appropriate field by the American Board of Radiology or the American Board of Health Physics, or having equivalent qualifications that provide the knowledge and training to measure ionizing radiation, to evaluate safety techniques, and to advise regarding radiation protection needs; or an individual certified in Therapeutic Radiological Physics or X-ray and Radium Physics by the American Board of Radiology, or having equivalent qualifications that provide training and experience in the clinical applications of radiation physics to radiation therapy, to calibrate radiation therapy equipment. The detailed requirements for a particular qualified expert may be provided in the respective Articles of this Chapter. For clar-

ification purposes, a qualified expert is not always an authorized medical physicist; however, an authorized medical physicist is included within the definition of “qualified expert.”

“Quality Factor” (Q) means the modifying factor, listed in Tables I and II of this Article, that is used to derive dose equivalent from absorbed dose.

“Quarter” (See “Calendar quarter”)

“Rad” means the special unit of absorbed dose. One rad equals 100 ergs per gram, or 0.01 gray.

“Radiation” means alpha particles, beta particles, gamma rays, x-rays, neutrons, high-speed electrons, high-speed protons, and other particles capable of producing ions. For purposes of these rules, this term is synonymous with ionizing radiation. Equivalent terminology for non-ionizing radiation is defined in Article 14.

“Radiation area” means any area accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005 rem) in one hour at 30 centimeters from the source of radiation or from any surface that the radiation penetrates.

“Radiation dose” (See “Dose”)

“Radiation machine” means any device capable of producing radiation except those devices with radioactive material as the only source of radiation.

“Radiation Safety Officer” (RSO) means the individual who:

For license conditions:

Meets the requirements in 10 CFR 35.50(a) or (c)(1), revised July 16, 2018, and 10 CFR 35.59, revised March 27, 2006, incorporated by reference, available under R9-7-10, and containing no future editions or amendments; or

Is identified as a Radiation Safety Officer on a specific medical use license issued by the Department, the NRC or another Agreement State; or a medical use permit issued by a NRC master material licensee; or

For registration conditions, is designated by the registrant as the individual who has the knowledge, authority, and responsibility to apply appropriate radiation protection principles to ensure radiation safety and compliance with the Act, this Chapter, and any registration conditions.

“Radiation Safety Officer” (RSO) means the individual who:

For license conditions:

Meets the requirements of R9-7-407, and for a medical license meets the training requirements of R9-7-710; or

Is identified as a Radiation Safety Officer on a specific medical use license issued by the Department, the NRC, or another Agreement State; or a medical use permit issued by a NRC master material licensee; or

Meets the requirements in R9-7-512 on a specific industrial license issued by the Department, the NRC, or another Agreement State; or an industrial

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use permit issued by a NRC master material licensee; or

For registration conditions, is designated by the registrant as the individual who has the knowledge, authority, and responsibility to apply appropriate radiation protection principles to ensure radiation safety and compliance with the Act, this Chapter and any registration conditions.

“Radioactive marker” means radioactive material placed sub-surface or on a structure intended for subsurface use for the purpose of depth determination or direction orientation.

“Radioactive material” means any solid, liquid, or gas which emits radiation spontaneously.

“Radioactivity” means emission of electromagnetic energy or particles or both during the transformation of unstable atomic nuclei.

“Radiographer” means any individual who performs or personally supervises industrial radiographic operations and who is responsible to the licensee or registrant for assuring compliance with the requirements of this Chapter and all conditions of the license or certificate of registration.

“Radiographer’s assistant” means any individual who, under the personal supervision of a radiographer, uses sources of radiation, radio-graphic exposure devices, related handling tools, or survey instruments in industrial radiography.

“Registrant” means any person who is registered with the Department and is legally obligated to register with the Department pursuant to these rules and the Act.

“Registration” is the process by which a person becomes a registrant pursuant to Article 2 or 14 of this Chapter. With the exception of registration of persons who install or service radiation machines, the types of registrations issued by the Department are described in R9-7-1302.

“Regulations of the U.S. Department of Transportation” means the federal regulations in 49 CFR 107, revised April 19, 2017; 49 CFR 171, revised April 19, 2017; 49 CFR 172, revised November 23, 2015; 49 CFR 173, revised March 6, 2019; 49 CFR 174, revised February 28, 2019; 49 CFR 175, revised October 18, 2018; 49 CFR 176, November 7, 2018; 49 CFR 177, revised September 25, 2013; 49 CFR 178, revised November 7, 2018; 49 CFR 179, revised September 25, 2018; and 49 CFR 180, revised March 30, 2017, incorporated by reference, available under R9-7-101, and containing no future editions or amendments.

“Rem” means the special unit of dose equivalent (see “Dose equivalent”). The dose equivalent in rem is equal to the absorbed dose in rad multiplied by the quality factor (1 rem = 0.01 sievert).

“Research and Development” means exploration, experimentation, or the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and Development does not include the internal or external administration of radiation or radioactive material to human beings.

“Restricted area” means any area where the licensee or registrant controls access for purposes of protecting individuals from exposure to radiation and radioactive material. A restricted area does not include any areas used for residential

quarters, although a room or separate rooms in a residential building may be set apart as a restricted area.

“Roentgen” (R) means the special unit of exposure and is equal to the quantity of x or gamma radiation which causes ionization in air equal to 258 microcoulomb per kilogram (see “Exposure”).

“Safety system” means any device, program, or administrative control designed to ensure radiation safety.

“Sealed source” means radioactive material that is permanently bonded or fixed in a capsule or matrix designed to prevent release and dispersal of the radioactive material under the most severe conditions which are likely to be encountered in normal use and handling.

“Sealed Source and Device Registry” means the national registry that contains all the registration certificates, generated by both the NRC and the Agreement States, that summarize the radiation safety information for the sealed sources and devices and describe the licensing and use conditions approved for each source or device.

“Shallow dose equivalent” (HS), which applies to the external exposure of the skin of the whole body or the skin of an extremity, is taken as the dose equivalent at a tissue depth of 0.007 centimeter (7 mg/cm²).

“Shielded position” means the location within a radiographic exposure device or storage container which, by manufacturer’s design, is the proper location for storage of the sealed source.

“Sievert” means the SI unit of dose equivalent (see “Dose equivalent”). The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor (1 Sv = 100 rem).

“Site boundary” means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee or registrant.

“Source changer” means a device designed and used for replacement of sealed sources in radiographic exposure devices, including those also used for transporting and storage of sealed sources.

“Source holder” means a housing or assembly into which a radioactive source is placed for the purpose of facilitating the handling and use of the source in well-logging operations.

“Source material” means:

Uranium or thorium, or any combination of uranium or thorium, in any physical or chemical form; or

Ores that contain by weight 1/20 of 1 percent (0.05 percent) or more of uranium, thorium, or any combination of uranium and thorium.

Source material does not include special nuclear material.

“Source material milling” means any activity that results in the production of byproduct material as defined by the second subsection under the definition of “Byproduct material.”

“Source of radiation” or “source” means any radioactive material or any device or equipment emitting, or capable of producing, radiation.

“Special form radioactive material” means radioactive material that satisfies all of the following conditions:

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It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

The piece or capsule has at least one dimension not less than 5 millimeters (0.2 inch); and

It satisfies the test requirements specified in 10 CFR 71.75. A special form encapsulation designed in accordance with the U.S. Nuclear Regulatory Commission requirements in effect on June 30, 1983, and constructed prior to July 1, 1985, may continue to be used. A special form encapsulation designed in accordance with the requirements of 10 CFR 71.4 in effect on March 31, 1996 (see 10 CFR part 71, revised as of January 1, 1996), and constructed before April 1, 1998; and special form material that was successfully tested before September 10, 2015 in accordance with the requirements of 10 CFR 71.75(d) in effect before September 10, 2015 may continue to be used. Any other special form encapsulation must meet the specifications of this definition.

“Special nuclear material in quantities not sufficient to form a critical mass” means Uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235; Uranium-233 in quantities not exceeding 200 grams; Plutonium in quantities not exceeding 200 grams; or any combination of them in accordance with the following formula: for each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of such ratios for all of the kinds of special nuclear material in combination shall not exceed one. For example, the following quantities in combination would not exceed the limitation and are within the formula:

$$\frac{XgmsU235}{350} + \frac{YgmsU233}{200} + \frac{ZgmsPu}{200} \leq 1$$

“Storage area” means any location, facility, or vehicle which is used to store, transport, or secure a radiographic exposure device, storage container, sealed source, or other source of radiation when it is not in use.

“Storage container” means a device in which sealed sources are transported or stored.

“Subsurface tracer study” means the release of a substance tagged with radioactive material for the purpose of tracing the movement or position of the tagged substance in the well-bore or adjacent formation.

“Survey” means an evaluation of the production, use, release, disposal, or presence of sources of radiation or any combination thereof under a specific set of conditions to determine actual or potential radiation hazards. Such evaluations include, but are not limited to, tests, physical examination and measurements of levels of radiation or concentration of radioactive material present.

“TEDE” (See “Total Effective Dose Equivalent”)

“Teletherapy” means therapeutic irradiation in which the source of radiation is at a distance from the body.

“Temporary job site” means any location where sources of radiation are used other than the specified locations listed on a license document. Storage of sources of radiation at a temporary jobsite shall not exceed six months unless the Department has granted an amendment authorizing storage at that jobsite.

“Test” means the process of verifying compliance with an applicable rule, order, or license condition.

“These rules” means all Articles of 9 A.A.C. 7.

“Total Effective Dose Equivalent” (TEDE) means the sum of the effective dose equivalent (for external exposures) and the committed effective dose equivalent (for internal exposures).

“Total Organ Dose Equivalent” (TODE) means the sum of the deep-dose equivalent and the committed dose equivalent to the organ receiving the highest dose. Determination of TODE is described in R9-7-411.

“Tribal official” means the highest ranking individual that represents Tribal leadership, such as the Chief, President, or Tribal Council leadership.

“Unrefined and unprocessed ore” means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating, or re-fining. Processing does not include sieving or encapsulation of ore or preparation of samples for laboratory analysis.

“Unrestricted area” means any area access to which is not controlled by the licensee for purposes of protection of individuals from exposure to radiation and radioactive material. Any area used for residential quarters is an unrestricted area.

“Uranium - natural, depleted, enriched.”

Natural uranium means uranium (which may be chemically separated) with the naturally occurring distribution of uranium isotopes (approximately 0.711 weight percent uranium-235, and the remainder by weight essentially uranium-238).

Depleted uranium means uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes.

Enriched uranium means uranium containing more uranium-235 than the naturally occurring distribution of uranium isotopes.

“U.S. Department of Energy” means the Department of Energy established by P.L. 95-91, August 4, 1977, 91 Stat. 565, 42 U.S.C. 7101 et seq., to the extent that the Department of Energy exercises functions formerly vested in the U.S. Atomic Energy Commission, its Chairman, members, officers, and components; and transferred to the U.S. Energy Research and Development Administration and to the administrator of that agency under sections 104(b), (c), and (d) of the Energy Reorganization Act of 1974 (P.L. 93-438, October 11, 1974, 88 Stat. 1233 at 1237, 42 U.S.C. 5814, effective January 19, 1975) and retransferred to the Secretary of Energy under Section 301(a) of the Department of Energy Organization Act (P.L. 95-91, August 4, 1977, 91 Stat. 565 at 577-578, 42 U.S.C. 7151, effective October 1, 1977).

“Very high radiation area” means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving an absorbed dose that exceeds 5 grays (500 rads) in one hour at one meter from a radiation source or one meter from any surface that the radiation penetrates.

“Waste” (See “Low-level waste”)

“Waste handling licensees” means persons licensed to receive and store radioactive wastes prior to disposal and persons licensed to dispose of radioactive waste.

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“Week” means seven consecutive days starting on Sunday.

“Well-bore” means a drilled hole in which wireline service operations and subsurface tracer studies are performed.

“Well-logging” means the lowering and raising of measuring devices or tools which may contain sources of radiation into well-bores or cavities for the purpose of obtaining information about the well and adjacent formations.

“Whole body” means, for purposes of external exposure, head, trunk including male gonads, arms above the elbow, or legs above the knee.

“Wireline” means an armored cable containing one or more electrical conductors which is used to lower and raise logging tools in the well-bore.

“Wireline service operation” means any evaluation or mechanical service which is performed in the well-bore using devices on a wireline.

“Worker” means any individual engaged in work under a license or registration issued by the Department and controlled by employment or contract with a licensee or registrant.

“WL” means working level, any combination of short-lived radon daughters in 1 liter of air that will result in the ultimate emission of $1.3E + 5$ MeV of potential alpha particle energy. The short-lived radon daughters are – for radon-222: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon-220: polonium-216, lead-212, bismuth-212, and polonium-212.

“WLM” means working level month, an exposure to one working level for 170 hours (2,000 working hours per year divided by 12 months per year is approximately equal to 170 hours per month).

“Workload” means the degree of use of an x-ray or gamma-ray source per unit time.

“Year” means the period of time beginning in January used to determine compliance with the provisions of these rules. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant provided that the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.

Historical Note

New Section R9-7-102 recodified from R12-1-102 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

When the Department recodified Section R9-7-102 it inadvertently left out the definition for “Tribal Official;” the definition has been added; the definitions of “Extremity” “Registration” and “Worker” were also corrected with language as originally codified in 12 A.A.C. 1 (Supp. 18-2). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). An amendment to the definition “Extremity” was inadvertently omitted when codifying changes to this Section by final expedited rulemaking in Supp 18-3. The definition has been listed as filed at 24 A.A.R. 2151 and is effective July 12, 2018 (Supp. 19-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2). Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-103. Exemptions

- A. Common and contract carriers, freight forwarders, and warehousemen who are subject to 49 CFR 107.109, 107.111, 107.113, 171.2, 171.3, 172.200, 173.1, 173.3, 173.4, 173.401, 175.3, 175.10, 176.3, 176.5, 176.11, 176.24, 176.27, and 177.801, revised October 1, 2007, of the U.S. Department of Transportation, or 39 CFR 111.1 of the U.S. Postal Service, revised July 1, 2007, incorporated by reference, and available under R9-7-101, and who if need be, store radioactive material, for periods of less than 72 hours, in the regular course of their carriage for another, are exempt from this Chapter. The incorporated materials above contain no future editions or amendments.
- B. Any U.S. Department of Energy contractor or subcontractor and any U.S. Nuclear Regulatory Commission contractor or subcontractor of the following categories operating within this state are exempt from this Chapter to the extent that such contractor or subcontractor under the contract receives, possesses, uses, transfers, or acquires sources of radiation:
 - 1. Prime contractors performing work for the Department of Energy at U.S. Government-owned or controlled sites, including the transportation of sources of radiation to or from such sites and the performance of contract services during temporary interruptions of such transportation;
 - 2. Prime contractors of the Department of Energy performing research or development, manufacture, storage, testing or transportation of nuclear weapons or components thereof;
 - 3. Prime contractors of the Department of Energy using or operating nuclear reactors or other nuclear devices in a United States Government-owned vehicle or vessel; and
 - 4. Any other prime contractor or subcontractor of the Department of Energy or of the Nuclear Regulatory Commission when the state and the Nuclear Regulatory Commission jointly determine:
 - a. That the exemption of the prime contractor or subcontractor is authorized by law; and
 - b. That under the terms of the contract or subcontract, there is adequate assurance that the work thereunder can be accomplished without undue risk to the public health and safety.
- C. Any licensee who delivers to a carrier for transport any package which contains radioactive material having a specific activity of 74 kBq/kg (2 nanocuries per gram) or less, is exempt from the provisions of this Chapter with respect to that package.
- D. Any physician licensed by a State to dispense drugs in the practice of medicine is exempt from 10 CFR 71.5 with respect to transport by the physician of licensed material for use in the practice of medicine. However, any physician operating under this exemption must be licensed under 10 CFR part 35 and/or R9-7-703.

Historical Note

New Section R9-7-103 recodified from R12-1-103 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-104. Prohibited Uses

- A. A person shall not use the following fluoroscopic devices:
 - 1. Hand-held fluoroscopic screens,
 - 2. Shoe-fitting fluoroscopic devices.
- B. Except as specifically authorized by law, a person shall not use sources of ionizing radiation for the purpose of screening an individual or inspecting an individual for:
 - 1. Concealed weapons,
 - 2. Hazardous materials,

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3. Stolen property, or
4. Contraband.
- C. Unless there is a medical or dental indication for the exposure and the exposure is prescribed by a licensed practitioner, a person shall not deliberately expose an individual to the useful beam from:
1. An ionizing radiation machine; or
 2. A non-ionizing radiation source, having a radiation beam known to be harmful to human tissue.

Historical Note

New Section R9-7-104 recodified from R12-1-104 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-105. Quality Factors for Converting Absorbed Dose to Dose Equivalent

- A. As used in these rules, the quality factors for converting absorbed dose to dose equivalent are shown in Table I.

TABLE I. QUALITY FACTORS AND ABSORBED DOSE EQUIVALENCIES

| TYPE OF RADIATION | Quality Factor (Q) | Absorbed Dose Equal to a Unit Dose Equivalent ^a |
|-------------------------------------------------------------------------------------------------------|--------------------|------------------------------------------------------------|
| X, gamma, or beta radiation and high-speed electrons | | 1 |
| Alpha particles, multiple-charged particles, fission fragments, and heavy particles of unknown charge | 20 | 0.05 |
| Neutrons of unknown energy | 10 | 0.1 |
| High-energy protons | 10 | 0.1 |

^a The absorbed dose in gray is equal to 1 Sv or the absorbed dose in rad is equal to 1 rem.

- B. If it is more convenient to measure the neutron fluence rate than to determine the neutron dose equivalent rate in sievert per hour or rem per hour, 0.01 Sv (1 rem) of neutron radiation of unknown energies may, for purposes of these rules, be assumed to result from a total fluence of 25 million neutrons per square centimeter incident upon the body. If sufficient information exists to estimate the approximate energy distribution of the neutrons, the licensee or registrant may use the fluence rate per unit dose equivalent or the appropriate Q value from Table II to convert a measured tissue dose in gray or rad to dose equivalent in sievert or rem.

TABLE II. MEAN QUALITY FACTORS, Q, AND FLUENCE PER UNIT DOSE EQUIVALENT FOR MONOENERGETIC NEUTRONS

| | Neutron Energy (meV) | Quality Factor (Q) | Fluence per Unit Dose Equivalent ^b (neutrons cm ⁻² rem ⁻¹) | Fluence per Unit Dose Equivalent ^b (neutrons cm ⁻² Sv ⁻¹) |
|-----------|----------------------|--------------------|----------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| (thermal) | 2.5E-8 | 2 | 980E+6 | 980E+8 |
| | 1E-7 | 2 | 980E+6 | 980E+8 |
| | 1E-6 | 2 | 810E+6 | 810E+8 |
| | 1E-5 | 2 | 810E+6 | 810E+8 |

| | | | |
|------|-----|---------|---------|
| 1E-4 | 2 | 840E+6 | 840E+8 |
| 1E-3 | 2 | 980E+6 | 980E+8 |
| 1E-2 | 2.5 | 1010E+6 | 1010E+8 |
| 1E-1 | 7.5 | 170E+6 | 170E+8 |
| 5E-1 | 11 | 39E+6 | 39E+8 |
| 1 | 11 | 27E+6 | 27E+8 |
| 2.5 | 9 | 29E+6 | 29E+8 |
| 5 | 8 | 23E+6 | 23E+8 |
| 7 | 7 | 24E+6 | 24E+8 |
| 10 | 6.5 | 24E+6 | 24E+8 |
| 14 | 7.5 | 17E+6 | 17E+8 |
| 20 | 8 | 16E+6 | 16E+8 |
| 40 | 7 | 14E+6 | 14E+8 |
| 60 | 5.5 | 16E+6 | 16E+8 |
| 1E+2 | 4 | 20E+6 | 20E+8 |
| 2E+2 | 3.5 | 19E+6 | 19E+8 |
| 3E+2 | 3.5 | 16E+6 | 16E+8 |
| 4E+2 | 3.5 | 14E+6 | 14E+8 |

^a Value of quality factor (Q) at the point where the dose equivalent is maximum in a 30-centimeter diameter cylinder tissue-equivalent phantom.

^b Monoenergetic neutrons incident normally on a 30-centimeter diameter cylinder tissue-equivalent phantom.

Historical Note

New Section R9-7-105 and Tables 1 and 2 recodified from R12-1-105, Tables 1 and 2 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-106. Units of Activity

For purposes of these rules, activity is expressed in the SI unit of becquerel (Bq) or in the special unit of curie (Ci), or their multiples, or disintegrations or transformations per unit of time. The definitions for these units are located in R9-7-102.

Historical Note

New Section R9-7-106 recodified from R12-1-106, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-107. Misconduct

- A. A licensee, registrant, applicant for a license or certificate of registration, or employee of a licensee, registrant, or applicant; or any contractor (including a supplier or consultant), subcontractor, or employee of a contractor or subcontractor of any licensee or certificate of registration holder who provides to any licensee, registrant, applicant, contractor, or subcontractor, any components, equipment, materials, or other goods or services that relate to a licensee's, registrant's, or applicant's activities in this Chapter, shall not:

1. Knowingly engage in conduct that violates or will result in a violation by a licensee, registrant, or applicant, of any statute, rule, regulation, or order; or any term, condition, or limitation of any license or registration issued by the Department; or
2. Knowingly submit to the Department, or a licensee, registrant, or applicant, or a licensee's, registrant's, or applicant's contractor or subcontractor, information that is incomplete or inaccurate.

- B. The Board shall impose the applicable civil penalty listed in R9-7-1216 on a person who violates subsection (A)(1) or (A)(2). For this purpose the person is classified as a Division II licensee and the violation is classified as a Severity II violation.

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- C. For the purposes of this Section, "misconduct" means conduct prohibited under subsection (A).
- D. A person who is not a licensee, registrant, or applicant and knowingly violates a rule for the safe use of radiation sources in 9 A.A.C. 7 is subject to the enforcement actions in 9 A.A.C. 7, Article 12.

Historical Note

New Section R9-7-107 recodified from R12-1-107, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 2. REGISTRATION, INSTALLATION, AND SERVICE OF IONIZING RADIATION-PRODUCING MACHINES; AND CERTIFICATION OF MAMMOGRAPHY FACILITIES

R9-7-201. Exemptions

- A. Electronic equipment that produces X-radiation incidental to its operation for other purposes is exempt from the registration and notification requirements of this Article, provided that an exposure rate, from any accessible surface, averaged over an area of 10 centimeters squared (1.55 inches squared) does not exceed 5 microsieverts (0.5 milliroentgen) per hour at 5 centimeters (2.0 inches).
- B. The production, testing, or factory servicing of the electronic equipment in subsection (A) is not exempt from the requirements of this Article.
- C. Radiation machines in storage or in transit to or from storage are exempt from the requirements of this Article.
- D. Radiation machines rendered incapable of producing radiation are exempt from the requirements of this Article.

Historical Note

New Section R9-7-201 recodified from R12-1-201, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-202. Application for Registration of Ionizing Radiation Producing Machines

- A. A person shall not use a radiation machine except as authorized in this Article.
- B. A person possessing a nonexempt radiation machine shall apply for registration of the machine with the Department within 30 days after its installation. The person applying for registration of a radiation-producing machine shall use the application forms provided by the Department. The applicant shall provide the information identified in Appendix A of this Article.
- C. In addition to the application form or forms, the applicant shall remit the appropriate registration or licensing fee in R9-7-1306 and provide other information required by R9-7-208.
- D. Each applicant that applies for registration of a stationary x-ray system, with the exception of applicants from bone densitometry, cabinet radiography, podiatry, dental, bone mineral analyzer and mammography facilities, shall provide a scale drawing of the room in which the x-ray system is located, or provide measurements from the radiation source to the surrounding barrier surfaces. The drawing shall denote the type of materials and the thickness (or lead equivalence) of each barrier of the room (walls, ceilings, floors, doors, windows). The drawing shall also denote the type and frequency of occupancy in adjacent areas, including those above and below the x-ray room of concern (e.g., hallways, offices, parking lots, and lavatories). Estimates of workload shall also be provided with the drawing.
- E. An applicant proposing to use a particle accelerator for medical purposes shall not use the particle accelerator until the Department inspection required in R9-7-914 has been completed.

Historical Note

New Section R9-7-202 recodified from R12-1-202, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-203. Application for Registration of Servicing and Installation

- A. Each person who is engaged in the business of installing or offering to install radiation machines shall apply for registration. For purposes of this Chapter, install includes selling and servicing, or offering to sell or service, x-ray machines in Arizona.
- B. The applicant shall complete the application for registration on forms that request information required by A.R.S. § 30-672.01, provided by the Department.

Historical Note

New Section R9-7-203 recodified from R12-1-203, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-204. Issuance of Notice of Registration

- A. Upon determining that the application meets the requirements of the Act and this Article, the Department shall issue a Notice of Registration.
- B. All radiation machines located at the same facility may be registered using one Notice of Registration.

Historical Note

New Section R9-7-204 recodified from R12-1-204, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-205. Expiration of Notice of Registration or Certification

- A. Except as provided in subsection (B), a Notice of Registration, issued according to R9-7-204, or a certificate issued according to R9-7-208, expires at the end of the day on the expiration date stated in the Notice of Registration or certificate.
- B. If an application for renewal is filed by the registrant or certificate holder not less than 30 days prior to the expiration of the Notice of Registration or certificate, the Notice of Registration or certificate does not expire until a final determination is made by the Department on the renewal application.

Historical Note

New Section R9-7-205 recodified from R12-1-205, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-206. Assembly, Installation, Removal from Service, and Transfer

- A. A person who assembles, or installs ionizing radiation machines in this state shall notify the Department in writing within 15 days of:
 1. The name and address of the person possessing the machine that was assembled or installed;
 2. The manufacturer, model, and serial number of each radiation machine with the tube housing model number and serial number, maximum kVp, and maximum mA, assembled or installed; and
 3. The date each machine was assembled or installed, or the first clinical procedure is performed.
- B. Any person who possesses a radiation machine registered by the Department shall notify the Department within 15 days of the machine being taken out of service. The written notification shall contain the name and address of the person receiving the machine, if it is sold, leased, or transferred to another person; the manufacturer, model, and serial number of the machine; and the date the machine was taken out of service.
- C. In the case of diagnostic x-ray systems that contain certified components, an assembler shall, within 15 days following completion of the assembly, submit to the Department a copy

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of the assembler's report (FDA Report No. 2579) prepared in compliance with requirements in 21 CFR 1020.30(d), revised April 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments. The report shall suffice in lieu of any other report by the assembler, if it contains the information required in subsection (A).

- D. A person shall not make, sell, lease, transfer, lend, assemble, service, or install radiation machines or the supplies used in connection with radiation machines unless the supplies and equipment when properly placed in operation and used, meet the requirements of these rules.

Historical Note

New Section R9-7-206 recodified from R12-1-206, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-207. Reciprocal Recognition of Out-of-state Radiation Machines

- A. If any radiation machine is to be brought into the state for temporary use, the person proposing to bring the radiation machine into the state shall provide written notice to the Department at least three working days before the radiation machine is to be used in the state. The notice shall include the type of radiation machine; the nature, duration, and scope of use; and the exact location where the radiation machine is to be used. If, for a specific case, the three working-day period would impose an undue hardship, the person may upon application to the Department, obtain permission to proceed sooner.
- B. In addition, the owner of the radiation machine and the person possessing the machine while in the state shall:
1. Comply with all applicable rules of the Department;
 2. Upon request, supply the Department with a copy of the machine's registration and other information regarding the safe operation of the machine while it is in the state; and
 3. Upon request, supply the Department with the work authorization from the Department, machine registration, operating and emergency procedures, utilization log, survey instrument and associated calibration record, and training records for all users.
- C. A radiation machine shall not be operated within the state on a temporary basis in excess of 180 calendar days per year.

Historical Note

New Section R9-7-207 recodified from R12-1-207, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-208. Certification of Mammography Facilities

An applicant seeking certification of a facility according to A.R.S. § 30-672(J) shall:

1. Provide evidence with the application that a quality assurance program has been established and is in use under R9-7-614(B)(1) and (2),
2. Provide evidence with the application that physicians reading mammographic images have the training and experience required in A.R.S. § 32-2842, and
3. Provide evidence with the application that physicians reading mammographic images have met the minimum criteria established by their respective licensing boards, as required in A.R.S. § 32-2842(C).

Historical Note

New Section R9-7-208 recodified from R12-1-208, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-209. Notifications

- A. A registrant shall notify the Department within 30 days of any change to the information contained in the notice of registration or a certificate issued according to R9-7-208.
- B. A person who possesses a radiation machine registered by the Department shall notify the Department within 15 days if the machine is discarded or transferred to another person. In the notice, the person shall provide the name and address of the person who receives the machine, if it is sold, leased, or transferred to another person; the manufacturer, model, and serial number of the machine; and the date the machine was taken out of service.

Historical Note

New Section R9-7-209 recodified from R12-1-209, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Appendix A. Application Information

An application shall contain the following information as required in R9-7-202(B), before a registration will be issued. The Department shall provide an application form to an applicant with a guide, if available, or shall assist the applicant to ensure that only correct information is provided on the application.

| | |
|-----------------------------------------------------------------------|-----------------------------------------------|
| Name and mailing address of applicant | Use location |
| Person responsible for radiation safety program | Telephone number |
| Type of facility | Facility subtype |
| Legal structure and ownership | Signature of certifying agent |
| Radiation machine information | Equipment identifiers |
| Shielding information | Scale drawing, if applicable |
| Equipment operator instructions and restrictions | Physicist name and training, if applicable |
| Classification of professional in charge | |
| Record of calibration for therapy units | Type of request: amendment, new, or renewal |
| Protection survey results, if applicable | |
| Type of industrial radiography program, if applicable | |
| Radiation Safety Officer name, if applicable | Contact person |
| Other registration requirements listed in Articles 2, 6, 8, 9, and 11 | Appropriate fee listed in Article 13 schedule |

Historical Note

New Article 2, Appendix A recodified from 12 A.A.C. 1, Article 2, Appendix A, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 3. RADIOACTIVE MATERIAL LICENSING**R9-7-301. Ownership, Control, or Transfer of Radioactive Material**

- A. In addition to the requirements of this Article, all licensees are subject to the requirements of 9 A.A.C. 7, Article 1, Article 4, and Article 10. Licensees engaged in industrial radiographic operations are subject to the requirements of 9 A.A.C. 7, Article 5; licensees using radioactive material in the practice of medicine are subject to the requirements of 9 A.A.C. 7, Article 7; licensees transporting radioactive material are subject to the requirements contained in 9 A.A.C. 7, Article 15; and licensees using radioactive material in well logging operations are subject to the requirements in 9 A.A.C. 7, Article 17.

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- B.** Notwithstanding any other provisions of this Article, any person may own radioactive material, provided that the ownership does not include the actual possession, custody, use, or physical transfer of radioactive material or the manufacture or production of any article that contains radioactive material without the applicable certification, license, or registration.
- C.** A manufacturer, processor, or producer of any equipment, device, commodity, or other product that contains source material or radioactive material whose subsequent possession, use, transfer, or disposal by all other persons is exempt from regulatory requirements may only obtain authority to transfer possession or control of the material from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Historical Note

New Section R9-7-301 recodified from R12-1-301, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-302. Source Material; Exemptions

- A.** Any person is exempt from this Article to the extent the person receives, possesses, uses, delivers or transfers source material in any chemical mixture, compound, solution, or alloy in which the source material is by weight less than 1/20th of 1 percent (0.0005) of the mixture, compound, solution, or alloy.
- B.** Any person is exempt from this Article to the extent the person receives, possesses, uses, or transfers unrefined and unprocessed ore containing source material, provided that, the person does not refine or process the ore except as authorized in a specific license.
- C.** Any person is exempt from the requirements for a license set forth in this Article if the person receives, possesses, uses, or transfers:
1. Any quantities of thorium contained in:
 - a. Incandescent gas mantles;
 - b. Vacuum tubes;
 - c. Welding rods;
 - d. Electric lamps for illuminating purposes provided that each lamp does not contain more than 50 milligrams of thorium;
 - e. Germicidal lamps, sunlamps, and lamps for outdoor or industrial lighting, provided that each lamp does not contain more than 2 grams of thorium;
 - f. Rare earth metals, compounds, mixtures, or products containing not more than 0.25 percent by weight thorium, uranium, or any combination of thorium and uranium; or
 - g. Individual neutron dosimeters, provided that each dosimeter does not contain more than 50 milligrams of thorium;
 2. Source material contained in the following products:
 - a. Glazed ceramic tableware manufactured before August 27, 2013, provided that the glaze contains not more than 20 percent source material by weight;
 - b. Glassware containing not more than 2 percent by weight source material or, for glassware manufactured before August 27, 2013, 10 percent by weight source material, but not including commercially manufactured glass brick, pane glass, ceramic tile or other glass or ceramic used in construction; or
 - c. Piezoelectric ceramic containing not more than 2 percent source material by weight;
 3. Photographic film, negatives, and prints containing uranium or thorium;
 4. Any finished product or part fabricated of, or containing, tungsten-thorium or magnesium-thorium alloys, provided that the thorium content of the alloy does not exceed 4 percent by weight and that the exemption contained in this subsection does not authorize the chemical, physical, or metallurgical treatment or processing of the finished product or part;
 5. Uranium contained in counterweights installed in aircraft, rockets, projectiles, and missiles, or stored or handled in connection with installation or removal of counterweights, provided that:
 - a. Each counterweight has been impressed with the following legend clearly legible through any plating or other covering: "DEPLETED URANIUM";
 - b. Each counterweight is durably and legibly labeled or marked with the identification of the manufacturer and the statement: "UNAUTHORIZED ALTERATIONS PROHIBITED";
 - c. The exemption contained in subsection (C)(5) does not authorize the chemical, physical, or metallurgical treatment or processing of any counterweight other than repair or restoration of any plating or other covering; and
 - d. The requirements specified in subsections (C)(5)(a) and (b) need not be met by counterweights manufactured prior to December 31, 1969; provided, that these counterweights were manufactured under a specific license issued by the Atomic Energy Commission and were impressed with the legend, "CAUTION - RADIOACTIVE MATERIAL - URANIUM";
 6. Natural or depleted uranium metal used as shielding and constituting part of any shipping container; provided that:
 - a. The shipping container is conspicuously and legibly impressed with the legend "CAUTION - RADIOACTIVE SHIELDING - URANIUM," and
 - b. The uranium metal is encased in mild steel or equally fire resistant metal with minimum wall thickness of 1/8 inch (3.2 mm);
 7. Thorium or uranium contained in or on finished optical lenses, provided that each lens or mirror does not contain more than 10 percent by weight thorium or uranium or, for lenses manufactured before August 27, 2013, 30 percent by weight of thorium; and that the exemption contained in this Section does not authorize either:
 - a. The shaping, grinding, or polishing of such lens or mirror or manufacturing processes other than the assembly of such lens or mirror into optical systems and devices without any alteration of the lens or mirror; or
 - b. The receipt, possession, use, or transfer of uranium or thorium contained in contact lenses, spectacles, or the eyepieces of binoculars or other optical instruments;
 8. Uranium contained in detector heads of fire detection units, provided that each detector head contains not more than 5 nanocuries (185 Bq) of uranium; or
 9. Thorium contained in any finished aircraft engine part containing nickel-thoria alloy, provided that:
 - a. The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide), and
 - b. The thorium content in the nickel-thoria alloy does not exceed 4 percent by weight.
- D.** No person may initially transfer for sale or distribution a product containing source material to persons exempt under subsection (C), or equivalent regulations of the NRC or another Agreement State, unless authorized by a license issued under R9-7-318 to initially transfer such products for sale or distribution.

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- E. Persons authorized to manufacture, process, or produce these materials or products containing source material by an Agreement State, and persons who import finished products or parts, for sale or distribution must be authorized by a license issued under R9-7-318 for distribution only and are exempt from the requirements of Articles 4 and 10 of this Chapter, and R9-7-309(1) and (2).
- F. The exemptions in subsections (C), (D), and (E) do not authorize the manufacture of any of the products described.

Historical Note

New Section R9-7-302 recodified from R12-1-302, at 24

A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R.

2151, effective July 12, 2018 (Supp. 18-3). Amended by

final expedited rulemaking at 26 A.A.R. 1067, with an

immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-303. Radioactive Material Other Than Source Material; Exemptions**A. Exempt concentrations**

1. Except as provided in subsection (A)(3) and (A)(4), any person is exempt from this Article if the person receives, possesses, uses, transfers, owns, or acquires products or materials containing radioactive material in concentrations not in excess of those listed in Exhibit A.
2. This Section shall not be deemed to authorize the import of radioactive material or products containing radioactive material.
3. A manufacturer, processor, or producer of a product or material is exempt from the requirements for a license issued under R9-7-311(A) or the requirements of this Article to the extent that this person transfers radioactive material contained in a product or material in concentrations not in excess of those specified in Exhibit A of this Article and introduced into the product or material by a licensee holding a specific license issued by the NRC expressly authorizing such introduction. This exemption does not apply to the transfer of radioactive material contained in any food, beverage, cosmetic, drug, or other commodity or product designed for ingestion or inhalation by, or application to, a human being.
4. A person shall not introduce radioactive material into a product or material knowing or having reason to believe that it will be transferred to persons exempt under subsection (A)(1) or equivalent Regulations of the U.S. Nuclear Regulatory Commission or any Agreement State or Licensing State, except in accordance with a license issued under 10 CFR 32.11.

B. Exempt items

1. Except for persons who apply radioactive material to, or persons who incorporate radioactive material into the following products, or persons who initially transfer for sale or distribution the following products, a person is exempt from this Chapter to the extent that the person receives, possesses, uses, transfers, owns, or acquires the following products:
 - a. Timepieces, hands, or dials containing not more than the following specified quantities of radioactive material and not exceeding the following specified levels of radiation:
 - i. 925 megabecquerels (25 millicuries) of tritium per timepiece;
 - ii. 185 megabecquerels (5 millicuries) of tritium per hand;
 - iii. 555 megabecquerels (15 millicuries) of tritium per dial (bezels when used shall be considered part of the dial);
 - iv. 3.7 megabecquerels (100 microcuries) of promethium-147 per watch or 7.4 megabecquerels (200 microcuries) of promethium-147 per any other timepiece;
 - v. 740 kBq (20 microcuries) of promethium-147 per watch hand or 1.48 megabecquerels (40 microcuries) of promethium-147 per other timepiece hand;
 - vi. 2.22 megabecquerels (60 microcuries) of promethium-147 per watch dial or 4.44 MBq (120 microcuries) of promethium-147 per other timepiece dial (bezels, when used, shall be considered part of the dial);
 - vii. The levels of radiation from hands and dials containing promethium-147 shall not exceed, when measured through 50 milligrams per square centimeter of absorber:
 - (1) For wrist watches, 1.0 μ Gy (0.1 millirad) per hour at 10 centimeters from any surface of the watch;
 - (2) For pocket watches, (0.1 millirad) per hour at 1 centimeter from any surface;
 - (3) For any other timepiece, 2.0 μ Gy (0.2 millirad) per hour at 10 centimeters from any surface;
 - viii. 37 kBq (1 microcurie) of radium-226 per timepiece in intact timepieces manufactured prior to November 30, 2007;
- b. Static elimination devices which contain, as a sealed source or sources, radioactive material consisting of a total of not more than 18.5 MBq (500 μ Ci) of polonium-210 per device.
 - i. Ion generating tubes designed for ionization of air that contain, as a sealed source or sources, radioactive material consisting of a total of not more than 18.5 MBq (500 μ Ci) of polonium-210 per device or of a total of not more than 1.85 GBq (50 mCi) of hydrogen-3 (tritium) per device.
 - ii. Such devices authorized before October 23, 2012 for use under the general license then provided in R9-7-306 and equivalent regulations of the NRC or Agreement State and manufactured, tested, and labeled by the manufacturer in accordance with the specifications contained in a specific license issued by the NRC.
- c. Balances of precision containing not more than 37 megabecquerels (1 millicurie) of tritium per balance or not more than 18.5 megabecquerels (0.5 millicurie) of tritium per balance part manufactured before December 17, 2007;
- d. Marine compasses containing not more than 27.75 gigabecquerels (750 millicuries) of tritium gas and other marine navigational instruments containing not more than 9.25 gigabecquerels (250 millicuries) of tritium gas manufactured before December 17, 2007;
- e. Ionization chamber smoke detectors containing not more than 37 kBq (1 microcurie) of americium-241 per detector in the form of a foil and designed to protect life and property from fires;

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- f. Electron tubes: Provided that each tube does not contain more than one of the following specified quantities of radioactive material:
 - i. 5.55 GBq (150 millicuries) of tritium per microwave receiver protector tube or 370 megabecquerels (10 millicuries) of tritium per any other electron tube;
 - ii. 37 kBq (1 microcurie) of cobalt 60;
 - iii. 185 kBq (5 microcuries) of nickel 63;
 - iv. 1.11 megabecquerels (30 microcuries) of krypton 85;
 - v. 185 kBq (5 microcuries) of cesium 137;
 - vi. 1.11 megabecquerels (30 microcuries) of promethium-147;
 - vii. And provided further, that the level of radiation due to radioactive material contained in each electron tube does not exceed 10 μ Gy (1 millirad) per hour at 1 centimeter from any surface when measured through 7 milligrams per square centimeter of absorber. The term "electron tubes" includes spark gap tubes, power tubes, gas tubes, including glow lamps, receiving tubes, microwave tubes, indicator tubes, pick-up tubes, radiation detection tubes, and any other completely sealed tube that is designed to conduct or control electrical current;
 - g. Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, one or more sources of radioactive material provided that:
 - i. Each source contains no more than one exempt quantity set forth in Exhibit B of this Article; and
 - ii. Each instrument contains no more than 10 exempt quantities. For the purposes of this subsection, an instrument's source or sources may contain either one type or different types of radionuclide and an individual exempt quantity may be composed of fractional parts of one or more of the exempt quantities in Exhibit B of this Article, provided the sum of the fractions do not exceed unity;
 - iii. For the purposes of subsection (B)(1)(h) only, 185 kBq (50 nanocurie) of americium-241 is considered an exempt quantity under Exhibit B of this Article;
 - h. Any person who desires to apply radioactive material to, or to incorporate radioactive material into, the products exempted in subsection (B)(1)(a), or who desires to initially transfer for sale or distribution such products containing radioactive material, should apply for a specific license pursuant to R9-7-311 of this Article, which license states that the product may be distributed by the licensee to persons exempt from the rules pursuant to subsection (A)(1).
2. Self-luminous products containing tritium, krypton-85, or promethium-147:
 - a. Except for persons who manufacture, process, initially transfer for sale or distribution, or produce self-luminous products containing tritium, krypton-85, or promethium-147, and except as provided in subsection (B)(2)(c), a person is exempt from this Chapter if the person receives, possesses, uses, owns, transfers or acquires tritium, krypton-85 or promethium-147 in self-luminous products manufactured, processed, produced, imported, initially transferred for sale or distribution, or transferred under a specific license issued by the U.S. Nuclear Regulatory Commission and described in 10 CFR 32.22, and the license authorizes the transfer of the products to persons who are exempt from regulatory requirements.
 - b. Any person who desires to manufacture, process, or produce, or initially transfer for sale or distribution self-luminous products containing tritium, krypton-85, or promethium-147 for use under subsection (B)(2)(a), should apply for a license:
 - i. Under 10 CFR 32 and for a certificate of registration in accordance with 10 CFR 32.210, and
 - ii. As described in R9-7-311.
 - c. A person is exempt from this Chapter if the person receives, possesses, uses, or transfers articles containing less than 3.7 kBq (100 nanocuries) of radium-226, manufactured prior to October 1, 1978.
 3. Gas and aerosol detectors containing byproduct material
 - a. Except for persons who manufacture, process, initially transfer for sale or distribution, or produce gas and aerosol detectors containing radioactive material, a person is exempt from this Chapter if the person receives, possesses, uses, transfers, owns, or acquires radioactive material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards, provided that detectors containing radioactive material shall be manufactured, imported, or transferred according to a specific license issued by the U.S. Nuclear Regulatory Commission and described in 10 CFR 32.26, or equivalent regulations of an Agreement or Licensing State, this exemption also covers gas and aerosol detectors manufactured or distributed before November 30, 2007 in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, or equivalent regulations of an Agreement or Licensing State and the license authorizes the transfer of the detectors to persons who are exempt from regulatory requirements.
 - b. Gas and aerosol detectors previously manufactured and distributed to general licensees in accordance with a specific license issued by an Agreement State are exempt under subsection (B)(3)(a), provided that the device is labeled in accordance with the specific license authorizing distribution of the general licensed device, and that the detectors meet the requirements of the regulations of the U.S. Nuclear Regulatory Commission.
 - c. Any person who desires to manufacture, process, or produce gas and aerosol detectors containing byproduct material, or to initially transfer such products for use under subsection (B)(3)(a), should apply for a license under 10 CFR 32.26 and for a certificate of registration in accordance with 10 CFR 32.210.
 4. Certain industrial devices
 - a. Except for persons who manufacture, process, produce, or initially transfer for sale or distribution industrial devices containing byproduct material designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical com-

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position, or for producing an ionized atmosphere, any person is exempt from the requirements for a license set forth in this Chapter to the extent that such person receives, possesses, uses, transfers, owns, or acquires byproduct material, in these certain detecting, measuring, gauging, or controlling devices and certain devices for producing an ionized atmosphere, and manufactured, processed, produced, or initially transferred in accordance with a specific license issued under R9-7-311 of this Article, which license authorizes the initial transfer of the device for use under this Section. This exemption does not cover sources not incorporated into a device, such as calibration and reference sources.

- b. Any person who desires to manufacture, process, produce, or initially transfer, for sale or distribution, industrial devices containing byproduct material for use under subsection (B)(4)(a), shall apply for a license described in R9-7-311 and for a certificate of registration in accordance with 10 CFR 32.210.

C. Exempt quantities

1. Except as provided in subsections (C)(2), (3), and (7), a person is exempt from this Chapter if the person receives, possesses, uses, transfers, owns, or acquires radioactive material in individual quantities each of which does not exceed the applicable quantity set forth in Exhibit B of this Article.
2. This subsection does not authorize the production, packaging, or repackaging or transfer of radioactive material for purposes of commercial distribution, or the incorporation of radioactive material into products intended for commercial distribution.
3. Except as specified in this subsection, a person shall not, for purposes of commercial distribution, transfer radioactive material in the individual quantities set forth in Exhibit B of this Article, knowing or having reason to believe the described quantities of radioactive material will be transferred to persons exempt under subsection (C) or equivalent regulations of the U.S. Nuclear Regulatory Commission or any Agreement State or Licensing State. A person may transfer radioactive material for commercial distribution under a specific license issued by the U.S. Nuclear Regulatory Commission under 10 CFR 32.18 which license states that the radioactive material may be transferred by the licensee to persons exempt under this subsection or the equivalent regulations of the U.S. Nuclear Regulatory Commission or any Agreement State or Licensing State.
4. Sources containing exempt quantities of radioactive material shall not be bundled or placed in close proximity for the purpose of using the radiation from the combined sources in place of a single source, containing a licensable quantity of radioactive material.
5. Possession and use of bundled or combined sources containing exempt quantities of radioactive material in unregistered devices by persons exempt from licensing is prohibited.
6. Any person, who possesses radioactive material received or acquired before September 25, 1971, under the general license issued under R9-7-311(A) of this Article or similar general license of an Agreement State or the NRC, is exempt from the requirements for a license issued under R9-7-311(A) of this Article to the extent that this person possesses, uses, transfers, or owns radioactive material.
7. No person may, for purposes of producing an increased radiation level, combine quantities of radioactive material

covered by the exemption described in subsection (C)(6) so that the aggregate quantity exceeds the limits set forth in Exhibit B, except for radioactive material combined within a device placed in use before May 3, 1999, or as otherwise permitted by the rules in this Section.

Historical Note

New Section R9-7-303 recodified from R12-1-303, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-304. License Types

- A.** Activities requiring license. Except as provided in 10 CFR 30.3 (revised January 1, 2013, incorporated by reference, and available under R9-7-101; this incorporated material contains no future editions or amendments), in subsection (B)(1), and for persons exempt as provided in R9-7-302 and R9-7-303 of this Article, no person shall manufacture, produce, transfer, receive, acquire, own, possess, or use byproduct material except as authorized in a specific or general license issued in accordance with the regulations in this chapter and in accordance with 10 CFR 30.3.
- B.** Licenses for radioactive materials are of two types: general and specific.
 1. A general license is provided by rule, grants authority to a person for certain activities involving radioactive material, and is effective without the filing of an application with the Department or the issuance of a licensing document to a particular person. However, registration with the Department may be required by the particular general license.
 2. The Department issues a specific license to a named person who has filed an application for a license under the applicable provision of this Chapter. A specific licensee is subject to all of the applicable rules in this Chapter and any limitation contained in the license document.

Historical Note

New Section R9-7-304 recodified from R12-1-304, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-305. General Licenses – Source Material

- A.** A general license is hereby issued authorizing commercial and industrial firms; research, educational, and medical institutions; and Federal, State, and local government agencies to receive, possess, use, and transfer uranium and thorium, in their natural isotopic concentrations and in the form of depleted uranium, for research, development, educational, commercial, or operational purposes in the following forms and quantities.
 1. No more than 1.5 kg (3.3 lb) of uranium and thorium in dispersible forms (e.g., gaseous, liquid, powder, etc.) at any one time. Any material processed by the general licensee that alters the chemical or physical form of the material containing source material must be accounted for as a dispersible form. A person authorized to possess, use, and transfer source material under this subsection may not receive more than a total of 7 kg (15.4 lb) of uranium and thorium in any one calendar year.
 2. As applicable:
 - a. No more than a total of 7 kg (15.4 lb) of uranium and thorium at any one time. A person authorized to possess, use, and transfer source material under this subsection may not receive more than a total of 70 kg (154 lb) of uranium and thorium in any one cal-

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endar year. A person may not alter the chemical or physical form of the source material possessed under this subsection unless it is accounted for under the limits of subsection (A)(1);

- b. No more than 7 kg (15.4 lb) of uranium, removed during the treatment of drinking water, at any one time. A person may not remove more than 70 kg (154 lb) of uranium from drinking water during a calendar year under this subsection; or
- c. No more than 7 kg (15.4 lb) of uranium and thorium at laboratories for the purpose of determining the concentration of uranium and thorium contained within the material being analyzed at any one time. A person authorized to possess, use, and transfer source material under this subsection may not receive more than a total of 70 kg (154 lb) of source material in any one calendar year.

B. A person who receives, possesses, uses, or transfers source material under a general license granted under subsection (A) is exempt from the provisions of Article 4 and Article 10 of this Chapter, provided the receipt, possession, use, or transfer is within the terms of the general license, except that such person shall comply with the provisions of R9-7-434 and R9-7-452. This exemption does not apply to any person who is also in possession of source material under a specific license issued under this Article.

C. This subsection grants a general license that authorizes a person to receive acquire, possess, use, or transfer depleted uranium contained in industrial products and devices provided:

1. The depleted uranium is contained in the industrial product or device for the purpose of providing a concentrated mass in a small volume of the product or device;
2. The industrial products or devices have been manufactured or initially transferred in accordance with a specific license governed by R9-7-311(J), or a specific license issued by the NRC or another Agreement State that authorizes manufacture of the products or devices for distribution to persons generally licensed by the NRC or an Agreement State; and
3. The person files an ARRA 23 "Registration Certificate -- Use of Depleted Uranium Under General License" with the Department. The person shall provide the information requested on the certificate and listed in Exhibit E. The person shall submit the information within 30 days after first receipt or acquisition of the depleted uranium, returning the completed registration certificate to the Department. The person shall report in writing to the Department any change in information originally submitted to the Department on ARRA 23. The person shall submit the change report within 30 days after the effective date of the described change.

D. A person who receives, acquires, possesses, or uses depleted uranium according to the general license provided under subsection (C) shall:

1. Not introduce depleted uranium, in any form, into a chemical, physical, or metallurgical treatment or process, except a treatment or process for repair or restoration of any plating or other covering of the depleted uranium;
2. Not abandon the depleted uranium;
3. Transfer the depleted uranium as prescribed in R9-7-318. If the transferee receives the depleted uranium under a general license established by subsection (C), the transferor shall furnish the transferee with a copy of this subsection and a copy of the registration certificate. If the transferee receives the depleted uranium under a general license governed by a regulation of the NRC or another

Agreement State that is equivalent to subsection (C), the transferor shall furnish the transferee a copy of the equivalent rule and a copy of the registration certificate, accompanied by a letter explaining that use of the product or device is regulated by the NRC or an Agreement State under requirements substantially similar to those in this Section;

4. Within 30 days of any transfer, report in writing to the Department the name and address of the person receiving the depleted uranium; and
5. Not export depleted source material except under a license issued by the U.S. Nuclear Regulatory Commission in accordance with 10 CFR 110.

E. A person who receives, acquires, possesses, uses, or transfers depleted uranium in accordance with a general license granted under subsection (C) is exempt from the requirements in Articles 4 and 10 of this Chapter with respect to the depleted uranium covered by that general license.

F. Any person who receives, possesses, uses, or transfers source material in accordance with subsection (A) shall conduct activities so as to minimize contamination of the facility and the environment. When activities involving such source material are permanently ceased at any site, if evidence of significant contamination is identified, the general licensee shall notify the Department about such contamination and may consult with the Department as to the appropriateness of sampling and restoration activities to ensure that any contamination or residual source material remaining at the site where source material was used under this general license is not likely to result in exposures that exceed the limits in R9-7-452.

G. No person may initially transfer or distribute source material to persons generally licensed under subsection (A)(1) or (2), or equivalent regulations of the NRC or another Agreement State, unless authorized by a specific license issued in accordance with R9-7-318 or equivalent provisions of another Agreement State. This prohibition does not apply to analytical laboratories returning processed samples to the client who initially provided the sample.

Historical Note

New Section R9-7-305 recodified from R12-1-305, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-306. General License – Radioactive Material Other Than Source Material

A. Certain measuring, gauging or controlling devices and certain devices for producing light or an ionized atmosphere.

1. This subsection grants a general license to a commercial or industrial firm; a research, educational or medical institution; an individual conducting business; or a state or local government agency to receive, acquire, possess, use, or transfer radioactive material contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere, according to the provisions of 10 CFR 31.5(b), (c), and (d), (Revised January 1, 2013, incorporated by reference, and available under R9-7-101. The incorporated material contains no future editions or amendments.

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2. A general licensee shall receive a device from one of the specific licensees described in this Section or through a transfer made under subsection (A)(4)(k).
3. A general license in subsection (A)(1) applies only to radioactive material contained in devices that have been manufactured or initially transferred and labeled in accordance with the requirements contained in:
 - a. A specific license issued under R9-7-311(A), or
 - b. An equivalent specific license issued by the NRC or another Agreement State.
 - c. An equivalent specific license issued by a State with rules or regulations comparable to this Section.
4. A person who acquires, receives, possesses, uses, or transfers radioactive material in a device licensed under subsection (A)(1) or through a transfer made under subsection (A)(4)(h), shall:
 - a. Ensure that all labels and safety statements affixed to a device at the time of receipt and bearing a statement that removal of the label is prohibited are maintained and not removed, and comply with all instructions and precautions on the labels.
 - b. Ensure that the device is tested for leakage of radioactive material and proper operation of the on-off mechanism and indicator, if any, at no longer than six-month intervals or at other intervals as specified on the label.
 - i. A general licensee need not test a device that contains only krypton for leakage of radioactive material; and
 - ii. A general licensee need not test a device for leakage of radioactive material if the device contains only tritium, not more than 3.7 megabecquerels (100 microcuries) of other beta and/or gamma emitting material, or 370 kilobecquerels (10 microcuries) of alpha emitting material, or the device is held in storage, in the original shipping container, before initial installation.
 - c. Ensure that the tests required by subsection (A)(4)(b) and other testing, installation, servicing, and removal from installation involving the radioactive material or its shielding or containment, are performed:
 - i. In accordance with the device label instructions, or
 - ii. By a person holding a specific license under R9-7-311(A) or in accordance with the provisions of a specific license issued by the NRC or an Agreement State which authorizes distribution of devices to persons generally licensed by the NRC or an Agreement State.
 - d. Maintain records of compliance with the requirements in subsections (A)(4)(b) and (c) that show the results of tests; the dates that required activities were performed, and the names of persons performing required activities involving radioactive material from the installation and its shielding or containment. The records shall be maintained for three years from the date of the recorded event or until transfer or disposal of the device.
 - e. Immediately suspend operation of a device if there is a failure of, or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on-off mechanism or indicator, or upon the detection of 185 becquerel (0.005 microcurie) or more of removable radioactive material.
 - i. A general licensee shall not operate the device until it has been repaired by the manufacturer or another person holding a specific license to repair this type of device that was issued by the Department under R9-7-311(A), the NRC, or an Agreement State which authorizes distribution of devices to persons generally licensed by the NRC or an Agreement State.
 - ii. If necessary the general licensee shall dispose of the device and any radioactive material from the device by transfer to a person authorized by a specific license to receive the radioactive material in the device or as otherwise approved by the Department.
 - iii. Within 30 days of an event governed by subsection (A)(4)(e) the general licensee shall furnish a report that contains a brief description of the event and the remedial action taken and, in the case of detection of 185 Becquerel (0.005 microcurie) or more of removable radioactive material or failure of or damage to a source likely to result in contamination of the general licensee's facility or the surrounding area, if applicable, a plan for ensuring that the general licensee's facility and surrounding area, if applicable, are acceptable for unrestricted use. The radiological criteria for unrestricted use in R9-7-452 may be used to prepare the plan, as determined by the Department, on a case-by-case basis.
 - f. Not abandon a device that contains radioactive material.
 - g. Not export a device that contains radioactive material except in accordance with 10 CFR 110, revised January 1, 2013, incorporated by reference, and available under R9-7-101. The incorporated material contains no future editions or amendments.
 - h. Transfer or dispose of a device that contains radioactive material only by export as authorized in subsection (A)(4)(g), transfer to another general licensee as authorized in subsection (A)(4)(k) or a person who is authorized to receive the device by a specific license issued by the Department, the NRC, or an Agreement State, or collection as waste if authorized by equivalent regulations of an Agreement State, or the NRC, or as otherwise approved under subsection (A)(4)(j).
 - i. Within 30 days after the transfer or export of a device to a specific licensee, furnish a report to the Department. The report shall:
 - i. Identify the device by manufacturer's (or initial transferor's) name, model number, and serial number;
 - ii. Provide the name, address, and license number of the person receiving the device (license number not applicable if exported); and
 - iii. Provide the date of transfer or export.
 - j. Obtain written Department approval before transferring a device to any other specific licensee that is not authorized in accordance with subsection (A)(4)(h).
 - k. Transfer a device to another general licensee only:
 - i. If the device remains in use at a particular location. The transferor shall provide the transferee with a copy of this Section, a copy of R9-7-443,

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- R9-7-445, and R9-7-448 and any safety documents identified on the device label. Within 30 days of the transfer, the transferor shall report to the Department the manufacturer's (or initial transferor's) name; the model number and the serial number of the device transferred; the transferee's name and mailing address for the location of use; and the name, title, and telephone number of the responsible individual appointed by the transferee in accordance with subsection (A)(4)(n); or
- ii. If the device is held in storage in the original shipping container at its intended location of use before initial use by a general licensee, and by a person that is not a party to the transaction.
 1. Comply with the provisions of R9-7-443, R9-7-444, R9-7-445, R9-7-447, and R9-7-448 for reporting and notification of radiation incidents, theft or loss of licensed material, and is exempt from the other requirements of 9 A.A.C. 7, Articles 4 and 10.
 - m. Respond to written requests from the Department to provide information relating to the general license within 30 days from the date on the request, or a longer time period specified in the request. If the general licensee cannot provide the requested information within the specified time period, the general licensee shall request a longer period to supply the information before expiration of the time period, providing the Department with a written justification for the request.
 - n. Appoint an individual responsible for knowledge of applicable laws and possessing the authority to take actions required to comply with applicable radiation safety laws. The general licensee, through this individual, shall ensure the day-to-day compliance with applicable radiation safety laws. This provision does not relieve the general licensee of responsibility.
 - o. Register, in accordance with subsections (A)(4)(p) and (q), any device that contains at least 370 megabecquerels (10 millicuries) of cesium-137, 3.7 megabecquerels (0.1 millicuries) of strontium-90, 37 megabecquerels (1 millicurie) of cobalt-60, or 37 megabecquerels (1 millicurie) of americium-241 or any other transuranic (i.e., element with atomic number greater than uranium (92)), based on the activity indicated on the label. Each address for a location of use, as described under subsection (A)(4)(q)(iv), represents a separate general licensee and requires a separate registration and fee.
 - p. Register each device annually with the Department and pay the fee required by R9-7-1306, Category D4, if in possession of a device that meets the criteria in subsection (A)(4)(o). The general licensee shall register by verifying, correcting, and adding to the information provided in a request for registration received from the Department. The registration information shall be submitted to the Department within 30 days from the date on the request for registration. In addition, a general licensee holding devices meeting the criteria of subsection (A)(4)(o) is subject to the bankruptcy notification requirements in R9-7-313(D).
 - q. In registering a device, furnish the following information and any other registration information specifically requested by the Department:
 - i. Name and mailing address of the general licensee;
 - ii. Information about each device, including the manufacturer (or initial transferor), model number, serial number, radioisotope, and activity (as indicated on the label);
 - iii. Name, title, and telephone number of the responsible individual appointed by the general licensee under subsection (A)(4)(n);
 - iv. Address or location at which each device is used and stored. For a portable device, the address of the primary place of storage;
 - v. Certification by the responsible individual that the information concerning each device has been verified through a physical inventory and review of label information; and
 - vi. Certification by the responsible individual that the individual is aware of the requirements of the general license.
 - r. Report a change in mailing address for the location of use or a change in the name of the general licensee to the Department within 30 days of the effective date of the change. For a portable device, a report of address change is only required for a change in the device's primary place of storage.
 - s. Not use a device if the device has not been used for a period of two years. If a device with shutters is not being used, the general licensee shall ensure that the shutters are locked in the closed position. The testing required by subsection (A)(4)(b) need not be performed during a period of storage. However, if a device is put back into service or transferred to another person, and has not been tested during the required test interval, the general licensee shall ensure that the device is tested for leakage before use or transfer and that the shutter is tested before use. A device kept in standby for future use is excluded from the two-year time limit in this subsection if the general licensee performs a quarterly physical inventory regarding the standby devices.
5. A person that is generally licensed by an Agreement State with respect to a device that meets the criteria in subsection (A)(4)(o) is exempt from registration requirements if the device is used in an area subject to Department jurisdiction for a period less than 180 days in any calendar year. The Department does not request registration information from a general licensee if the device is exempted from licensing requirements in subsection (A)(4)(o).
 6. The general license granted under subsection (A)(1) is subject to the provisions of 9 A.A.C. 7, Articles 1, 3, 12, and 15, and A.R.S. §§ 30-654(B)(13), 30-657(A) and (B), 30-681, and 30-685 through 30-689.
 7. The general license in subsection (A)(1) does not authorize the manufacture or import of devices containing byproduct material.
- B. Luminous safety devices for aircraft**
1. This subsection grants a general license that authorizes a person to own, receive, acquire, possess, and use tritium or promethium-147 contained in luminous safety devices for use in aircraft, provided that each device contains not more than 370 gigabecquerels (10 curies) of tritium or 11.1 gigabecquerels (300 millicuries) of promethium-147; and each device has been manufactured, assembled, initially transferred, or imported according to a specific license issued by the U.S. Nuclear Regulatory Commission, or each device has been manufactured or assembled

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according to the specifications contained in a specific license issued to the manufacturer or assembler of the device by the Department or any Agreement State or Licensing State in accordance with licensing requirements equivalent to those in 10 CFR 32.53.

2. A person who owns, receives, acquires, possesses, or uses a luminous safety device according to the general license granted in subsection (B)(1) is:
 - a. Exempt from the requirements of 9 A.A.C. 7, Article 4 and Article 10 except that the person shall comply with the reporting and notification provisions of R9-7-443, R9-7-444, R9-7-445, R9-7-447, and R9-7-448;
 - b. Not authorized to manufacture, assemble, repair, or import a luminous safety device that contains tritium or promethium-147;
 - c. Not authorized to export luminous safety devices containing tritium or promethium-147;
 - d. Not authorized to own, receive, acquire, possess, or use radioactive material contained in instrument dials; and
 - e. Subject to the provisions of 9 A.A.C. 7, Articles 1, 3, 12, and 15 and A.R.S. §§ 30-654(B)(13), 30-657(A) and (B), 30-681, and 30-685 through 30-689.
- C. This subsection grants a general license that authorizes a person who holds a specific license to own, receive, possess, use, and transfer radioactive material if the Department issues the license; or special nuclear material if the NRC issues the license. For americium-241, radium-226, and plutonium contained in calibration or reference sources, this subsection grants a general license in accordance with the provisions of subsections (C)(1), (2), and (3). For plutonium, ownership is included in the licensed activities.
 1. This subsection grants a general license for calibration or reference sources that have been manufactured according to the specifications contained in a specific license issued to the manufacturer or importer of the sources by the U.S. Nuclear Regulatory Commission under 10 CFR 32.57 or 10 CFR 70.39. This general license also governs calibration or reference sources that have been manufactured according to specifications contained in a specific license issued to the manufacturer by the Department, an Agreement State, or a Licensing State, according to licensing requirements equivalent to those contained in 10 CFR 32.57 or 10 CFR 70.39, revised January 1, 2013, incorporated by reference, and available under R9-7-101. The incorporated material contains no future editions or amendments.
 2. A general license granted under subsection (C) or (C)(1) is subject to the provisions of 9 A.A.C. 7, Articles 1, 3, 4, 10, 12, and 15 and A.R.S. §§ 30-654(B)(13), 30-657(A) and (B), 30-681, and 30-685 through 30-689. In addition, a person who owns, receives, acquires, possesses, uses, or transfers one or more calibration or reference sources under a general license granted under subsection (C) or (C)(1) shall:
 - a. Not possess at any one time, at any location of storage or use, more than 185 kBq (5 microcuries) of americium-241, plutonium, or radium-226 in calibration or reference sources;
 - b. Not receive, possess, use, or transfer a calibration or reference source unless the source, or the storage container, bears a label that includes one of the following statements, as applicable, or a substantially similar statement that contains the same information:
 - i. The receipt, possession, use and transfer of this source, Model _____, Serial No. _____, are subject to a general license and the regulations of the U.S. Nuclear Regulatory Commission or a state with which the Commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.
CAUTION – RADIOACTIVE MATERIAL – THIS SOURCE CONTAINS (name of the appropriate material) – DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.
 - _____
Name of manufacturer or importer
 - ii. The receipt, possession, use and transfer of this source, Model _____, Serial No. _____, are subject to a general license and the regulations of any Licensing State. Do not remove this label.
CAUTION – RADIOACTIVE MATERIAL – THIS SOURCE CONTAINS RADIUM-226. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.
 - _____
Name of manufacturer or importer
 - c. Not transfer, abandon, or dispose of a calibration or reference source except by transfer to a person authorized to receive the source by a license from the Department, the U.S. Nuclear Regulatory Commission, an Agreement State, or a Licensing State;
 - d. Store a calibration or reference source, except when the source is being used, in a closed container designed, constructed, and approved for containment of americium-241, plutonium, or radium-226 which might otherwise escape during storage; and
 - e. Not use a calibration or reference source for any purpose other than the calibration of radiation detectors or the standardization of other sources.
 3. The general license granted under subsection (C) or (C)(1) does not authorize the manufacture or import of calibration or reference sources that contain americium-241, plutonium, or radium-226.
 4. The general license granted under subsections (C) or (C)(1) does not authorize the manufacture or export of calibration or reference sources that contain americium-241, plutonium, or radium-226.
- D. This subsection grants a general license that authorizes a person to receive, possess, use, transfer, own, or acquire carbon-14 urea capsules, which contain one microcurie of carbon-14 urea for “in vivo” human diagnostic use:
 1. Except as provided in subsections (D)(2) and (3), a physician is exempt from the requirements for a specific license, provided that each carbon-14 urea capsule for “in vivo” diagnostic use contains no more than 1 microcurie.
 2. A physician who desires to use the capsules for research involving human subjects shall obtain a specific license issued according to the specific licensing requirements in this Article.
 3. A physician who desires to manufacture, prepare, process, produce, package, repackage, or transfer carbon-14 urea capsules for commercial distribution shall obtain a specific license from the Department, issued according to the requirements in 10 CFR 32.21, (Revised January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.)

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4. Nothing in this subsection relieves physicians from complying with applicable FDA and other federal and state requirements governing receipt, administration, and use of drugs.
- E. This subsection grants a general license that authorizes any physician, clinical laboratory, or hospital to use radioactive material for certain "in vitro" clinical or laboratory testing.
 1. The general licensee is authorized to receive, acquire, possess, transfer, or use, for any of the following stated tests, the following radioactive materials in prepackaged units:
 - a. Iodine-125, in units not exceeding 370 kilobecquerel (10 microcuries) each for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or radiation from such material, to human beings or animals.
 - b. Iodine-131, in units not exceeding 370 kilobecquerel (10 microcuries) each for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
 - c. Carbon-14, in units not exceeding 370 kilobecquerel (10 microcuries) each for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
 - d. Hydrogen-3 (tritium), in units not exceeding 1.85 megabecquerel (50 microcuries) each for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
 - e. Iron-59, in units not exceeding 740 kilobecquerel (20 microcuries) each for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
 - f. Cobalt-57 or selenium-75, in units not exceeding 370 kilobecquerels (10 microcuries) each for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
 - g. Mock iodine-125 reference or calibration sources, in units not exceeding 1.85 kBq (50 nanocurie) of iodine-129 and 185 becquerel (5 nanocurie) of americium-241 each, for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
 2. A person shall not acquire, receive, possess, use, or transfer radioactive material according to the general license established by this subsection until the person has filed with the Department ARRA-9, "Certificate -- "In Vitro" Testing with Radioactive Material Under General License," provided the information listed in Exhibit E, and received a validated copy of ARRA-9, which indicates the assigned certification number. The physician, clinical laboratory, or hospital shall furnish on ARRA-9 the following information:
 - a. Name, telephone number, and address of the physician, clinical laboratory, or hospital; and
 - b. A statement that the physician, clinical laboratory, or hospital has radiation measuring instruments to carry out "in vitro" clinical or laboratory tests with radioactive material and that tests will be performed only by personnel competent to use the instruments and handle the radioactive material.
3. A person who receives, acquires, possesses, or uses radioactive material according to the general license granted under this subsection shall:
 - a. Not possess at any one time, in storage or use, a combined total of not more than 7.4 megabecquerels (200 microcuries) of iodine-125, iodine-131, iron-59, cobalt-57, or selenium-75 in excess of 7.4 megabecquerels (200 microcuries), or acquire or use in any one calendar month more than 18.5 megabecquerels (500 microcuries) of these radionuclides.
 - b. Store the radioactive material, until used, in the original shipping container or in a container that provides equivalent radiation protection.
 - c. Use the radioactive material only for the uses authorized by subsection (E).
 - d. Not transfer radioactive material to a person who is not authorized to receive it according to a license issued by the Department, the U.S. Nuclear Regulatory Commission, or any Agreement State or Licensing State, or in any manner other than in an unopened, labeled shipping container received from the supplier.
 - e. Not dispose of a mock iodine-125 reference or calibration source described subsection (E)(1) except as authorized by R9-7-434.
 - f. Package or prepackage a unit bearing a durable, clearly visible label: identifying the radioactive contents as to chemical form and radionuclide, and indicating that the amount of radioactivity does not exceed 0.37 megabecquerel (10 microcuries) of iodine-131, iodine-125, selenium-75, or carbon-14; 1.85 megabecquerels (50 microcuries) of hydrogen-3 (tritium); or 0.74 megabecquerel (20 microcuries) of iron-59; or Mock Iodine-125 in units not exceeding 1.85 kilobecquerels (0.05 microcurie) of iodine-129 and 0.185 kilobecquerel (0.005 microcurie) of americium-241 each; or cobalt-57 in units not exceeding 0.37 megabecquerel (10 microcuries).
 - g. Package to display the radiation caution symbol and the words, "Caution, Radioactive Material", and "Not for Internal or External Use in Humans or Animals."
4. The general licensee shall not receive, acquire, possess, transfer, or use radioactive material according to subsection (E)(1):
 - a. Except as prepackaged units that are labeled according to the provisions of a specific license issued by the U.S. Nuclear Regulatory Commission, or any Agreement State that authorizes the manufacture and distribution of iodine-125, iodine-131, carbon-14, hydrogen-3 (tritium), iron-59, cobalt-57, selenium-75, or mock iodine-125 for distribution to persons generally licensed under subsection (E) or its equivalent federal law; and
 - b. Unless one of the following statements, or a substantially similar statement that contains the same information, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure that accompanies the package:
 - i. This radioactive material may be acquired, received, possessed, and used only by physicians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of

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the material, or the radiation from such material, to human beings or animals. The acquisition, receipt, possession, use, and transfer are subject to the regulations and a general license of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.

Name of manufacturer

- ii. This radioactive material shall be acquired, received, possessed, and used only by physicians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation from such material, to human beings or animals. The receipt, acquisition, possession, use, and transfer are subject to the regulations and a general license of a Licensing State.

Name of manufacturer

5. A physician, clinical laboratory or hospital that possesses or uses radioactive material under a general license granted by subsection (E):
 - a. Shall report to the Department in writing, any change in the information furnished on the ARRA-9. The report shall be furnished within 30 days after the effective date of the change; and
 - b. Is exempt from the requirements of 9 A.A.C. 7, Article 4 and Article 10 with respect to radioactive material covered by the general license, except that a person using mock iodine-125 sources, described in subsection (E)(1)(g), shall comply with the provisions of R9-7-434, R9-7-443, and R9-7-444 of this Chapter.
 6. For the purposes of subsection (E), a licensed veterinary care facility is considered a "clinical laboratory."
- F.** This subsection grants a general license that authorizes a person to own, receive, acquire, possess, use, and transfer strontium-90, contained in ice detection devices, provided each device contains not more than 1.85 megabecquerels (50 microcuries) of strontium-90 and each device has been manufactured or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission or each device has been manufactured according to the specifications contained in a specific license issued by the Department or any Agreement State to the manufacturer of the device under licensing requirements equivalent to those in 10 CFR 32.61. A person who receives, owns, acquires, possesses, uses, or transfers strontium-90 contained in ice detection devices under a general license in accordance with subsection (F):
1. Shall, upon occurrence of visually observable damage, such as a bend or crack or discoloration from overheating, discontinue use of the device until it has been inspected, tested for leakage, and repaired by a person who holds a specific license from the U.S. Nuclear Regulatory Commission or an Agreement State to manufacture or service ice detection devices; or dispose of the device according to the provisions of R9-7-434;
 2. Shall assure that each label, affixed to the device at the time of receipt, which bears a statement that prohibits removal of the labels, maintained on the device; and
 3. Is exempt from the requirements of 9 A.A.C. 7, Article 4 and Article 10, except that the user of an ice detection

device shall comply with the provisions of R9-7-434, R9-7-443, and R9-7-444.

4. Shall not manufacture, assemble, disassemble, repair, or import an ice detection device that contains strontium-90.
 5. Is subject to the provisions of 9 A.A.C. 7, Articles 1, 3, 12, and 15, and A.R.S. §§ 30-654(B), 30-657(A) and (B), 30-681, and 30-685 through 30-689.
- G.** This subsection grants a general license that authorizes a person to acquire, receive, possess, use, or transfer, in accordance with the provisions of subsections (H) and (I), radium-226 contained in the following products manufactured prior to November 30, 2007.
1. Antiquities originally intended for use by the general public. For the purposes of this subsection, antiquities mean products originally intended for use by the general public and distributed in the late 19th and early 20th centuries, such as radium emanator jars, revigators, radium water jars, radon generators, refrigerator cards, radium bath salts, and healing pads.
 2. Intact timepieces containing greater than 0.037 megabecquerel (1 microcurie), nonintact timepieces, and timepiece hands and dials no longer installed in timepieces.
 3. Luminous items installed in air, marine, or land vehicles.
 4. All other luminous products, provided that no more than 100 items are used or stored at the same location at any one time.
 5. Small radium sources containing no more than 0.037 megabecquerel (1 microcurie) of radium-226. For the purposes of this subsection, "small radium sources" means discrete survey instrument check sources, sources contained in radiation measuring instruments, sources used in educational demonstrations (such as cloud chambers and spinthariscopes), electron tubes, lightning rods, ionization sources, static eliminators, or as designated by the NRC.
- H.** Persons who acquire, receive, possess, use, or transfer byproduct material under the general license issued in subsection (G) are exempt from the provisions 9 A.A.C. 7, Articles 1, 3, 4, 7, 10, 12, and 15 and A.R.S. §§ 30-654(B)(13), 30-657(A) and (B), 30-681, and 30-685 through 30-689, to the extent that the receipt, possession, use, or transfer of byproduct material is within the terms of the general license; provided, however, that this exemption shall not be deemed to apply to any such person specifically licensed under this chapter. Any person who acquires, receives, possesses, uses, or transfers byproduct material in accordance with the general license in subsection (G):
1. Shall notify the Department should there be any indication of possible damage to the product so that it appears it could result in a loss of the radioactive material. A report containing a brief description of the event, and the remedial action taken, must be furnished to the Department within 30 days.
 2. Shall not abandon products containing radium-226. The product, and any radioactive material from the product, may only be disposed of according to Article 4 or by transfer to a person authorized by a specific license to receive the radium-226 in the product or as otherwise approved by the Department.
 3. Shall not export products containing radium-226 except in accordance with 10 CFR 110 revised January 1, 2013, incorporated by reference, and available under R9-7-101. The incorporated material contains no future editions or amendments.
 4. Shall dispose of products containing radium-226 at a disposal facility authorized to dispose of radioactive mate-

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rial in accordance with any federal or state solid or hazardous waste law, including the Solid Waste Disposal Act, as authorized under the Energy Policy Act of 2005, by transfer to a person authorized to receive radium-226 by a specific license issued under Article 3, equivalent regulations of an Agreement State, or the NRC.

5. Shall respond to written requests from the Department to provide information relating to the general license within 30 calendar days of the date of the request, or other time specified in the request. If the general licensee cannot provide the requested information within the allotted time, it shall, within that same time period, request a longer period to supply the information by providing the Department Director a written justification for the request.
- I. The general license in subsection (G) does not authorize the manufacture, assembly, disassembly, repair, or import of products containing radium-226, except that timepieces may be disassembled and repaired.

Historical Note

New Section R9-7-306 recodified from R12-1-306, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-307. Reserved**Historical Note**

Section R9-7-307 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-308. Filing Application for Specific Licenses

- A. An applicant for a specific license shall file a Department application. The applicant shall prepare the application in duplicate, one copy for the Department and the other for the applicant.
- B. The Department may at any time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the Department to determine whether the application should be granted or denied or whether a license should be modified or revoked.
- C. Each application shall contain the information specified in Exhibit (E) of this Article and be signed by the applicant, licensee, or person duly authorized to act for the applicant or licensee.
- D. Unless R9-7-1302 precludes combination with a license of another category, an application for a specific license may include a request for a license that authorizes more than one activity.
- E. In the application, the applicant may incorporate by reference information contained in previous applications, statements, or reports filed with the Department provided the references are clear and specific.
- F. The Department shall make applications and documents submitted to the Department available for public inspection, but may withhold any document or part of a document from public inspection if disclosure of its content is not required in the public interest and would adversely affect the interest of a person concerned.
- G. Except as provided in subsections (G)(1), (2), and (3), an application for a specific license to use byproduct material in the form of a sealed source or in a device that contains the sealed source must either identify the source or device by manufacturer and model number as registered with the Department, with the NRC, or with an Agreement State, or, for a source or a device containing radium-226 or accelerator-produced radioactive material, with the Department, the NRC, or

an Agreement State under 10 CFR 32.210 revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

1. For sources or devices manufactured before October 23, 2012, that are not licensed under R9-7-306, R9-7-310, R9-7-311 or registered with the NRC or with an Agreement State, and for which the applicant is unable to provide all categories of information specified in 10 CFR 32.210(c) the application must include:
 - a. All available information identified in 10 CFR 32.210(c) concerning the source, and, if applicable, the device; and
 - b. Sufficient additional information to demonstrate that there is reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property. Such information must include a description of the source or device, a description of radiation safety features, the intended use and associated operating experience, and the results of a recent leak test.
2. For sealed sources and devices allowed to be distributed without registration of safety information, the applicant may supply only the manufacturer, model number, and radionuclide and quantity.
3. If it is not feasible to identify each sealed source and device individually, the applicant may propose constraints on the number and type of sealed sources and devices to be used and the conditions under which they will be used, in lieu of identifying each sealed source and device.
- H. A certificate holder or licensee who no longer manufactures or initially transfers any of the sealed source(s) or device(s) covered by a particular certificate issued with the Department, with the NRC, or with an Agreement State shall request inactivation of the registration or license with the Department, with the NRC, or with an Agreement State program that the device is currently registered by in accordance with 10 CFR 32.211 revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

Historical Note

New Section R9-7-308 recodified from R12-1-308, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-309. General Requirements for Issuance of Specific Licenses

A license application shall be approved if the Department determines that:

1. The applicant is qualified by reason of training and experience to use the material in question for the purpose requested according to these rules, in a manner that will minimize danger to public health and safety or property;
2. The applicant's proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property;
3. The issuance of the license will not be inimical to the health and safety of the public;
4. The applicant satisfies all applicable special requirements in R9-7-310, R9-7-311, R9-7-322, R9-7-323, and 9 A.A.C. 7, Articles 5, 7, and 17; and
5. The applicant demonstrates that a letter has been sent, return receipt requested, to the Mayor's office of the city, town, or, if not within an incorporated community, to the

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County Board of Supervisors of the county in which the applicant proposes to operate which describes:

- a. The nature of the proposed activity involving radioactive material; and
- b. The facility, including use and storage areas.

Historical Note

New Section R9-7-309 recodified from R12-1-309, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-310. Special Requirements for Issuance of Specific Broad Scope Licenses

A. The Department shall issue three classes of academic and industrial broad scope licenses, and only a single class A medical broad scope license.

1. The license may authorize the radioactive materials in multi-curie quantities, and may authorize other radioactive materials and forms in addition to those listed in subsection (A)(1)(a). A license is a broad scope class A license if it:
 - a. Contains the exact wording "Any radioactive material with Atomic Number 3 through 83" or "Any radioactive material with Atomic Number 84 through 92" in License Item 6; and
 - b. Contains the word "any" to authorize the chemical or physical form of the materials in License Item 7;
2. A broad scope class B license is any specific license which authorizes the acquisition, possession, use, and transfer of the radioactive materials specified in Exhibit C of 9 A.A.C. 7, Article 3 in any chemical or physical form and in quantities determined as follows:
 - a. The possession limit, if only one radionuclide is possessed, is the quantity specified for that radionuclide in Exhibit C, Column I; or
 - b. The possession limit for multiple radionuclides is determined as follows: The sum of the ratios for all radionuclides possessed under the license shall not exceed unity (1). The ratio for each radionuclide is determined by dividing the quantity possessed by the applicable quantity in Exhibit C, Column I.
3. A broad scope class C license is any specific license authorizing the possession and use of the radioactive materials specified in Exhibit C of 9 A.A.C. 7, Article 3 in any chemical or physical form and in quantities determined as follows:
 - a. The possession limit, if only one radionuclide is possessed, is the quantity specified for that radionuclide in Exhibit C, Column II; or
 - b. The possession limit for multiple radionuclides is determined as follows: The sum of the ratios for all radionuclides possessed under the license shall not exceed unity (1). The ratio for each radionuclide is determined by dividing the quantity possessed by the applicable quantity in Exhibit C, Column II.

B. The Department shall approve:

1. An application for a class A broad scope license if:
 - a. The applicant satisfies the general requirements specified in R9-7-309;
 - b. The applicant has engaged in a reasonable number of activities involving the use of radioactive material. For purposes of this subsection, the requirement of "reasonable number of activities" can be satisfied by showing that the applicant has five years of experience in the use of radioactive material. The Department may accept less than five years of experience if the applicant's qualifications are adequate for the scope of the proposed license; and

c. The applicant has established administrative controls and provisions relating to organization, management, procedures, recordkeeping, material control, accounting, and management review that are necessary to assure safe operations, including:

- i. Establishment of a radiation safety committee composed of a radiation safety officer, a representative of management, and persons trained and experienced in the safe use of radioactive material;
- ii. Appointment of a radiation safety officer who is qualified by training and experience in radiation protection, and who is available for advice and assistance on radiation safety matters; and
- iii. Establishment of appropriate administrative procedures to assure:
 - (1) Control of procurement and use of radioactive material;
 - (2) Completion of safety evaluations of proposed uses of radioactive material which take into consideration matters such as the adequacy of facilities and equipment, training and experience of the user, and operating or handling procedures; and
 - (3) Review, approval, and recording by the radiation safety committee of safety evaluations of proposed uses prepared in accordance with this subsection prior to use of the radioactive material.

2. An application for a class B broad scope license if:

- a. The applicant satisfies the general requirements specified in R9-7-309; and
- b. The applicant has established administrative controls and provisions relating to organization, management, procedures, recordkeeping, material control, accounting, and management review that are necessary to assure safe operations, including:
 - i. Appointment of a radiation safety officer who is qualified by training and experience in radiation protection, and available for advice and assistance on radiation safety matters; and
 - ii. Establishment of appropriate administrative procedures to assure:
 - (1) Control of procurement and use of radioactive material;
 - (2) Completion of safety evaluations of proposed uses of radioactive material which take into consideration matters such as the adequacy of facilities and equipment, training and experience of the user, and the operating or handling procedures; and
 - (3) Review, approval, and recording by the radiation safety officer of safety evaluations of proposed uses prepared according to subsection (B)(2)(b)(ii) prior to use of the radioactive material.

3. An application for a class C broad scope license if:

- a. The applicant satisfies the general requirements specified in R9-7-309; and
- b. The applicant submits a statement that radioactive material will be used only by, or under the direct supervision of, individuals who have received:
 - i. A college degree at the bachelor level, or equivalent training and experience, in the physical or biological sciences or in engineering; and

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- ii. At least 40 hours of training and experience in the safe handling of radioactive material, the characteristics of ionizing radiation, units of dose and quantities, radiation detection instrumentation, and biological hazards of exposure to radiation appropriate to the type and forms of radioactive material to be used; and
 - c. The applicant has established administrative controls and provisions relating to procurement of radioactive material, procedures, recordkeeping, material control and accounting, and management review necessary to assure safe operations.
- C. Unless specifically authorized, broad-scope licensees shall not:
- 1. Conduct tracer studies in the environment involving direct release of radioactive material;
 - 2. Acquire, receive, possess, use, own, import, or transfer devices containing 3.7 petabecquerels (100,000 curies) or more of radioactive material in sealed sources used for irradiation of materials;
 - 3. Conduct activities for which a specific license is issued under R9-7-311 and 9 A.A.C. 7, Articles 5, 7, or 17; or
 - 4. Add or cause the addition of radioactive material to any food, beverage, cosmetic, drug, or other product designed for ingestion or inhalation by, or application to, a human being.
- D. Radioactive material possessed under the class A broad scope license shall only be used by, or under the direct supervision of, individuals approved by the licensee's radiation safety committee.
- E. Radioactive material possessed under the class B broad scope license shall only be used by, or under the direct supervision of, individuals approved by the licensee's radiation safety officer.
- F. Radioactive material possessed under the class C broad scope license shall only be used by, or under the direct supervision of, individuals who satisfy the requirements of R9-7-310(B)(3)(b).
- iii. Under accident conditions (such as fire and explosion) associated with handling, storage, and use of the device, it is unlikely that any person would receive an external radiation dose or dose commitment in excess of the following organ doses:
 - (1) Whole body; head and trunk; active blood-forming organs; gonads; or lens of eye: 150 mSv (15 rem)
 - (2) Hands and forearms; feet and ankles; localized areas of skin averaged over areas no larger than 1 square centimeter; 2 Sv (200 rem)
 - (3) Other organs: 500 mSv (50 rem)
 - c. Each device bears a durable, legible, clearly visible label or labels that contain in a clearly identified and separate statement:
 - i. Instructions and precautions necessary to assure safe installation, operating, and servicing of the device (documents such as operating and service manuals may be identified in the label and used to provide this information);
 - ii. The requirement, or lack of requirement, for leak testing, or for testing any on-off mechanism and indicator, including the maximum time interval for the testing, and the identification of radioactive material by isotope, quantity of radioactivity, and date of determination of the quantity; and
 - iii. The information called for in one of the following statements in the same or substantially similar form:

The receipt, possession, use, and transfer of this device, Model _____, Serial No. _____, are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission or a state with which the Nuclear Regulatory Commission has entered into an agreement for the exercise of regulatory authority. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.

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(name of manufacturer or distributor)

The receipt, possession, use and transfer of this device, Model _____, Serial No. _____, are subject to a general license or the equivalent, and the regulations of a Licensing State. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.

CAUTION – RADIOACTIVE MATERIAL

(name of manufacturer or distributor)

- d. The model, serial number, and name of manufacturer or distributor may be omitted from the label if the information location is specified in labeling affixed to the device;
- e. Each device with a separable source housing that provides the primary shielding for the source also bears, on the source housing, a durable label that

Historical Note

New Section R9-7-310 recodified from R12-1-310, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-311. Special Requirements for a Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices that Contain Radioactive Material

- A. Licensing the manufacture and distribution of devices to persons generally licensed under R9-7-306(A).
 - 1. The Department shall grant a specific license to manufacture or distribute each device that contains radioactive material, excluding special nuclear material, to persons generally licensed under R9-7-306(A) or equivalent regulations of the U.S. NRC, an Agreement State, or the Licensing State if:
 - a. The applicant satisfies the requirements of R9-7-309;
 - b. The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions, and potential hazards of the device to provide reasonable assurance that:
 - i. The device can be safely operated by persons not having training in radiological protection;
 - ii. Under ordinary conditions of handling, storage, and use of the device, the radioactive material contained in the device will not be released or

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- provides the device model number and serial number, the isotope and quantity, the words, "Caution-Radioactive Material," the radiation symbol described in R9-7-428, and the name of the manufacturer or initial distributor; and
- f. Each device meets the criteria in 10 CFR 31.5(c)(13)(i) (revised January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments) and bears a permanent (e.g., embossed, etched, stamped, or engraved) label affixed to the source housing, if separable, or the device if the source housing is not separable, that includes the words, "Caution-Radioactive Material," and, if practicable, the radiation symbol described in R9-7-428.
 - g. The device has been registered in the Sealed Source and Device Registry.
2. In the event the applicant desires that the device undergo mandatory testing at intervals longer than six months, either for proper operation of the on-off mechanism and indicator, if any, or for leakage of radioactive material or for both, the application shall contain sufficient information to demonstrate that the longer interval is justified by performance characteristics of the device or similar devices and by design features which have a significant bearing on the probability or consequences of leakage of radioactive material from the device or failure of the on-off mechanism and indicator. In determining the acceptable interval for the test for leakage of radioactive material, the Department shall consider information which includes, but is not limited to:
 - a. Primary containment (source capsule),
 - b. Protection of primary containment,
 - c. Method of sealing containment,
 - d. Containment construction materials,
 - e. Form of contained radioactive material,
 - f. Maximum temperature withstood during prototype tests,
 - g. Maximum pressure withstood during prototype tests,
 - h. Maximum quantity of contained radioactive material,
 - i. Radiotoxicity of contained radioactive material, and
 - j. Operating experience with identical devices or similarly designed and constructed devices.
 3. In the event the applicant desires that the general licensee under R9-7-306(A), or under equivalent regulations of the NRC or an Agreement State or Licensing State, be authorized to install the device, collect the sample to be analyzed by a specific licensee for leakage of radioactive material, service the device, test the on-off mechanism and indicator, or remove the device from installation, the application shall include written instructions to be followed by the general licensee, estimated calendar quarter doses associated with the activity or activities, and bases for the estimates. The submitted information shall demonstrate that performance of the activity or activities by an individual untrained in radiological protection, in addition to other handling, storage, and use of devices under the general license, is unlikely to cause that individual to receive a dose in excess of 10 percent of the limits specified in R9-7-408.
 4. A licensee authorized under subsection (A) to distribute a device to a generally licensed person shall provide, if a device that contains radioactive material is to be transferred for use under the general license granted in R9-7-306(A), the name of each person that is licensed under R9-7-311(A) and the information specified in this subsection for each person to whom a device will be transferred. The licensee shall provide this information before the device may be transferred. In the case of transfer through another person, the licensee shall provide the listed information to the intended user before initial transfer to the other person.
 - a. The licensee shall provide:
 - i. A copy of the general license, issued under R9-7-306(A),
 - ii. A copy of R9-7-443 and R9-7-445,
 - iii. A list of the services that can only be performed by a specific licensee,
 - iv. Information on authorized disposal options, including estimated costs of disposal, and
 - v. A list of civil penalties for improper disposal.
 - b. The licensee shall:
 - i. Report on a quarterly basis to the responsible Agreement State or NRC all transfers of devices to persons for use under a general license in accordance with 10 CFR 32.52, revised January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
 - ii. Maintain all information concerning transfers and receipts of devices that supports the reports required by subsection (A)(4)(b)(i).
 - iii. Maintain records required by subsection (A)(4)(b)(i) for a period of three years following the date of the recorded event.
 5. If radioactive material is to be transferred in a device for use under an equivalent general license of the NRC or another Agreement State, each person that is licensed under R9-7-304(B) shall provide the information specified in this subsection to each person to whom a device will be transferred. The licensee shall provide this information before the device is transferred. In the case of transfer through another person, the licensee shall provide the listed information to the intended user before initial transfer to the other person. The licensee shall provide:
 - a. A copy of the Agreement State's requirements that are equivalent to R9-7-306(A), R9-7-443, and R9-7-445, and to A.R.S. § 30-657. If a copy of NRC regulations is provided to a prospective general licensee in lieu of the Agreement State's requirements, the licensee shall explain in writing that use of the device is regulated by the Agreement State. If certain requirements do not apply to a particular device, the licensee may omit the requirement from the material provided;
 - b. A list of the services that can only be performed by a specific licensee;
 - c. Information on authorized disposal options, including estimated costs of disposal; and
 - d. The name, title, address, and telephone number of the individual at the Agreement State regulatory agency who can provide additional information.
 6. A licensee may propose to the Department an alternate method of informing the customer.
 7. If a licensee has notified the Department of bankruptcy under R9-7-313(E) or is terminating under R9-7-319, the licensee shall provide, upon request, to the Department,

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the NRC, or another Agreement State, records of the disposition as required under A.R.S. § 30-657.

8. A licensee authorized to transfer a device to a generally licensed person, shall comply with the following requirements:
 - a. The person licensed under subsection (A) shall report all transfers of devices to persons for use under a general license obtained under R9-7-306(A), and all receipts of devices from persons licensed under R9-7-306(A) to the Department, the NRC, or other affected Agreement State. The report shall be submitted on a quarterly basis, in a clear and legible form, and contain the following information:
 - i. The identity of each general licensee by name and mailing address for the location of use. If there is no mailing address for the location of use, the person licensed under subsection (A) shall submit an alternate address for the general licensee, along with information on the actual location of use;
 - ii. The name, title, and telephone number of a person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the applicable laws;
 - iii. The date of transfer;
 - iv. The type, model number, and serial number of the device transferred; and
 - v. The quantity and type of radioactive material contained in the device.
 - b. If one or more intermediaries will temporarily possess the device at the intended place of use before its possession by the intended user, the report shall include the information required of the general licensee in subsection (A)(4) for both the intended user and each intermediary, clearly identifying the intended user and each intermediary.
 - c. For devices received from a general licensee, licensed under R9-7-306(A), the report shall include:
 - i. The identity of the general licensee by name and address;
 - ii. The type, model number, and serial number of the device received;
 - iii. The date of receipt; and
 - iv. In the case of a device not initially transferred by the reporting licensee, the name of the manufacturer or initial transferor.
 - d. If the person licensed under subsection (A) makes a change to a device possessed by a general licensee so that the label must be changed to update required information, the report shall identify the general licensee, the device, and the changes to information on the device label.
 - e. The report shall cover a calendar quarter, be filed within 30 days of the end of each calendar quarter, and clearly indicate the period covered by the report.
 - f. The report shall clearly identify the person licensed under subsection (A) submitting the report and include the license number of the license.
 - g. If no transfers are made to or from persons generally licensed under R9-7-306(A) during a reporting period, the person licensed under subsection (A) shall submit a report indicating the lack of activity.
9. The licensee shall maintain records of all transfers for Department inspection. Records shall be maintained for three years after termination of the license to manufacture the generally licensed devices regulated under R9-7-306(A).
 - B. The Department shall grant a specific license to manufacture, assemble, repair, or initially transfer luminous safety devices that contain tritium or promethium-147 for use in aircraft, for distribution to persons generally licensed under R9-7-306(B), if the applicant satisfies:
 1. The general requirements specified in R9-7-309; and
 2. The requirements of 10 CFR 32.53 through 32.56 revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
 - C. The Department shall grant a specific license to manufacture or initially transfer calibration or reference sources that contain americium-241, radium-226, or plutonium for distribution to persons generally licensed under R9-7-306(C) if the applicant satisfies:
 1. The general requirements of R9-7-309; and
 2. The requirements of 10 CFR 32.57, 32.58, 32.59, and 70.39, revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
 - D. The Department shall grant a specific license to distribute radioactive material for use by a physician under the general license in R9-7-306(D) if:
 1. The general requirements of R9-7-309; and
 2. The requirements of 10 CFR 32.57, 32.58, 32.59, and 70.39, revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
 - E. The Department shall grant for a specific license to manufacture or distribute radioactive material for use under the general license of R9-7-306(E) if:
 1. The applicant satisfies the general requirements specified in R9-7-309.
 2. The radioactive material is to be prepared for distribution in prepackaged units of:
 - a. Iodine-125 in units not exceeding 370 kBq (10 microcuries) each;
 - b. Iodine-131 in units not exceeding 370 kBq (10 microcuries) each;
 - c. Carbon-14 in units not exceeding 370 kBq (10 microcuries) each;
 - d. Hydrogen-3 (tritium) in units not exceeding 1.85 MBq (50 microcuries) each;
 - e. Iron-59 in units not exceeding 740 kBq (20 microcuries) each;
 - f. Cobalt-57 or selenium-75 in units not exceeding 370 kilobecquerels (10 microcuries) each;
 - g. Mock iodine-125 in units not exceeding 1.85 kBq (50 nanocuries) of iodine-129 and 185 Bq (5 nanocuries) of americium-241 each.
 3. Each prepackaged unit bears a durable, clearly visible label:
 - a. Identifying the radioactive contents as to chemical form and radionuclide and indicating that the amount of radioactivity does not exceed 370 kilobecquerels (10 microcuries) of iodine-125, iodine-131, cobalt-57, selenium-75, or carbon-14; 1.85 megabecquerels (50 microcuries) of hydrogen-3 (tritium); 740 kilobecquerels (20 microcuries) of iron-59; or mock iodine-125 in units not exceeding 1.85 kilobecquerels (0.05 microcurie) of iodine-129 and 185 becquerels (0.005 microcurie) of americium-241 each; and

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- b. Displaying the radiation caution symbol described in R9-7-428, the words, "CAUTION, RADIOACTIVE MATERIAL," and the phrase "Not for Internal or External Use in Humans or Animals."
 4. One of the following statements, or a substantially similar statement that contains the information called for in the following statements appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure that accompanies the package:
 - a. This radioactive material may be received, acquired, possessed, and used only by physicians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation from the radioactive material, to human beings or animals. Its receipt, acquisition, possession, use, and transfer are subject to the regulations and a general license of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.

Name of Manufacturer

 - b. This radioactive drug may be received, acquired, possessed, and used only by physicians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation from the radioactive material, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a Licensing State.

Name of Manufacturer
 5. The label affixed to the unit, or the leaflet or brochure that accompanies the package, contains adequate information about the precautions to be observed in handling and storing the specified radioactive material. In the case of the mock iodine-125 reference or calibration source, the information accompanying the source must also contain directions to the licensee regarding the waste disposal requirements set out in R9-7-434.
- F. The Department shall grant for a specific license to manufacture and distribute ice detection devices to persons generally licensed under R9-7-306(F) if the applicant satisfies:
 1. The general requirements of R9-7-309; and
 2. The criteria of 10 CFR 32.61 and 32.62, revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- G. The Department shall grant a specific license to manufacture, prepare, or transfer for commercial distribution radioactive drugs that contain radioactive material for use by a person authorized in accordance with Article 7 of this Chapter, if the applicant meets all of the requirements in 10 CFR 30.32(j) or 10 CFR 32.72, revised January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
 1. Authorization under this Section to produce Positron Emission Tomography (PET) radioactive drugs for noncommercial transfer to medical use licensees in its consortium does not relieve the licensee from complying with applicable FDA, other federal, and state requirements governing radioactive drugs.
 2. Each licensee authorized under this Section to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium shall:
 - a. Satisfy the labeling requirements in R9-7-431 for each PET radioactive drug transport radiation shield and each syringe, vial, or other container used to hold a PET radioactive drug intended for noncommercial distribution to members of its consortium.
 - b. Possess and use instrumentation to measure the radioactivity of the PET radioactive drugs intended for noncommercial distribution to members of its consortium and meet the procedural, radioactivity measurement, instrument test, instrument check, and instrument adjustment requirements in R9-7-449.
 3. A licensee that is a pharmacy authorized under this Section to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium shall require that any individual who prepares PET radioactive drugs be an:
 - a. Authorized nuclear pharmacist that meets the requirements in R9-7-712, or
 - b. Individual under the supervision of an authorized nuclear pharmacist as specified in R9-7-706.
 4. A pharmacy, authorized under this Section to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium that allows an individual to work as an authorized nuclear pharmacist, shall meet the requirements of R9-7-712.
- H. The Department shall grant a specific license to manufacture and distribute generators or reagent kits that contain radioactive material for preparation of radiopharmaceuticals by persons licensed according to 9 A.A.C. 7, Article 7 if:
 1. The applicant satisfies the general requirements of R9-7-309;
 2. The applicant submits evidence that:
 - a. The generator or reagent kit is to be manufactured, labeled and packaged according to the Federal Food, Drug, and Cosmetic Act or the Public Health Service Act, a new drug application (NDA) approved by the Food and Drug Administration (FDA), a biologic product license issued by FDA, or a "Notice of Claimed Investigational Exemption for a New Drug" (IND) that has been accepted by the FDA; or
 - b. The manufacture and distribution of the generator or reagent kit are not subject to the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act.
 3. The applicant submits information on the radionuclide; chemical and physical form, packaging including maximum activity per package, and shielding provided by the packaging of the radioactive material contained in the generator or reagent kit;
 4. The label affixed to the generator or reagent kit contains information on the radionuclide, including quantity, and date of assay; and
 5. The label affixed to the generator or reagent kit, or the leaflet or brochure that accompanies the generator or reagent kit, contains:
 - a. Adequate information, from a radiation safety standpoint, on the procedures to be followed and the equipment and shielding to be used in eluting the generator or processing radioactive material with the reagent kit; and
 - b. A statement that this generator or reagent kit (as appropriate) is approved for use by persons licensed by the Department under 9 A.A.C. 7, Article 7 or

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equivalent licenses of the U.S. Nuclear Regulatory Commission or an Agreement State or Licensing State. The labels, leaflets or brochures required by this subsection supplement the labeling required by FDA and they may be separate from or, with the approval of FDA, combined with the labeling required by FDA.

- I. The Department shall grant a specific license to manufacture and distribute sources and devices that contain radioactive material to a person licensed in accordance with Article 7 of this Chapter for use as a calibration, transmission, or reference source or for medical purposes, if the applicant meets all of the requirements in 10 CFR 32.74, revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- J. Requirements for license to manufacture and distribute industrial products containing depleted uranium for mass volume applications.
 1. The Department shall grant a specific license to manufacture industrial products and devices that contain depleted uranium for use under R9-7-305(C) or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State if:
 - a. The applicant satisfies the general requirements in R9-7-309;
 - b. The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses, and potential hazards of the industrial product or device to provide reasonable assurance that possession, use, or transfer of the depleted uranium in the product or device is not likely to cause any individual to receive a radiation dose in excess of 10 percent of the limits specified in R9-7-408;
 - c. The applicant submits sufficient information regarding the industrial product or device and the presence of depleted uranium for a mass volume application in the product or device to provide reasonable assurance that unique benefits will accrue to the public because of the usefulness of the product or device.
 2. In the case of an industrial product or device whose unique benefits are questionable, the Department shall approve an application for a specific license under this subsection only if the product or device is found to combine a high degree of utility and low probability of uncontrolled disposal and dispersal of significant quantities of depleted uranium into the environment.
 3. The Department may deny any application for a specific license under this subsection if the end use or uses of the industrial product or device cannot be reasonably foreseen.
 4. Each person licensed under subsection (J)(1) shall:
 - a. Maintain the level of quality control required by the license in the manufacture of the industrial product or device and the installation of the depleted uranium into the product or device;
 - b. Label or mark each unit to:
 - i. Identify the manufacturer of the product or device, the number of the license under which the product or device was manufactured or initially transferred, the fact that the product or device contains depleted uranium, and the quantity of depleted uranium in each product or device; and
 - ii. State that the receipt, possession, use, and transfer of the product or device are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission or an Agreement State;
- c. Assure that the depleted uranium, before being installed in each product or device, has been impressed with the following legend, clearly legible through any plating or other covering: "Depleted Uranium";
- d. Furnish a copy of the general license contained in R9-7-305(C) and a copy of ARRA-23 to each person to whom depleted uranium in a product or device is transferred for use under a general license contained in R9-7-305(C); or
- e. Furnish a copy of the general license contained in the U.S. Nuclear Regulatory Commission's or Agreement State's regulation equivalent to R9-7-305(C) and a copy of the U.S. Nuclear Regulatory Commission's or Agreement State's certificate, or alternatively, furnish a copy of the general license contained in R9-7-305(C) and a copy of ARRA-23 to each person to whom depleted uranium in a product or device is transferred for use under a general license of the U.S. Nuclear Regulatory Commission or an Agreement State, with a document explaining that use of the product or device is regulated by the U.S. Nuclear Regulatory Commission or an Agreement State under requirements substantially the same as those in R9-7-305(C);
- f. Report to the Department all transfers of industrial products or devices to persons for use under the general license in R9-7-305(C). The report shall identify each general licensee by name and address, an individual by name or position who serves as the point of contact person for the general licensee, the type and model number of device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within 30 days after the end of each calendar quarter in which a product or device is transferred to the generally licensed person. If no transfers have been made to persons generally licensed under R9-7-305(C) during the reporting period, the report shall so indicate;
 - i. Report to the U.S. Nuclear Regulatory Commission all transfers of industrial products or devices to persons for use under the U.S. Nuclear Regulatory Commission general license in 10 CFR 40.25; or
 - ii. Report to the responsible state agency all transfers of devices manufactured and distributed under subsection (J)(4)(f) for use under a general license in that state's regulations equivalent to R9-7-305(C);
 - iii. The report required in subsection (J)(4)(f)(i) or (ii) shall identify each general licensee by name and address, an individual by name or position who serves as the contact person for the general licensee, the type and model number of the device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within 30 days after the end of each calendar quarter in which a product or device is transferred to the generally licensed person;

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- iv. If no transfers have been made to U.S. Nuclear Regulatory Commission licensees during the reporting period, this information shall be reported to the U.S. Nuclear Regulatory Commission;
 - v. If no transfers have been made to general licensees within a particular Agreement State during the reporting period, this information shall be reported to the responsible Agreement state agency; and
 - vi. Keep records showing the name, address, and contact person for each general licensee to whom depleted uranium in industrial products or devices is transferred for use under a general license provided in R9-7-305(C) or equivalent regulations of the U.S. Nuclear Regulatory Commission or of an Agreement State. The records shall be maintained for a period of three years and show the date of each transfer, the quantity of depleted uranium in each product or device transferred, and compliance with the reporting requirements of this Section.
- K.** A licensee who manufactures nationally tracked sources, as defined in Article 4, shall:
- 1. Serialize the sources in accordance with 10 CFR 32.201, revised January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments; and
 - 2. Report manufacturing activities in accordance with R9-7-454.

Historical Note

New Section R9-7-311 recodified from R12-1-311, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-312. Issuance of Specific Licenses

- A.** Upon determination that a license application meets the requirements of the Act and Department rules, the Department shall grant a specific license that may contain conditions or limitations if the Department has determined that additional requirements regarding the proposed activity will protect health and safety.
- B.** The Department may incorporate in any license at the time of issuance, or thereafter by rule or order, additional requirements and conditions with respect to the licensee's receipt, possession, use, and transfer of radioactive material in order to:
 - 1. Minimize danger to public health and safety or property;
 - 2. Require reports and recordkeeping, and provide for inspections of activities under the license as may be necessary to protect health and safety; and
 - 3. Prevent loss or theft of material subject to this Article.
- C.** The Department may verify information contained in an application and secure additional information necessary to make a determination on issuance of a license and whether any special conditions should be attached to the license. The Department may inspect the facility or location where radioactive materials would be possessed or used, and discuss details of the proposed possession or use of the radioactive materials with the applicant or representatives designated by the applicant.
- A.** Each license issued under this Article is subject to all provisions of A.R.S. Title 30, Chapter 4 and to all rules, regulations, and orders of the Department.
- B.** A licensee shall not transfer, assign, or in any manner dispose of a license issued or granted under this Article or a right to possess or utilize radioactive material granted by any license issued under this Article unless the Department finds that the transfer is consistent with the Department's statutes and rules, and gives its consent in writing. An application for transfer of license must include:
 - 1. The identity, technical and financial qualifications of the proposed transferee; and
 - 2. Financial assurance for decommissioning information required by R9-7-323.
- C.** Each person licensed by the Department under this Article shall confine the use and possession of the material licensed to the locations and purposes authorized in the license.
- D.** Each license issued pursuant to the rules in Articles 3, 5, 7, and 15 of this Chapter shall be deemed to contain the provisions set forth in the Act, whether or not these provisions are expressly set forth in the license.
- E.** The Department may incorporate, in any license issued pursuant to the rules in this Chapter, at the time of issuance, or thereafter by appropriate rule, regulation or order, such additional requirements and conditions with respect to the licensee's receipt, possession, use and transfer of byproduct material as it deems appropriate or necessary in order to:
 - 1. Promote the common defense and security;
 - 2. Protect health or to minimize danger to life or property;
 - 3. Protect restricted data; or
 - 4. Require such reports and the keeping of such records, and to provide for such inspections of activities under the license as may be necessary or appropriate to effectuate the purposes of the Act and rules thereunder.
- F.** Licensees required to submit emergency plans in accordance with R9-7-322 shall follow the emergency plan approved by the Department. The licensee may change the approved plan without Department approval only if the changes do not reduce the commitment of the plan. The licensee shall furnish the change to the Department and to affected offsite response organizations within six months after the change is made. Proposed changes that reduce, or potentially reduce, the commitment of the approved emergency plan may not be implemented without prior application to and prior approval by the Department.
- G.** Each person licensed under this Section and each general licensee that is required to register under R9-7-306(A)(4)(o) shall notify the Department in writing if the licensee decides to permanently discontinue any or all activities involving materials authorized under the license. A specific licensee or general licensee shall notify the Department, in writing:
 - 1. Immediately following the filing of a petition for bankruptcy under any Chapter of Title 11 of the United States Code if the petition for bankruptcy is by or against:
 - a. The licensee;
 - b. An entity (as defined in the bankruptcy code) controlling the licensee or listing the license or licensee as property of the estate; or
 - c. An affiliate (as defined in the bankruptcy code) of the licensee; and
 - 2. Providing the following information:
 - a. The bankruptcy court in which the petition for bankruptcy was filed, and
 - b. The bankruptcy case title and number, and
 - c. The date the petition was filed.

Historical Note

New Section R9-7-312 recodified from R12-1-312, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-313. Specific Terms and Conditions

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- H.** Each licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators or rubidium-82 from strontium-82/rubidium-82 generators shall test the generator eluates for molybdenum-99 breakthrough or strontium-82 and strontium-85 contamination, respectively, in accordance with R9-7-720. The licensee shall record the results of each test and retain each record for three years after the record is made. The licensee shall report the results of any test that exceeds the permissible concentration listed in R9-7-720 at the time of generator elution, in accordance with 10 CFR 35.3204.

I. Inalienability of Licenses

1. No license issued or granted pursuant to the regulations in this part shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Department, after securing full information, finds that the transfer is in accordance with the provisions of this act and gives its consent in writing.
2. An application for transfer of license must include:
 - a. The identity, technical and financial qualifications of the proposed transferee; and
 - b. Financial assurance for decommissioning information required by R9-7-323, 10 CFR 40.3 and 10 CFR 70.25.

Historical Note

New Section R9-7-313 recodified from R12-1-313, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-314. Expiration of License

Except as provided in R9-7-315(B), each specific license expires at the end of the day, in the month and year stated on the license.

Historical Note

New Section R9-7-314 recodified from R12-1-314, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-315. Renewal of License

- A.** An applicant shall file an application for renewal of a specific license according to R9-7-308.
- B.** If a licensee files a renewal application not less than 30 days before the license expiration date and the existing license and associated renewal application is in proper form, the existing license does not expire until a final renewal determination is made by the Department.

Historical Note

New Section R9-7-315 recodified from R12-1-315, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-316. Amendment of Licenses at Request of Licensee

An applicant shall file an application for amendment of a specific license by complying with R9-7-308 and specifying the grounds for the amendment.

Historical Note

New Section R9-7-316 recodified from R12-1-316, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-317. Department Action on Applications to Renew or Amend

In considering an application by a licensee to renew or amend a specific license, the Department shall apply the criteria set forth in R9-7-309, R9-7-310, or R9-7-311, as applicable.

Historical Note

New Section R9-7-317 recodified from R12-1-317, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-318. Transfer of Radioactive Material

- A.** A licensee shall not transfer radioactive material except as authorized under this Section.
- B.** Except as otherwise provided in the license and subject to the provisions of subsections (C) and (D), any licensee may transfer radioactive material:
 1. To the Department, after receiving prior approval from the Department;
 2. To the Department of Energy;
 3. To any person exempt from the rules in this Article to the extent permitted under the exemption;
 4. To any person authorized to receive radioactive material under terms of a general license or its equivalent, or a specific license or equivalent licensing document, issued by the Department, the U.S. Nuclear Regulatory Commission, or any Agreement State or Licensing State, or to any person otherwise authorized to receive radioactive material by the Federal Government or any agency of the Federal Government, the Department, any Agreement State or Licensing State; or
 5. As otherwise authorized by the Department in writing.
- C.** Before transferring radioactive material to a specific licensee of the Department, the U.S. Nuclear Regulatory Commission, or an Agreement State or Licensing State, or to a general licensee who is required to register with the Department, the U.S. Nuclear Regulatory Commission, or an Agreement State or Licensing State prior to receipt of the radioactive material, the licensee transferring the material shall verify that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred.
- D.** The transferor shall use one or more of the following methods for the verification required by subsection (C):
 1. The transferor shall possess, and read, a current copy of the transferee's specific license or registration certificate;
 2. The transferor shall possess a written certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date;
 3. For emergency shipments the transferor shall accept oral certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date; provided the oral certification is confirmed in writing within 10 days;
 4. The transferor shall obtain information equivalent to that in subsection (D)(1) to (3) compiled by a reporting service from official records of the Department, the U.S. Nuclear Regulatory Commission, or the licensing agency of an Agreement State or Licensing State regarding the identity of any licensee and the scope and expiration date of any license, registration, or certificate; or
 5. When none of the methods of verification described in subsections (D)(1) to (4) are readily available or when a transferor desires to verify that information received by one of the above methods is correct or up-to-date, the transferor shall obtain and record confirmation from the Department, the U.S. Nuclear Regulatory Commission, or the licensing agency of an Agreement State or Licensing State.

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ing State that the transferee is licensed to receive the radioactive material.

- E. A transferor shall prepare and transport radioactive material as prescribed in the provisions of 9 A.A.C. 7, Article 15.
- F. The Department shall approve an application for a specific license to initially transfer source material for use under R9-7-305, or equivalent regulations of the NRC or another Agreement State, if:
 1. The applicant satisfies the general requirements specified in R9-7-309; and
 2. The applicant submits adequate information on, and the Department approves, the methods to be used for quality control, labeling, and providing safety instructions to recipients.
- G. Each person licensed under this Section shall label the immediate container of each quantity of source material with the type of source material and quantity of material and the words, "RADIOACTIVE MATERIAL."
- H. Each person licensed under this Section shall ensure that the quantities and concentrations of source material are as labeled and indicated in any transfer records.
- I. Each person licensed under this Section shall provide the information specified in subsections (I)(1) and (2) to each person to whom source material is transferred for use under R9-7-305 or equivalent provisions in the NRC or Agreement State regulations. This information must be transferred before the source material is transferred for the first time in each calendar year to the particular recipient. The required information includes:
 1. A copy of R9-7-305 and R9-7-318, or relevant equivalent regulations of the NRC or another Agreement State; and
 2. Appropriate radiation safety precautions and instructions relating to handling, use, storage, and disposal of the source material.
- J. Each person licensed under 10 CFR 40.54 shall file a report with the Department that includes the following information:
 1. The name, address, and license number of the person who transferred the source material;
 2. For each general licensee under R9-7-305 or equivalent Agreement State provisions to whom greater than 50 grams (0.11 lb) of source material has been transferred in a single calendar quarter, the name and address of the general licensee to whom source material is distributed; a responsible agent, by name and/or position and phone number, of the general licensee to whom the material was sent; and the type, physical form, and quantity of source material transferred; and
 3. The total quantity of each type and physical form of source material transferred in the reporting period to all such generally licensed recipients.
- K. Each person licensed under this Section shall maintain all information that supports the reports required by this Section concerning each transfer to a general licensee for a period of one year after the event is included in a report to the Department, the NRC, or another Agreement State agency.

Historical Note

New Section R9-7-318 recodified from R12-1-318, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-319. Modification, Revocation, or Termination of a License

- A. The terms and conditions of all licenses are subject to amendment, revision, or modification, and a license may be sus-

pending or revoked by reason of amendments to the Department's statutes or rules and orders issued by the Department.

- B. The Department may revoke, suspend, or modify any license, in whole or in part, for any material false statement in the application; any omission or misstatement of fact required by statute, rule, or order, or because of conditions revealed by the application or any report, record, or inspection or other means that would cause the Department to refuse to grant a license; or any violation of license terms and conditions, or the Department's statutes, rules, or orders.
- C. Except in cases of willfulness or those in which the public health, interest, or safety requires otherwise, the Department shall not modify, suspend, or revoke a license unless, before the institution of proceedings, facts or conduct that may warrant action have been called to the attention of the licensee in writing and the licensee has been accorded an opportunity to demonstrate or achieve compliance.
- D. The Department may terminate a specific license upon a written request by the licensee that provides evidence the licensee has met the termination criteria in R9-7-451 and R9-7-452, and the decommissioning requirements in R9-7-323.
- E. Specific licenses, including expired licenses, continue in effect until terminated by written notice to the licensee, when the Department determines that the licensee has:
 1. Properly disposed of all radioactive material;
 2. Made a reasonable effort to eliminate residual radioactive contamination, if present;
 3. Performed an accurate radiation survey that demonstrates the premises are suitable for release in accordance with the criteria for decommissioning in R9-7-323;
 4. Submitted other information that is sufficient to demonstrate that the premises are suitable for release in accordance with the criteria for decommissioning in R9-7-323.
 5. Provided records to the Department that detail the disposal of all radioactive material in unsealed form with a half-life greater than 120 days, and copies of the records required by 10 CFR 30.35(g), January 1, 2004, which is incorporated by reference and on file with the Department. This incorporation by reference contains no future editions or amendments.

Historical Note

New Section R9-7-319 recodified from R12-1-319, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-320. Reciprocal Recognition of Licenses

- A. This subsection grants a general license to perform specific licensed activities in Arizona for a period not to exceed 180 days in any calendar year to any person who holds a specific license from an Agreement State, where the licensee maintains an office for directing the licensed activity and retaining radiation safety records, is granted a general license to conduct the same activity involving the use of radioactive material from the U.S. Nuclear Regulatory Commission, Licensing State, or any Agreement State, provided that:
 1. The license does not limit the activity to specific installations or locations;
 2. Following the first notification, application, and payment of fees, the licensee shall notify the Department three days prior to entering the state and prior to each non-consecutive visit while reciprocity remains in effect.
 3. The out-of-state licensee complies with all applicable statutes, now or hereafter in effect, rules, and orders of the Department and with all the terms and conditions of the license, except those terms and conditions inconsis-

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tent with applicable statutes, rules and orders of the Department;

4. The out-of-state licensee supplies any other information the Department requests; and
 5. The out-of-state licensee does not transfer or dispose of radioactive material possessed or used under the general license provided in this Section except by transfer to a person:
 - a. Specifically licensed by the Department or by the U.S. Nuclear Regulatory Commission to receive the radioactive material; or
 - b. Exempt under R9-7-303(A).
- B.** Notwithstanding the provisions of subsection (A)(1), this subsection grants a general license to manufacture, install, transfer, demonstrate, or service a device described in R9-7-306(A)(1) to any person who holds a specific license issued by the U.S. Nuclear Regulatory Commission, Licensing State, or an Agreement State authorizing the same activities within areas subject to the jurisdiction of the licensing body, provided that:
1. The person files a report with the Department within 30 days after the end of each calendar quarter in which any device is transferred to or installed in this State. Each report shall identify the general licensee to whom the device is transferred by name and address, the type of device transferred, and the quantity and type of radioactive material contained in the device;
 2. The device has been manufactured, labeled, installed, and serviced according to the applicable provisions of the specific license issued to the person by the U.S. Nuclear Regulatory Commission or an Agreement State;
 3. The person entering the state ensures that any labels required to be affixed to the device under rules of the authority which licensed manufacture of the device bear the following statement: "Removal of this label is prohibited"; and
 4. The holder of the specific license furnishes a copy of the general license contained in R9-7-306(A)(1), or equivalent rules of the agency having jurisdiction over the manufacture or distribution of the device, to each general licensee to whom the licensee transfers the device or on whose premises the device is installed.
- C.** The Department may withdraw, limit, or qualify the acceptance of any specific license or equivalent licensing document issued by another agency, or any product distributed under a license, upon determining that an action is necessary to prevent undue hazard to public health and safety, or property.
- D.** Before radioactive material can be used at a temporary job site within the state at any federal facility, a specific licensee shall determine the jurisdictional status of the job site. If the jurisdictional status is unknown, the specific licensee shall contact the controlling federal agency to determine whether the job site is under exclusive federal jurisdiction.
- E.** Before using radioactive material at a job site under exclusive federal jurisdiction, a specific licensee shall:
1. Obtain authorization from the NRC; and
 2. Use the radioactive material in accordance with applicable NRC regulations and orders, and be able to demonstrate to the Department that the correct license fee was paid to the NRC.
- F.** Before radioactive material can be used at a temporary job site in another state, a specific licensee shall obtain authorization from the state, if it is an Agreement State, or from the NRC for any non-Agreement State, either by filing for reciprocity or applying for a specific license.

Historical Note

New Section R9-7-320 recodified from R12-1-320, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-321. Reserved**Historical Note**

Section R9-7-321 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-322. The Need for an Emergency Plan for Response to a Release of Radioactive Material

- A.** For purposes of this Section, "Emergency Plan" means a procedure that will be followed when an accident occurs involving licensed radioactive materials for which an offsite response may be needed from organizations, such as police, fire, or medical organizations.
- B.** Each application to possess radioactive materials in unsealed form, on foils or plated sources, or sealed in glass in excess of the quantities in Exhibit D, "Radioactive Material Quantities Requiring Consideration for an Emergency Plan" shall contain either:
1. An evaluation showing that the maximum dose to a person off-site due to a release of radioactive materials would not exceed 1 rem effective dose equivalent or 5 rems to the thyroid; or
 2. An emergency plan for responding to a release of radioactive material.
- C.** One or more of the following factors may be used to support an evaluation submitted under subsection (B)(1):
1. The radioactive material is physically separated so that only a portion could be involved in an accident.
 2. All or part of the radioactive material is not subject to release during an accident because of the way it is stored or packaged;
 3. The release fraction in the respirable size range would be lower than the release fraction shown in Exhibit D due to the chemical or physical form of the material;
 4. The solubility of the radioactive material would reduce the dose received;
 5. Facility design or engineered safety features in the facility would cause the release fraction to be lower than shown in Exhibit D;
 6. Operating restrictions or procedures would prevent a release fraction as large as that shown in Exhibit D; or
 7. Other factors appropriate for the specific facility.
- D.** An emergency plan for responding to a release of radioactive material submitted under subsection (B)(2) shall include the following information:
1. A brief description of the licensee's facility and areas near the site that could expose a member of the public to a dose equal to or greater than the levels expressed in subsection (B)(1).
 2. An identification of each type of radioactive materials accident for which protective actions may be needed.
 3. A classification system for classifying accidents as alerts or site area emergencies.
 4. Identification of the means of detecting each type of accident in a timely manner.
 5. A brief description of the means and equipment for mitigating the consequences of each type of accident, including those provided to protect workers onsite, and a description of the program for maintaining the equipment.
 6. A brief description of the methods and equipment to assess releases of radioactive materials.

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7. A brief description of the responsibilities of licensee personnel responsible for promptly notifying offsite response organizations and the Department; also responsibilities for developing, maintaining, and updating the plan.
 8. A commitment to and a brief description of the means to promptly notify offsite response organizations and request off-site assistance, including medical assistance for the treatment of contaminated and injured onsite workers when appropriate. A control point shall be established. The notification and coordination shall be planned so that unavailability of some personnel, parts of the facility, and some equipment will not prevent the notification and coordination. The licensee shall also commit to notify the Department immediately after notification of the appropriate off-site response organizations and not later than one hour after the licensee declares an emergency.
 9. A brief description of the types of information on facility status, radioactive releases, and recommended protective actions, if necessary, to be given to off-site response organizations and to the Department.
 10. A brief description of the frequency, performance objectives, and plans for the training that the licensee will provide workers on how to respond to an emergency including any special instructions and orientation tours the licensee would offer to fire, police, medical, and other emergency personnel. The training shall familiarize personnel with site-specific emergency procedures. Also, the training shall thoroughly prepare site personnel for their responsibilities in the event of accident scenarios postulated as most probable for the specific site, including the use of team training for such scenarios.
 11. A brief description of the means of restoring the facility to a safe condition after an accident.
 12. Provisions for conducting quarterly communications checks with off-site response organizations and biennial onsite exercises to test response to simulated emergencies. Quarterly communications checks with off-site response organizations shall include the verifying and updating of all necessary telephone numbers. The licensee shall invite off-site response organizations to participate in the biennial exercises. Their participation is not required. Exercises shall use accident scenarios postulated as most probable for the specific site and the scenarios shall not be known to most exercise participants. The licensee shall critique each exercise, using individuals without direct implementation responsibility for the plan. Critiques of exercises shall evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response. Deficiencies found by the critiques shall be corrected.
 13. A certification that the applicant has met its responsibilities in A.R.S. §§ 26-341 through 26-353 (Emergency Planning and Community Right-to-Know Act of 1986), if applicable to the applicant's activities at the proposed place of use of the radioactive material.
- E. The licensee shall allow 60 days for the off-site response organizations, expected to respond in case of an accident, to comment on the licensee's emergency plan before submitting it to the Department. The licensee shall provide any comments received within the 60 days to the Department with the emergency plan.

Historical Note

New Section R9-7-322 recodified from R12-1-322, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-323. Financial Assurance and Recordkeeping for Decommissioning

- A. For purposes of terminating specific licensed activities:
1. "Decommissioning" means to remove a radioactive material use facility safely from service and to reduce residual radioactivity to a level that permits release of the property for unrestricted use and termination of the radioactive material use license.
 2. "Byproduct material" as used in 10 CFR 30, means "radioactive material" which is defined in A.R.S. § 30-651.
 3. "Facility" means the entire site of radioactive material use, or any separate building or outdoor area where it is used.
 4. "Appendix B to Part 30" as used in 10 CFR 30, means Appendix E in 9 A.A.C. 7, Article 4.
 5. "Financial security" means having a net worth of not less than \$10,000.
- B. When applying, each non-government applicant for a specific license that authorizes the possession and use of radioactive material, and each non-government holder of a license to possess and use radioactive material issued before the effective date of this Section, shall submit to the Department a decommissioning funding plan or certification of financial security, as required in A.R.S. § 30-672(H). A licensee required to meet the requirements in subsection (C) is exempt from the requirements in this subsection.
- C. When applying, each applicant for a specific license that authorizes the possession and use of radioactive material, and each holder of a license to possess and use radioactive material issued before the effective date of this Section, shall submit to the Department a decommissioning funding plan or certification of financial assurance that meets the requirements in 10 CFR 30.35, 40.36, and 70.25, revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments. Each decommissioning funding plan shall be submitted to the Department for review and approval and shall contain a detailed cost estimate for decommissioning, in an amount reflecting:
1. The cost of an independent contractor to perform all decommissioning activities;
 2. The cost of meeting the R9-7-452(B) criteria for unrestricted use, provided that, if the applicant or licensee can demonstrate its ability to meet the provisions of R9-7-452(C), the cost estimate may be based on meeting the R9-7-452(C) criteria;
 3. The volume of onsite subsurface material containing residual radioactivity that will require remediation to meet the criteria for license termination;
 4. The ability to meet the provisions of this Section, for which the cost estimate may be based on meeting the criteria specified in this Section; and
 5. An adequate contingency factor, including:
 - a. Identification of and justification for using the key assumptions contained in the DCE;
 - b. A description of the method of assuring funds for decommissioning including means for adjusting cost estimates and associated funding levels periodically over the life of the facility;
 - c. A certification by the licensee that financial assurance for decommissioning has been provided in the

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- amount of the cost estimate for decommissioning;
and
- d. An original signed copy of the financial instrument obtained to satisfy the requirements of subsection (F) unless a previously submitted and accepted financial instrument continues to cover the cost estimate for decommissioning.
- D.** Each licensee required to provide financial assurance for decommissioning a radioactive material facility under this Section shall maintain records of information important to the safe and effective decommissioning of the facility in an identified location until the license is terminated by the Department. The licensee shall maintain the following records during the decommissioning process:
1. Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, and site. These records may be limited to instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials such as concrete. The licensee shall keep records identifying the involved radionuclides and associated quantities, forms, and concentrations.
 2. As-built drawings showing modifications of structures and equipment in restricted areas where radioactive materials are used and stored, and locations of possible inaccessible contamination. If drawings are not available, the licensee shall provide appropriate records describing each location of possible contamination.
 3. Records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used.
- E.** Decommissioning procedures:
1. Upon expiration or termination of principal activities a licensee shall notify the Department in writing whether the licensee is discontinuing licensed activities. The licensee shall begin decommissioning its facility within 60 days after the Department receives notice of the decision to permanently terminate principal activities, or within 12 months after receipt of notice, submit to the Department a decommissioning plan, as prescribed in 10 CFR 30.36(g)(1), 40.42(g)(1), and 70.38(g)(1), revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments. The licensee shall begin decommissioning upon approval of the plan if the license has expired or no licensed activities have been conducted at the licensee's facility for a period of 24 months.
 2. In addition to the notification requirements in subsection (E)(1), the licensee shall maintain in effect all decommissioning financial assurances required by this Section. The financial assurances shall be increased or may be decreased as appropriate to cover the cost estimate established for decommissioning in subsection (E)(1). The licensee may reduce the amount of the financial assurance following approval of the decommissioning plan, provided the radiological hazard is decreasing and the licensee has the approval of the Department.
 3. The Department shall extend the time periods established in subsection (E)(1) if a new time period is in the best interest of public health and safety.
- a. The licensee shall submit a request for an extension no later than 30 days after the Department receives the notice required in subsection (E)(1).
 - b. If a licensee has requested an extension, the licensee is not required to commence decommissioning activities required in subsection (E)(1), until the Department has made a determination on the request submitted to the Department under subsection (E)(3)(a).
4. Except as provided in subsection (E)(5), the licensee shall complete decommissioning of a facility as soon as practicable but no later than 24 months following the initiation of decommissioning; and except as provided in subsection (E)(5), when decommissioning involves the entire facility, the licensee shall request license termination as soon as practicable but no later than 24 months following initiation of decommissioning.
 5. The Department shall approve a request for an alternate schedule for completion of decommissioning and license termination if the Department determines that the alternative is warranted by consideration of the conditions specified in 10 CFR 30.36(i), 40.42(i), and 70.38(i), revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
 6. As a final step in decommissioning, the licensee shall meet the requirements specified in 10 CFR 30.36(j), 40.42(j), and 70.38(j), revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- F.** Each person licensed under this Article shall keep records of information important to the decommissioning of a facility in an identified location until the site is released for unrestricted use. Before licensed activities are transferred or assigned in accordance with R9-7-318, licensees shall transfer all records described in subsections (F)(1) through (F)(4) to the new licensee. In this case, the new licensee will be responsible for maintaining these records until the license is terminated. If records important to the decommissioning of a facility are kept for other purposes, reference to these records and their locations may be used. Information the Department considers important to decommissioning consists of:
1. Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site. These records may be limited to instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials such as concrete. These records must include any known information on identification of involved nuclides, quantities, forms, and concentrations.
 2. As-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are used and/or stored, and of locations of possible inaccessible contamination such as buried pipes which may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations.
 3. Except for areas containing depleted uranium used only for shielding or as penetrators in unused munitions, a list contained in a single document and updated every 2 years, of the following:

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- a. All areas designated and formerly designated as restricted areas as defined under R9-7-102;
 - b. All areas outside of restricted areas that require documentation under subsection (F)(1);
 - c. All areas outside of restricted areas where current and previous wastes have been buried as documented under R9-7-441; and
 - d. All areas outside of restricted areas that contain material such that, if the license expired, the licensee would be required to either decontaminate the area to meet the criteria for decommissioning in R9-7-451 or R9-7-452; or apply for approval for disposal under R9-7-435.
4. Records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used.
- G.** In providing financial assurance under this Section, each licensee shall use the financial assurance funds only for decommissioning activities and each licensee shall monitor the balance of funds held to account for market variations. The licensee shall replenish the funds, and report such actions to the Department, as follows:
1. If, at the end of a calendar quarter, the fund balance is below the amount necessary to cover the cost of decommissioning, but is not below 75 percent of the cost, the licensee shall increase the balance to cover the cost, and shall do so within 30 days after the end of the calendar quarter.
 2. If, at any time, the fund balance falls below 75 percent of the amount necessary to cover the cost of decommissioning, the licensee shall increase the balance to cover the cost, and shall do so within 30 days of the occurrence.
 3. Within 30 days of taking the actions required by subsection (G)(1) or (G)(2), the licensee shall provide a written report of such actions to the Director of the Department, and state the new balance of the fund.
- H.** The financial instrument must include the licensee's name, license number, and docket number, and the name, address, and other contact information of the issuer, and, if a trust is used, the trustee. When any of the foregoing information changes, the licensee must, within 30 days, submit financial instruments to the Department reflecting such changes. The financial instrument submitted must be a signed original or signed original duplicate, except where a copy of the signed original is specifically permitted. Financial assurance for decommissioning must be provided by one or more of the following methods:
1. Prepayment. Prepayment is the deposit before the start of operation into an account segregated from licensee assets and outside the licensee's administrative control of cash or liquid assets such that the amount of funds would be sufficient to pay decommissioning costs. Prepayment must be made into a trust account, and the trustee and the trust must be acceptable to the Department.
 2. A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, or letter of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are approved by the Department. For commercial corporations that issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are approved by the Department. For commercial companies that do not issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs may be used if the guarantee and test are approved by the Department. For nonprofit entities, such as colleges, universities, and nonprofit hospitals, a guarantee of funds by the applicant or licensee may be used if the guarantee and test are approved by the Department. Except for an external sinking fund, a parent company guarantee or a guarantee by the applicant or licensee may not be used in combination with any other financial methods used to satisfy the requirements of this Section. A guarantee by the applicant or licensee may not be used in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:
 - a. The surety method or insurance must be open-ended or, if written for a specified term, such as five years, must be renewed automatically unless 90 days or more prior to the renewal date, the issuer notifies the Department, the beneficiary, and the licensee of its intention not to renew. The surety method or insurance must also provide that the full face-value amount be paid to the beneficiary automatically prior to the expiration without proof of forfeiture if the licensee fails to provide a replacement acceptable to the Department within 30 days after receipt of notification of cancellation.
 - b. The surety method or insurance must be payable to a trust established for decommissioning costs. The trustee and trust must be acceptable to the Department. An acceptable trustee includes an appropriate State or Federal government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.
 - c. The surety method or insurance must remain in effect until the Department has terminated the license.
 3. An external sinking fund in which deposits are made at least annually, coupled with a surety method, insurance, or other guarantee method, the value of which may reduce by the amount being accumulated in the sinking fund. An external sinking fund is a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected. An external sinking fund must be in the form of a trust. If the other guarantee method is used, no surety or insurance may be combined with the external sinking fund. The surety, insurance, or other guarantee provisions must be as stated in subsection (H)(2).
 4. In the case of Federal, State, or local government licensees, a statement of intent containing a cost estimate for decommissioning, and indicating that funds for decommissioning will be obtained when necessary.
 5. When a governmental entity is assuming custody and ownership of a site, an arrangement that is deemed acceptable by such governmental entity.

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Historical Note

New Section R9-7-323 recodified from R12-1-323, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-324. Public Notification and Public Participation

Upon the receipt of a license termination plan (LTP) or decommissioning plan from a licensee, or a proposal by a licensee for decommissioning of a site in accordance with R9-7-452(C) and (D) or for other events when the Department deems a notice to be in the public interest, the Department shall:

1. Notify and solicit comments from:
 - a. State and local governments and any Indian Nation or other indigenous people who have legal rights that could be affected by the decommissioning, and
 - b. The Arizona Department of Environmental Quality for cases in which the licensee proposes to decommission a site in accordance with R9-7-452(D).
2. Publish the notice in the Arizona Administrative Register and use other methods of publication such as local newspapers, letters to local organizations, or any other method that is reasonably calculated to provide notice, and solicit comments from affected parties.

Historical Note

New Section R9-7-324 recodified from R12-1-324, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-325. Timeliness in Decommissioning Facilities

- A. "Principal activities," as used in this Section, means activities authorized by the license that are essential to achieving the purposes for which the license was issued or amended. Storage, during which licensed material is not accessed for use, or disposal and other activities incidental to decontamination or decommissioning are not principal activities.
- B. Each specific license revoked by the Department expires at midnight on the date of the Department's final determination to revoke the license, the expiration date stated in the determination, or as otherwise provided by Department order.

- C. Each specific license continues in effect, beyond the expiration date if necessary, with respect to possession of radioactive material, until the Department notifies the licensee in writing that the license is terminated. During this time, the licensee shall:

1. Limit actions involving radioactive material to those related to decommissioning;
2. Continue to control entry to restricted areas until they are suitable for release in accordance with NRC requirements; and
3. Pay the applicable annual fee for the license category listed in R9-7-1306.

- D. Within 60 days of the occurrence of any of the following, each licensee shall notify the Department in writing of the occurrence and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity, so that the building or outdoor area is suitable for release in accordance with Department requirements, or submit within 12 months of notification a decommissioning plan, if required by R9-7-323, and begin decommissioning upon approval of that plan if:

1. The license expires in accordance with subsection (B) or R9-7-314, unless the licensee submits a renewal application in accordance with R9-7-315;
2. The licensee decides to permanently terminate principal activities at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with Department requirements;
3. No principal activities under the license have been conducted for a period of 24 months; or
4. No principal activities have been conducted for a period of 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with Department requirements.

Historical Note

New Section R9-7-325 recodified from R12-1-325, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

TITLE 9. HEALTH SERVICES

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Exhibit A. Exempt Concentrations

| Element (atomic number) | Isotope | Column I Gas Concentration ($\mu\text{Ci/ml}$) ^{1/} | Column II Liquid and Solid Concentration ($\mu\text{Ci/ml}$) ^{2/} | Element (atomic number) | Isotope | Column I Gas Concentration ($\mu\text{Ci/ml}$) ^{1/} | Column II Liquid and Solid Concentration ($\mu\text{Ci/ml}$) ^{2/} |
|----------------------------|---------------------------------------|-------------------------------------------------------------------------|---------------------------------------------------------------------------------------|----------------------------|---------|-------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| Antimony (51) | Sb-122 | | 3×10^{-4} | Gold (79) | Au-196 | | 2×10^{-3} |
| | Sb-124 | | 2×10^{-4} | | Au-198 | | 5×10^{-4} |
| | Sb-125 | | 1×10^{-3} | | Au-199 | | 2×10^{-3} |
| Argon (18) | Ar-37 | 1×10^{-3} | | Hafnium (72) | Hf-181 | | 7×10^{-4} |
| | Ar-41 | 4×10^{-7} | | | H-3 | 5×10^{-6} | 3×10^{-2} |
| Arsenic (33) | As-73 | | 5×10^{-3} | Hydrogen (1) | | | |
| | As-74 | | 5×10^{-4} | | | | |
| | As-76 | | 2×10^{-4} | Indium (49) | In-113m | | 1×10^{-2} |
| | As-77 | | 8×10^{-4} | | In-114m | | 2×10^{-4} |
| Barium (56) | Ba-131 | | 2×10^{-3} | Iodine | I-126 | 3×10^{-9} | 2×10^{-5} |
| | Ba-140 | | 3×10^{-4} | | I-131 | 3×10^{-9} | 2×10^{-5} |
| Beryllium (4) | Be-7 | | 2×10^{-2} | | I-132 | 8×10^{-8} | 6×10^{-4} |
| | | | | | I-133 | 1×10^{-8} | 7×10^{-5} |
| Bismuth (83) | Bi-206 | | 4×10^{-4} | | I-134 | 2×10^{-7} | 1×10^{-3} |
| Bromine (35) | Br-82 | 4×10^{-7} | 3×10^{-3} | Iridium (77) | Ir-190 | | 2×10^{-3} |
| | | | | | Ir-192 | | 4×10^{-4} |
| Cadmium (48) | Cd-109 | | 2×10^{-3} | | Ir-194 | | 3×10^{-4} |
| | Cd-115m | | 3×10^{-4} | Iron (26) | Fe-55 | | 8×10^{-3} |
| | Cd-115 | | 3×10^{-4} | | Fe-59 | | 6×10^{-4} |
| Calcium (20) | Ca-45 | | 9×10^{-5} | Krypton (36) | Kr-85m | 1×10^{-6} | |
| | Ca-47 | | 5×10^{-4} | | Kr-85 | 3×10^{-6} | |
| Carbon (6) | C-14 | 1×10^{-6} | 8×10^{-3} | Lanthanum (57) | La-140 | | 2×10^{-4} |
| Cerium (58) | Ce-141 | | 9×10^{-4} | Lead (82) | Pb-203 | | 4×10^{-3} |
| | Ce-143 | | 4×10^{-4} | Lutetium (71) | Lu-177 | | 1×10^{-3} |
| | Ce-144 | | 1×10^{-4} | Manganese (25) | Mn-52 | | 3×10^{-4} |
| Cesium (55) | Cs-131 | | 2×10^{-2} | | Mn-54 | | 1×10^{-3} |
| | Cs-134m | | 6×10^{-2} | | Mn-56 | | 1×10^{-3} |
| | Cs-134 | | 9×10^{-5} | Mercury (80) | Hg-197m | | 2×10^{-3} |
| Chlorine (17) | Cl-38 | 9×10^{-7} | 4×10^{-3} | | Hg-197 | | 3×10^{-3} |
| | | | | | Hg-203 | | 2×10^{-4} |
| Chromium (24) | Cr-51 | | 2×10^{-2} | Molybdenum (42) | Mo-99 | | 2×10^{-3} |
| Cobalt (27) | Co-57 | | 5×10^{-3} | | | | |
| | Co-58 | | 1×10^{-3} | Neodymium (60) | Nd-147 | | 6×10^{-4} |
| | Co-60 | | 5×10^{-4} | | Nd-149 | | 3×10^{-3} |
| Copper (29) | Cu-64 | | 3×10^{-3} | Nickel (28) | Ni-65 | | 1×10^{-3} |
| Dysprosium (66) | Dy-165 | | 4×10^{-3} | Niobium (Columbium)(41) | Nb-95 | 1×10^{-3} | |
| | Dy-166 | | 4×10^{-4} | | Nb-97 | | 9×10^{-3} |
| Erbium (68) | Er-169 | | 9×10^{-4} | Osmium (76) | Os-185 | | 7×10^{-4} |
| | Er-171 | | 1×10^{-5} | | Os-191m | | 3×10^{-2} |
| Europium (63) | Eu-152 ($T_{1/2}=9.2 \text{ h}$) | | 6×10^{-4} | | Os-191 | | 2×10^{-3} |
| | Eu-155 | | 2×10^{-3} | | Os-193 | | 6×10^{-4} |
| Fluorine (9) | F-18 | 2×10^{-6} | 8×10^{-3} | Palladium (46) | Pd-103 | | 3×10^{-3} |
| | | | | | Pd-109 | | 9×10^{-4} |
| Gadolinium (64) | Gd-153 | | 2×10^{-3} | Phosphorus (15) | P-32 | | 2×10^{-4} |
| | Gd-159 | | 8×10^{-4} | Platinum (78) | Pt-191 | | 1×10^{-3} |
| Gallium (31) | Ga-72 | | 4×10^{-4} | | Pt-193m | | 1×10^{-2} |
| | | | | | Pt-197m | | 1×10^{-2} |
| Germanium (32) | Ge-71 | | 2×10^{-2} | | Pt-197 | | 1×10^{-3} |
| | | | | Potassium (19) | K-42 | | 3×10^{-3} |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Exhibit A. Exempt Concentration (Continued)

| Element (atomic number) | Isotope | Column I Gas Concentration ($\mu\text{Ci/ml}$) ^{1/} | Column II Liquid and Solid Concentration ($\mu\text{Ci/ml}$) ^{2/} | Element (atomic number) | Isotope | Column I Gas Concentration ($\mu\text{Ci/ml}$) ^{1/} | Column II Liquid and Solid Concentration ($\mu\text{Ci/ml}$) ^{2/} |
|----------------------------|---------|-------------------------------------------------------------------------|---------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|--------------------------------|-------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| Praseodymium (59) | Pr-142 | | 3×10^{-4} | Tellurium (52) | Te-125m | | 2×10^{-3} |
| | Pr-143 | | 5×10^{-4} | | Te-127m | | 6×10^{-4} |
| Promethium (61) | Pm-147 | | 2×10^{-3} | | Te-127 | | 3×10^{-3} |
| | Pm-149 | | 4×10^{-4} | | Te-129m | | 3×10^{-4} |
| Rhenium (75) | Re-183 | | 6×10^{-3} | | Te-131m | | 6×10^{-4} |
| | Re-186 | | 9×10^{-4} | | Te-132 | | 3×10^{-4} |
| | Re-188 | | 6×10^{-4} | Terbium (65) | Tb-160 | | 4×10^{-4} |
| Rhodium (45) | Rh-103m | | 1×10^{-1} | Thallium (81) | Tl-200 | | 4×10^{-3} |
| | Rh-105 | | 1×10^{-3} | | Tl-201 | | 3×10^{-3} |
| Rubidium (37) | Rb-86 | | 7×10^{-4} | | Tl-202 | | 1×10^{-3} |
| | | | | | Tl-204 | | 1×10^{-3} |
| Ruthenium (44) | Ru-97 | | 4×10^{-3} | Thulium (69) | Tm-170 | | 5×10^{-4} |
| | Ru-103 | | 8×10^{-4} | | Tm-171 | | 5×10^{-3} |
| | Ru-105 | | 1×10^{-3} | Tin (50) | Sn-113 | | 9×10^{-4} |
| | Ru-106 | | 1×10^{-4} | | Sn-125 | | 2×10^{-4} |
| Samarium (62) | Sm-153 | | 8×10^{-4} | Tungsten (Wolfram) (74) | W-181 | | 4×10^{-3} |
| Scandium (21) | Sc-46 | | 4×10^{-4} | | W-187 | | 7×10^{-4} |
| | Sc-47 | | 9×10^{-4} | Vanadium (23) | V-48 | | 3×10^{-4} |
| | Sc-48 | | 3×10^{-4} | Xenon (54) | Xe-131m | 4×10^{-6} | |
| Selenium (34) | Se-75 | | 3×10^{-3} | | Xe-133 | 3×10^{-6} | |
| Silicon (14) | Si-31 | | 9×10^{-3} | | Xe-135 | 1×10^{-6} | |
| Silver (47) | Ag-105 | | 1×10^{-3} | Ytterbium (70) | Yb-175 | | 1×10^{-3} |
| | Ag-110m | | 3×10^{-4} | Yttrium (39) | Y-90 | | 2×10^{-4} |
| | Ag-111 | | 4×10^{-4} | | Y-91m | | 3×10^{-2} |
| Sodium (11) | Na-24 | | 2×10^{-3} | | Y-91 | | 3×10^{-4} |
| | | | | | Y-92 | | 6×10^{-4} |
| Strontium (38) | Sr-85 | | 1×10^{-3} | | Y-93 | | 3×10^{-4} |
| | Sr-89 | | 1×10^{-4} | Zinc (30) | Zn-65 | | 1×10^{-3} |
| | Sr-91 | | 7×10^{-4} | | Zn-69m | | 7×10^{-4} |
| | Sr-92 | | 7×10^{-4} | | Zn-69 | | 2×10^{-2} |
| Sulfur (16) | S-35 | 9×10^{-8} | 6×10^{-4} | Zirconium (40) | Zr-95 | | 6×10^{-4} |
| Tantalum (73) | Ta-182 | | 4×10^{-4} | | Zr-97 | | 2×10^{-4} |
| Technetium (43) | Tc-96m | | 1×10^{-1} | | (See notes at end of appendix) | | |
| | Tc-96 | | 1×10^{-3} | Beta and/or gamma emitting radioactive material not listed above with half-life less than three years | | 1×10^{-10} | 1×10^{-6} |

NOTE 1: Many radioisotopes disintegrate into isotopes which are also radioactive. In expressing the concentrations in Schedule A the activity stated is that of the parent isotope and takes into account the daughters.

^{1/} Values are given in Column I only for those materials normally used as gases

^{2/} $\mu\text{Ci/gm}$ are for solids

NOTE 2: For purposes of Section 303 where there is involved a combination of isotopes, the limit for the combination should be derived as follows: Determine for each isotope in the product the ratio between the concentration present in the product and the exempt concentration established in Schedule A for the specific isotope when not in combination. The sum of such ratios may not exceed "1" (i.e., unity).

EXAMPLE:

$$\frac{\text{Concentration of Isotope A in Product}}{\text{Exempt concentration of Isotope A}} + \frac{\text{Concentration of Isotope B in Product}}{\text{Exempt concentration of Isotope B}} \leq 1$$

Historical Note

New Article 3, Exhibit A recodified from 12 A.A.C. 1, Article 3, Exhibit A, effective March 22, 2018 (Supp. 18-1).

TITLE 9. HEALTH SERVICES

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Exhibit B. Exempt Quantities

| <u>Material</u> | <u>Microcuries</u> | <u>Material</u> | <u>Microcuries</u> |
|-------------------------------|--------------------|---------------------------|--------------------|
| Antimony-122 (Sb-122) | 100 | Indium-113m (In-113m) | 100 |
| Antimony-124 (Sb-124) | 10 | Indium-114m (In-114m) | 10 |
| Antimony-125 (Sb-125) | 10 | Indium-115m (In-115m) | 100 |
| Arsenic-73 (As-73) | 100 | Indium-115 (In-115) | 10 |
| Arsenic-74 (As-74) | 10 | Iodine-123 (I-123) | 100 |
| Arsenic-76 (As-76) | 10 | Iodine-125 (I-125) | 1 |
| Arsenic-77 (As-77) | 100 | Iodine-126 (I-126) | 1 |
| Barium-131 (Ba-131) | 10 | Iodine-129 (I-129) | 0.1 |
| Barium-133 (Ba-133) | 10 | Iodine-131 (I-131) | 1 |
| Barium-140 (Ba-140) | 10 | Iodine-132 (I-132) | 10 |
| Bismuth-210 (Bi-210) | 1 | Iodine-133 (I-133) | 1 |
| Bromine-82 (Br-82) | 10 | Iodine-134 (I-134) | 10 |
| Cadmium-109 (Cd-109) | 10 | Iodine-135 (I-135) | 10 |
| Cadmium-115m (Cd-115m) | 10 | Iridium-192 (Ir-192) | 10 |
| Cadmium-115 (Cd-115) | 100 | Iridium-194 (Ir-194) | 100 |
| Calcium-45 (Ca-45) | 10 | Iron-52 (Fe-52) | 10 |
| Calcium-47 (Ca-47) | 10 | Iron-55 (Fe-55) | 100 |
| Carbon-14 (C-14) | 100 | Iron-59 (Fe-59) | 10 |
| Cerium-141 (Ce-141) | 100 | Krypton-85 (Kr-85) | 100 |
| Cerium-143 (Ce-143) | 100 | Krypton-87 (Kr-87) | 10 |
| Cerium-144 (Ce-144) | 1 | Lanthanum-140 (La-140) | 10 |
| Cesium-129 (Cs-129) | 100 | Lutetium-177 (Lu-177) | 100 |
| Cesium-131 (Cs-131) | 1,000 | Manganese-52 (Mn-52) | 10 |
| Cesium-134m (Cs-134m) | 100 | Manganese-54 (Mn-54) | 10 |
| Cesium-134 (Cs-134) | 1 | Manganese-56 (Mn-56) | 10 |
| Cesium-135 (Cs-135) | 10 | Mercury-197m (Hg-197m) | 100 |
| Cesium-136 (Cs-136) | 10 | Mercury-197 (Hg-197) | 100 |
| Cesium-137 (Cs-137) | 10 | Mercury-203 (Hg-203) | 10 |
| Chlorine-36 (Cl-36) | 10 | Molybdenum-99 (Mo-99) | 100 |
| Chlorine-38 (Cl-38) | 10 | Neodymium-147 (Nd-147) | 100 |
| Chromium-51 (Cr-51) | 1,000 | Neodymium-149 (Nd-149) | 100 |
| Cobalt-57 (Co-57) | 100 | Nickel-59 (Ni-59) | 100 |
| Cobalt-58m (Co-58m) | 10 | Nickel-63 (Ni-63) | 10 |
| Cobalt-58 (Co-58) | 10 | Nickel-65 (Ni-65) | 100 |
| Cobalt-60 (Co-60) | 1 | Niobium-93m (Nb-93m) | 10 |
| Copper-64 (Cu-64) | 100 | Niobium-95 (Nb-95) | 10 |
| Dysprosium-165 (Dy-165) | 10 | Niobium-97 (Nb-97) | 10 |
| Dysprosium-166 (Dy-166) | 100 | Osmium-185 (Os-185) | 10 |
| Erbium-169 (Er-169) | 100 | Osmium-191m (Os-191m) | 100 |
| Erbium-171 (Er-171) | 100 | Osmium-191 (Os-191) | 100 |
| Europium-152 (Eu-152) (9.2 h) | 100 | Osmium-193 (Os-193) | 100 |
| Europium-152 (Eu-152) (13 yr) | 1 | Palladium-103 (Pd-103) | 100 |
| Europium-154 (Eu-154) | 1 | Palladium-109 (Pd-109) | 100 |
| Europium-155 (Eu-155) | 10 | Phosphorus-32 (P-32) | 10 |
| Fluorine-18 (F-18) | 1,000 | Platinum-191 (Pt-191) | 100 |
| Gadolinium-153 (Gd-153) | 10 | Platinum-193m (Pt-193m) | 100 |
| Gadolinium-159 (Gd-159) | 100 | Platinum-193 (Pt-193) | 100 |
| Gallium-67 (Ga-67) | 100 | Platinum-197m (Pt-197m) | 100 |
| Gallium-72 (Ga-72) | 10 | Platinum-197 (Pt-197) | 100 |
| Germanium-68 (Ge-68) | 10 | Polonium-210 (Po-210) | 0.1 |
| Germanium-71 (Ge-71) | 100 | Potassium-42 (K-42) | 10 |
| Gold-195 (Au-195) | 10 | Potassium-43 (K-43) | 10 |
| Gold-198 (Au-198) | 100 | Praseodymium-142 (Pr-142) | 100 |
| Gold-199 (Au-199) | 100 | Praseodymium-143 (Pr-143) | 100 |
| Hafnium-181 (Hf-181) | 10 | Promethium-147 (Pm-147) | 10 |
| Holmium-166 (Ho-166) | 100 | Promethium-149 (Pm-149) | 10 |
| Hydrogen-3 (H-3) | 1,000 | Rhenium-186 (Re-186) | 100 |
| Indium-111 (In-111) | 100 | Rhenium-188 (Re-188) | 100 |

TITLE 9. HEALTH SERVICES

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Exhibit B. Exempt Quantities (Continued)

| <u>Material</u> | <u>Microcuries</u> | <u>Material</u> | <u>Microcuries</u> |
|--------------------------|---------------------------|--------------------------------|---------------------------|
| Rhodium-103m (Rh-103m) | 100 | Tellurium-129m (Te-129m) | 10 |
| Rhodium-105 (Rh-105) | 100 | Tellurium-129 (Te-129) | 100 |
| Rubidium-81 (Rb-81) | 10 | Tellurium-131m (Te-131m) | 10 |
| Rubidium-86 (Rb-86) | 10 | Tellurium-132 (Te-132) | 10 |
| Rubidium-87 (Rb-87) | 10 | Terbium-160 (Tb-160) | 10 |
| Ruthenium-97 (Ru-97) | 100 | Thallium-200 (Tl-200) | 100 |
| Ruthenium-103 (Ru-103) | 10 | Thallium-201 (Tl-201) | 100 |
| Ruthenium-105 (Ru-105) | 10 | Thallium-202 (Tl-202) | 100 |
| Ruthenium-106 (Ru-106) | 1 | Thallium-204 (Tl-204) | 10 |
| Samarium-151 (Sm-151) | 10 | Thulium-170 (Tm-170) | 10 |
| Samarium-153 (Sm-153) | 100 | Thulium-171 (Tm-171) | 10 |
| Scandium-46 (Sc-46) | 10 | Tin-113 (Sn-113) | 10 |
| Scandium-47 (Sc-47) | 100 | Tin-125 (Sn-125) | 10 |
| Scandium-48 (Sc-48) | 10 | Tungsten-181 (W-181) | 10 |
| Selenium-75 (Se-75) | 10 | Tungsten-185 (W-185) | 10 |
| Silicon-31 (Si-31) | 100 | Tungsten-187 (W-187) | 100 |
| Silver-105 (Ag-105) | 10 | Vanadium-43 (V-43) | 10 |
| Silver-110m (Ag-110m) | 1 | Xenon-131m (Xe-131m) | 1,000 |
| Silver-111 (Ag-111) | 100 | Xenon-133 (Xe-133) | 100 |
| Sodium-22 (Na-22) | 10 | Xenon-135 (Xe-135) | 100 |
| Sodium-24 (Na-24) | 10 | Ytterbium-175 (Yb-175) | 100 |
| Strontium-85 (Sr-85) | 10 | Yttrium-87 (Y-87) | 10 |
| Strontium-89 (Sr-89) | 1 | Yttrium-88 (Y-88) | 10 |
| Strontium-90 (Sr-90) | 0.1 | Yttrium-90 (Y-90) | 10 |
| Strontium-91 (Sr-91) | 10 | Yttrium-91 (Y-91) | 10 |
| Strontium-92 (Sr-92) | 10 | Yttrium-92 (Y-92) | 100 |
| Sulfur-35 (S-35) | 100 | Yttrium-93 (Y-93) | 100 |
| Tantalum-182 (Ta-182) | 10 | Zinc-65 (Zn-65) | 10 |
| Technetium-96 (Tc-96) | 10 | Zinc-69m (Zn-69m) | 100 |
| Technetium-97m (Tc-97m) | 100 | Zinc-69 (Zn-69) | 1,000 |
| Technetium-97 (Tc-97) | 100 | Zirconium-93 (Zr-93) | 10 |
| Technetium-99m (Tc-99m) | 100 | Zirconium-95 (Zr-95) | 10 |
| Technetium-99 (Tc-99) | 10 | Zirconium-97 (Zr-97) | 10 |
| Tellurium-125m (Te-125m) | 10 | Any radionuclide material not | |
| Tellurium-127m (Te-127m) | 10 | listed above other than alpha- | |
| Tellurium-127 (Te-127) | 100 | emitting radioactive material | 0.1 |

Historical Note

New Article 3, Exhibit B recodified from 12 A.A.C. 1, Article 3, Exhibit B, effective March 22, 2018 (Supp. 18-1).

TITLE 9. HEALTH SERVICES

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Exhibit C. Limits for Class B and C Broad Scope Licenses (R9-7-310)

| Radioactive Material | Col. I curies | Col. II curies | Radioactive Material | Col. I curies | Col. II curies |
|---------------------------------|--------------------------|---------------------------|---------------------------------|--------------------------|---------------------------|
| Antimony-122 | 1 | 0.01 | Iodine-134 | 10 | 0.1 |
| Antimony-124 | 1 | 0.01 | Iodine-135 | 1 | 0.1 |
| Antimony-125 | 1 | 0.01 | Iridium-192 | 1 | 0.1 |
| Arsenic-73 | 10 | 0.1 | Iridium-194 | 10 | 0.1 |
| Arsenic-74 | 1 | 0.01 | Iron-55 | 10 | 0.1 |
| Arsenic-76 | 1 | 0.01 | Iron-59 | 1 | 0.1 |
| Arsenic-77 | 10 | 0.1 | Krypton-85 | 100 | 1. |
| Barium-131 | 10 | 0.1 | Krypton-87 | 10 | 0.1 |
| Barium-140 | 1 | 0.01 | Lanthanum-140 | 1 | 0.1 |
| Beryllium-7 | 10 | 0.1 | Lutetium-177 | 10 | 0.1 |
| Bismuth-210 | 0.1 | 0.001 | Manganese-52 | 1 | 0.1 |
| Bromine-82 | 10 | 0.1 | Manganese-54 | 1 | 0.1 |
| Cadmium-109 | 1 | 0.01 | Manganese-56 | 10 | 0.1 |
| Cadmium-115m | 1 | 0.01 | Mercury-197m | 10 | 0.1 |
| Cadmium-115 | 10 | 0.1 | Mercury-197 | 10 | 0.1 |
| Calcium-45 | 1 | 0.01 | Mercury-203 | 1 | 0.1 |
| Calcium-47 | 10 | 0.1 | Molybdenum-99 | 10 | 0.1 |
| Carbon-14 | 100 | 1. | Neodymium-147 | 10 | 0.1 |
| Cerium-141 | 10 | 0.1 | Neodymium-149 | 10 | 0.1 |
| Cerium-143 | 10 | 0.1 | Nickel-59 | 10 | 0.1 |
| Cerium-144 | 0.1 | 0.001 | Nickel-63 | 1 | 0.1 |
| Cesium-131 | 100 | 1. | Nickel-65 | 10 | 0.1 |
| Cesium-134m | 100 | 1. | Niobium-93m | 1 | 0.1 |
| Cesium-134 | 0.1 | 0.001 | Niobium-95 | 1 | 0.1 |
| Cesium-135 | 1 | 0.01 | Niobium-97 | 100 | 1. |
| Cesium-136 | 10 | 0.1 | Osmium-185 | 1 | 0.1 |
| Cesium-137 | 0.1 | 0.001 | Osmium-191m | 100 | 1. |
| Chlorine-36 | 1 | 0.01 | Osmium-191 | 10 | 0.1 |
| Chlorine-38 | 100 | 1. | Osmium-193 | 10 | 0.1 |
| Chromium-51 | 100 | 1. | Palladium-103 | 10 | 0.1 |
| Cobalt-57 | 10 | 0.1 | Palladium-109 | 10 | 0.1 |
| Cobalt-58m | 100 | 1. | Phosphorus-32 | 1 | 0.01 |
| Cobalt-58 | 1 | 0.01 | Platinum-191 | 10 | 0.1 |
| Cobalt-60 | 0.1 | 0.001 | Platinum-193m | 100 | 1. |
| Copper-64 | 10 | 0.1 | Platinum-193 | 10 | 0.1 |
| Dysprosium-165 | 100 | 1. | Platinum-197m | 100 | 1. |
| Dysprosium-166 | 10 | 0.1 | Platinum-197 | 10 | 0.1 |
| Erbium-169 | 10 | 0.1 | Polonium-210 | 0.01 | 0.0001 |
| Erbium-171 | 10 | 0.1 | Potassium-42 | 1 | 0.01 |
| Europium-152 (9.2 h) | 10 | 0.1 | Praseodymium-142 | 10 | 0.1 |
| Europium-152 (13 yr) | 0.1 | 0.001 | Praseodymium-143 | 10 | 0.1 |
| Europium-154 | 0.1 | 0.001 | Promethium-147 | 1 | 0.01 |
| Europium-155 | 1 | 0.01 | Promethium-149 | 10 | 0.1 |
| Fluorine-18 | 100 | 1. | Radium-226 | 0.01 | 0.0001 |
| Gadolinium-153 | 1 | 0.1 | Rhenium-186 | 10 | 0.1 |
| Gadolinium-159 | 10 | 0.1 | Rhenium-188 | 10 | 0.1 |
| Gallium-72 | 10 | 0.1 | Rhodium-103m | 1,000 | 10 |
| Germanium-71 | 100 | 1. | Rhodium-105 | 10 | 0.1 |
| Gold-198 | 10 | 0.1 | Rubidium-86 | 1 | 0.01 |
| Gold-199 | 10 | 0.1 | Rubidium-87 | 1 | 0.01 |
| Hafnium-181 | 1 | 0.1 | Ruthenium-97 | 100 | 1. |
| Holmium-166 | 10 | 0.1 | Ruthenium-103 | 1 | 0.01 |
| Hydrogen-3 | 100 | 1. | Ruthenium-105 | 10 | 0.1 |
| Indium-113m | 100 | 1. | Ruthenium-106 | 0.1 | 0.001 |
| Indium-114m | 1 | 0.1 | Samarium-151 | 1 | 0.01 |
| Indium-115m | 100 | 1. | Samarium-153 | 10 | 0.1 |
| Indium-115 | 1 | 0.1 | Scandium-46 | 1 | 0.01 |
| Iodine-125 | 0.1 | 0.001 | Scandium-47 | 10 | 0.1 |
| Iodine-126 | 0.1 | 0.001 | Scandium-48 | 1 | 0.01 |
| Iodine-129 | 0.1 | 0.001 | Selenium-75 | 1 | 0.01 |
| Iodine-131 | 0.1 | 0.001 | Silicon-31 | 10 | 0.1 |
| Iodine-132 | 10 | 0.1 | Silver-105 | 1 | 0.01 |
| Iodine-133 | 1 | 0.1 | Silver-110m | 0.1 | 0.001 |

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Exhibit C. Limits for Class B and C Broad Scope Licenses (R9-7-310) (Continued)

| Radioactive Material | Col. I curies | Col. II curies | Radioactive Material | Col. I curies | Col. II curies |
|---------------------------------|--------------------------|---------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|---------------------------|
| Silver-111 | 10 | 0.1 | Thulium-170 | 1 | 0.01 |
| Sodium-22 | 0.1 | 0.001 | Thulium-171 | 1 | 0.01 |
| Sodium-24 | 1 | 0.01 | Tin-113 | 1 | 0.01 |
| Strontium-85 | 1,000 | 10 | Tin-125 | 1 | 0.01 |
| Strontium-85 | 1 | 0.01 | Tungsten-181 | 1 | 0.01 |
| Strontium-89 | 1 | 0.01 | Tungsten-185 | 1 | 0.01 |
| Strontium-90 | 0.01 | 0.0001 | Tungsten-197 | 10 | 0.1 |
| Strontium-91 | 10 | 0.1 | Vanadium-43 | 1 | 0.01 |
| Strontium-92 | 10 | 0.1 | Xenon-131m | 1,000 | 10 |
| Sulfur-35 | 100 | 0.1 | Xenon-133 | 100 | 1. |
| Tantalum-182 | 1 | 0.01 | Xenon-135 | 100 | 1. |
| Technetium-96 | 10 | 0.1 | Ytterbium-175 | 10 | 0.1 |
| Technetium-97m | 10 | 0.1 | Yttrium-90 | 1 | 0.01 |
| Technetium-97 | 10 | 0.1 | Yttrium-91 | 1 | 0.01 |
| Technetium-99m | 100 | 1. | Yttrium-92 | 10 | 0.1 |
| Technetium-99 | 1 | 0.01 | Yttrium-93 | 1 | 0.01 |
| Tellurium-125m | 1 | 0.01 | Zinc-65 | 1 | 0.01 |
| Tellurium-127m | 1 | 0.01 | Zinc-69m | 10 | 0.1 |
| Tellurium-127 | 10 | 0.1 | Zinc-69 | 100 | 1. |
| Tellurium-129m | 1 | 0.01 | Zirconium-93 | 1 | 0.01 |
| Tellurium-129 | 100 | 1. | Zirconium-95 | 1 | 0.01 |
| Tellurium-131m | 10 | 0.1 | Zirconium-97 | 1 | 0.01 |
| Tellurium-132 | 1 | 0.01 | Any radioactive material other than source material, special nuclear material, or alpha emitting radioactive material not listed above. | 0.1 | 0.001 |
| Terbium-160 | 1 | 0.01 | | | |
| Thallium-200 | 10 | 0.1 | | | |
| Thallium-201 | 10 | 0.1 | | | |
| Thallium-202 | 10 | 0.1 | | | |
| Thallium-204 | 1 | 0.01 | | | |

Historical Note

New Article 3, Exhibit C recodified from 12 A.A.C. 1, Article 3, Exhibit C, effective March 22, 2018 (Supp. 18-1).

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Exhibit D. Radioactive Material Quantities Requiring Consideration for an Emergency Plan (R9-7-322)

| <u>Radioactive Material</u> | <u>Release Fraction</u> | <u>Quantity (Ci)</u> | <u>Radioactive Material</u> | <u>Release Fraction</u> | <u>Quantity (Ci)</u> |
|-----------------------------|-------------------------|----------------------|-----------------------------------------------------------------|-------------------------|----------------------|
| Actinium-228 | 0.001 | 4,000 | Polonium-210 | .01 | 10 |
| Americium-241 | .001 | 2 | Potassium-42 | .01 | 9,000 |
| Americium-242 | .001 | 2 | Promethium-145 | .01 | 4,000 |
| Americium-243 | .001 | 2 | Promethium-147 | .01 | 4,000 |
| Antimony-124 | .01 | 4,000 | Radium-226 | .001 | 100 |
| Antimony-126 | .01 | 6,000 | Ruthenium-106 | .01 | 200 |
| Barium-133 | .01 | 10,000 | Samarium-151 | .01 | 4,000 |
| Barium-140 | .01 | 30,000 | Scandium-46 | .01 | 3,000 |
| Bismuth-207 | .01 | 5,000 | Selenium-75 | .01 | 10,000 |
| Bismuth-210 | .01 | 600 | Silver-110m | .01 | 1,000 |
| Cadmium-109 | .01 | 1,000 | Sodium-22 | .01 | 9,000 |
| Cadmium-113 | .01 | 80 | Sodium-24 | .01 | 10,000 |
| Calcium-45 | .01 | 20,000 | Strontium-89 | .01 | 3,000 |
| Californium-252 | .001 | 9 (20 mg) | Strontium-90 | .01 | 90 |
| Carbon-14 (Non CO) | .01 | 50,000 | Sulfur-35 | .5 | 900 |
| Cerium-141 | .01 | 10,000 | Technetium-99 | .01 | 10,000 |
| Cerium-144 | .01 | 300 | Technetium-99m | .01 | 400,000 |
| Cesium-134 | .01 | 2,000 | Tellurium-127m | .01 | 5,000 |
| Cesium-137 | .01 | 3,000 | Tellurium-129m | .01 | 5,000 |
| Chlorine-36 | .5 | 100 | Terbium-160 | .01 | 4,000 |
| Chromium-51 | .01 | 300,000 | Thulium-170 | .01 | 4,000 |
| Cobalt-60 | .001 | 5,000 | Tin-113 | .01 | 10,000 |
| Copper-64 | .01 | 200,000 | Tin-123 | .01 | 3,000 |
| Curium-242 | .001 | 60 | Tin-126 | .01 | 1,000 |
| Curium-243 | .001 | 3 | Titanium-44 | .01 | 100 |
| Curium-244 | .001 | 4 | Vanadium-48 | .01 | 7,000 |
| Curium-245 | .001 | 2 | Xenon-133 | 1.0 | 900,000 |
| Europium-152 | .01 | 500 | Yttrium-91 | .01 | 2,000 |
| Europium-154 | .01 | 400 | Zinc-65 | .01 | 5,000 |
| Europium-155 | .01 | 3,000 | Zirconium-93 | .01 | 400 |
| Gadolinium-153 | .01 | 5,000 | Zirconium-95 | .01 | 5,000 |
| Germanium-68 | .01 | 2,000 | Any other beta-gamma emitter | .01 | 10,000 |
| Gold-198 | .01 | 30,000 | Mixed fission products | .01 | 1,000 |
| Hafnium-172 | .01 | 400 | Mixed corrosion products | .01 | 10,000 |
| Hafnium-181 | .01 | 7,000 | Contaminated equipment | | |
| Holmium-166m | .01 | 100 | beta-gamma | .001 | 10,000 |
| Hydrogen-3 | .5 | 20,000 | Irradiated material, any form | | |
| Indium-114m | .01 | 1,000 | other than solid non- | | |
| Iodine-125 | .5 | 10 | combustible | .01 | 1,000 |
| Iodine-131 | .5 | 10 | Irradiated material, solid non- | | |
| Iridium-192 | .001 | 40,000 | combustible | .001 | 10,000 |
| Iron-55 | .01 | 40,000 | Mixed radioactive waste, | | |
| Iron-59 | .01 | 7,000 | beta-gamma | .01 | 1,000 |
| Krypton-85 | 1.0 | 6,000,000 | Packaged mixed waste, beta gamma | .001 | 10,000 |
| Lead-210 | .01 | 8 | Any other alpha emitter | .001 | 2 |
| Manganese-56 | .01 | 60,000 | Contaminated equipment, alpha | .0001 | 20 |
| Mercury-203 | .01 | 10,000 | Packaged waste, alpha | .0001 | 20 |
| Molybdenum-99 | .01 | 30,000 | Combinations of radioactive materials listed above: | | |
| Neptunium-237 | .001 | 2 | For combinations of radioactive materials, consideration of the | | |
| Nickel-63 | .01 | 20,000 | need for an emergency plan is required if the sum of the ratios | | |
| Niobium-94 | .01 | 300 | of the quantity of each radioactive material authorized to the | | |
| Phosphorus-32 | .5 | 100 | quantity listed for that material in Exhibit D exceeds 1. | | |
| Phosphorus-33 | .5 | 1,000 | NOTE: Waste packaged in Type B containers does not require an | | |
| | | | emergency plan. | | |

Historical Note

New Article 3, Exhibit D recodified from 12 A.A.C. 1, Article 3, Exhibit D, effective March 22, 2018 (Supp. 18-1).

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Exhibit E. Application Information**1. Radioactive Material (RAM) Specific License Application Information**

An applicant shall provide the following information in a specific license application before a license is issued to the applicant. The Department shall provide an application form to an applicant with a guide, when possible, to ensure that correct information is provided in the application:

| | |
|------------------------------------------|----------------------------------------------------------------------------------|
| Name and mailing address of applicant | Use location |
| Contact person | Telephone number |
| Users of RAM | Training of users |
| Radiation Safety Officer identity (RSO) | Duties of RSO |
| Description of RAM and uses | Description of radiation detection/measurement instruments and their calibration |
| Personnel monitoring | Bioassay program |
| Facility description | Survey program |
| Leak test program | Records management program |
| Instruction to personnel | Waste disposal program |
| Emergency procedures | Procedures for ordering, receiving, and opening packages |
| Description of animal use | Licensing fee provided with application |
| Copy of letter-of-intent | Description of ALARA and quality management to local governing body |
| programs | |
| Description of transportation procedures | Certifying signature |
| Legal structure of licensee's operation | |

Other licensing requirements listed in: R9-7-310, R9-7-311, R9-7-312, R9-7-511, R9-7-703, and R9-7-1721

2. Radioactive Material (RAM) General License Application Information

An applicant shall provide the following information on a registration certificate. The certificate will be validated and returned to the applicant if the information provided is complete.

| | |
|---------------------------------------------|-------------------------------------|
| Name and address | Telephone number |
| Where will the radioactive material be used | Address of use location |
| Description of radioactive material use | Date |
| Authorizing signature and printed name | Position of person signing the form |

Historical Note

New Article 3, Exhibit E recodified from 12 A.A.C. 1, Article 3, Exhibit E, effective March 22, 2018 (Supp. 18-1).

ARTICLE 4. STANDARDS FOR PROTECTION AGAINST IONIZING RADIATION**R9-7-401. Purpose**

- A.** Article 4 establishes standards for protection against ionizing radiation resulting from activities conducted according to licenses or registrations issued by the Department. These rules are issued according to A.R.S. Title 30, Chapter 4, as amended.
- B.** The requirements of Article 4 are designed to control the receipt, possession, use, transfer, and disposal of sources of radiation by any licensee or registrant so the total dose equivalent to an individual, including radiation exposure resulting from all sources of radiation other than radiation prescribed by a physician in the practice of medicine, radiation received while voluntarily participating in a medical research program, and background radiation, does not exceed the standards for protection against radiation prescribed in this Article. However, this Article does not limit actions that may be necessary to protect health and safety.

Historical Note

New Section R9-7-401 recodified from R12-1-401, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-402. Scope

Except as specifically provided in other Articles, Article 4 applies to persons licensed or registered by the Department to receive, possess, use, transfer, or dispose of sources of ionizing radiation.

Historical Note

New Section R9-7-402 recodified from R12-1-402, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-403. Definitions

The following definitions apply in this Article, unless the context otherwise requires:

“Air-purifying respirator” means respiratory protective equipment with an air-purifying filter, cartridge, or canister that removes specific air contaminants by passing ambient air through the air-purifying element.

“ALI” means annual limit on intake, the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the Reference Man that would result in a committed effective dose equivalent of 0.05 Sv (5 rem) or a committed dose equivalent of 0.5 Sv (50 rem) to any individual organ or tissue. ALI values for intake by ingestion and by inhalation of selected radionuclides are given in Appendix B, Table I, Columns 1 and 2.

“Assigned protection factor” or “APF” means the expected workplace level of respirator protection that would be provided by a properly functioning respirator or a class of respirators to properly fitted and trained users. Operationally, the inhaled concentration can be estimated by dividing the ambient airborne concentration by the APF.

“Atmosphere-supplying respirator” means respiratory protective equipment that supplies the equipment user with breathing air from a source independent of the ambient atmosphere, and includes supplied-air respirators (SARs) and self-contained breathing apparatus (SCBA) units.

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“Class” means a classification scheme for inhaled material according to the material’s rate of clearance from the lung. Materials are classified as D, W, or Y, which applies to a range of clearance half-times: for Class D, days, of less than 10 days, for Class W, weeks, from 10 to 100 days, and for Class Y, years, of greater than 100 days (see Introduction, Appendix B). For purposes of these rules, “lung class” and “inhalation class” are equivalent terms.

“Constraint” or “dose constraint” means a value above which specified licensee or registrant actions are required.

“Critical group” means the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances.

“DAC” means derived air concentration, the concentration of a given radionuclide in air which, if breathed by Reference Man for a working year of 2,000 hours under conditions of light work, results in an intake of one ALI. For purposes of these rules, the condition of light work is an inhalation rate of 1.2 cubic meters of air per hour for 2,000 hours in a year. DAC values are given in Appendix B, Table I, Column 3.

“DAC-hour” means derived air concentration-hour, the product of the concentration of radioactive material in air, expressed as a fraction or multiple of the derived air concentration for each radionuclide, and the time of exposure to that radionuclide, in hours. A licensee or registrant may take 2,000 DAC-hours to represent one ALI, equivalent to a committed effective dose equivalent of 0.05 Sv (5 rem).

“Declared pregnant woman” means a woman who has voluntarily informed the licensee or registrant in writing of her pregnancy and the estimated date of conception. The declaration remains in effect until the declared pregnant woman withdraws the declaration in writing or is no longer pregnant.

“Decommission” means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits release of the property for unrestricted use and termination of the license or release of the property under restricted conditions and the termination of the license.

“Demand respirator” means an atmosphere-supplying respiratory protective equipment that admits breathing air to the face piece only when a negative pressure is created inside the face piece by inhalation.

“Deterministic effect” (See “Nonstochastic effect”)

“Disposable respirator” means respiratory protective equipment for which maintenance is not intended and that is designed to be discarded after excessive breathing resistance, sorbent depletion, physical damage, or end-of-service-life renders it unsuitable for use. Examples of this type of device include a disposable half-mask respirator or a disposable, escape-only, self-contained breathing apparatus (SCBA).

“Distinguishable from background” means that the detectable concentration of a radionuclide is statistically greater than the background concentration of that radionuclide in the vicinity of a site or, in the case of structures, in similar materials using accepted measurement, survey, and statistical techniques.

“Dosimetry processor” means an individual or an organization that processes and evaluates individual monitoring devices in order to determine the radiation dose delivered to the monitoring devices.

“Filtering face piece (dust mask)” means a particulate respirator that operates under a negative pressure with a filter as an

integral part of the face piece or with the entire face piece composed of the filtering medium, not equipped with elastomeric sealing surfaces and adjustable straps.

“Fit factor” means a quantitative estimate of the fit of a particular respirator to a specific individual, and typically estimates the ratio of the concentration of a substance in ambient air to its concentration inside the respirator when worn.

“Fit test” means the use of protocol to qualitatively or quantitatively evaluate the fit of a respirator on an individual.

“Helmet” means a rigid respiratory inlet covering that also provides head protection against impact and penetration.

“Hood” means a respiratory inlet covering that completely covers the head, neck, and may also cover portions of the shoulders and torso.

“Inhalation class” (See “Class”)

“Loose-fitting face piece” means a respiratory inlet covering that is designed to form a partial seal with the face.

“Lung class” (See “Class”)

“Nationally tracked source” means a sealed source that contains a quantity equal to or greater than Category 1 or Category 2 levels of radioactive material listed in 10 CFR 20, Appendix E, revised January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments. In this context sealed source does not mean material encapsulated solely for disposal, or nuclear material contained in any fuel assembly, sub-assembly, fuel rod, or fuel pellet.

“Negative pressure respirator (tight fitting)” means respiratory protective equipment in which the air pressure inside the face piece is negative during inhalation with respect to the ambient air pressure outside the respirator.

“Nonstochastic effect” means a health effect, the severity of which varies with the dose and for which a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect. For purposes of these rules, “deterministic effect” is an equivalent term and “threshold” means that which if not exceeded, poses no risk or likelihood of an effect to occur.

“Planned special exposure” means an infrequent exposure to radiation received while employed, but separate from and in addition to the annual occupational dose limits.

“Positive pressure respirator” means respiratory protective equipment in which the pressure inside the respiratory inlet covering exceeds the ambient air pressure outside the respirator.

“Powered air-purifying respirator” or “PAPR” means an air-purifying respirator that uses a blower to force the ambient air through air-purifying elements to the inlet covering.

“Pressure demand respirator” means a positive pressure, atmosphere-supplying respirator that admits breathing air to the face piece when the positive pressure is reduced inside the face piece by inhalation.

“Probabilistic effect” (See “Stochastic effect”)

“Qualitative fit test” or “QLFT” means a pass or fail fit test to assess the adequacy of respirator fit that relies on the individual’s response to the test agent.

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“Quantitative fit test” or “QNFT” means an assessment of the adequacy of respirator fit by numerically measuring the amount of leakage into the respirator.

“Reference Man” means a hypothetical aggregation of human physical and physiological characteristics determined by international consensus. These characteristics may be used by researchers and public health workers to standardize results of experiments and to relate biological insult to a common base. A description of Reference Man is contained in the International Commission on Radiological Protection report, ICRP Publication 23, “Report of the Task Group on Reference Man,” published in 1975 by Pergamon Press, incorporated by reference and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.

“Residual radioactivity” means radioactivity in structures, materials, soils, groundwater, or other media at a site, resulting from activities under a licensee’s control. This includes radioactivity from all licensed and unlicensed sources used by the licensee, but excludes background radiation. It also includes radioactive materials that remain at the site because of routine or accidental release of radioactive material at the site or a previous burial at the site, even if the licensee complied with reagent provisions of 9 A.A.C. 7.

“Respiratory protective equipment” means an apparatus, such as a respirator, used to reduce an individual’s intake of airborne radioactive materials.

“Sanitary sewerage” means a system of public sewers for carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee or registrant.

“Self-contained breathing apparatus” or “SCBA” means an atmosphere-supplying respirator for which the breathing air source is designed to be carried by the user.

“Stochastic effect” means a health effect that occurs randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without a threshold. Hereditary effects and cancer incidence are examples of stochastic effects. For purposes of these rules, “probabilistic effect” is an equivalent term.

“Supplied-air respirator” or “SAR” or “airline respirator” means an atmosphere-supplying respirator for which the source of breathing air is not designed to be carried by the user.

“Tight-fitting face piece” means a respiratory inlet covering that forms a complete seal with the face.

“User seal check” or “fit check” means an action conducted by the respirator user to determine if the respirator is properly seated to the face. Examples include negative pressure check, positive pressure check, irritant smoke check, or isoamyl acetate check.

“Very-high radiation area” means an area, accessible to individuals, in which radiation levels from radiation sources external to an individual’s body could result in the individual receiving an absorbed dose in excess of 5 Gy (500 rad) in one hour at one meter from a radiation source or one meter from any surface that the radiation penetrates. (At very high doses received at high dose rates, units of absorbed dose, the gray and rad should be used, rather than units of dose equivalent, the sievert and rem).

“Weighting factor” w_T for an organ or tissue (T) means the proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of w_T are:

| ORGAN DOSE WEIGHTING FACTORS | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|
| Organ or Tissue | w_T |
| Gonads | 0.25 |
| Breast | 0.15 |
| Red bone marrow | 0.12 |
| Lung | 0.12 |
| Thyroid | 0.03 |
| Bone surfaces | 0.03 |
| Remainder | 0.30 ^a |
| Whole Body | 1.00 ^b |
| ^a 0.30 results from 0.06 for each of five “remainder” organs, excluding the skin and the lens of the eye, that receive the highest doses. | |
| ^b For the purpose of weighting the external whole body dose, for adding it to the internal dose, a single weighting factor, $w_T = 1.0$, has been specified. The use of other weighting factors for external exposure will be approved by the Department on a case-by-case basis. | |

Historical Note

New Section R9-7-403 recodified from R12-1-403, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-404. Units and Quantities

- A. Each licensee or registrant shall use the Standard International (SI) units becquerel, gray, sievert, and coulomb per kilogram, or the special units curie, rad, rem, and roentgen, including multiples and subdivisions, and shall clearly indicate the units of all quantities on records required by this Article.
- B. The licensee or registrant shall make a clear distinction among the quantities entered on the records required by this Article, such as, total effective dose equivalent, total organ dose equivalent, shallow dose equivalent, lens dose equivalent, deep dose equivalent, or committed effective dose equivalent.

Historical Note

New Section R9-7-404 recodified from R12-1-404, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-405. Form of Records

- A. A licensee or registrant shall ensure that each record required by this Article is legible throughout the specified retention period. The record shall be the original, a reproduced copy, or a microform, provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. As an alternative the record may be stored in electronic media capable of producing legible records during the required retention period. Records, such as letters, drawings, and specifications, shall include all pertinent information, such as stamps, initials, and signatures. A licensee or registrant shall maintain adequate safeguards against tampering with and loss of records.
- B. In the records required by this Article, a licensee or registrant may record quantities in SI units in parentheses following each of the required units, curie, rad, and rem, and include multiples and subdivisions.

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- C. Notwithstanding subsection (B), the licensee or registrant shall ensure that information is recorded in the International System of Units (SI) or in SI and the units specified in subsection (B) on each shipment manifest as required in R9-7-439(A).
- D. A licensee or registrant shall make a clear distinction among the quantities entered on the records required by this Section (e.g., total effective dose equivalent, shallow-dose equivalent, lens dose equivalent, deep-dose equivalent, committed effective dose equivalent).

Historical Note

New Section R9-7-405 recodified from R12-1-405, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-406. Implementation

Any existing license or registration condition that is more restrictive than this Article remains in force until amendment or renewal of the license or registration.

Historical Note

New Section R9-7-406 recodified from R12-1-406, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-407. Radiation Protection Programs

- A. Each licensee or registrant shall develop, document, and implement a radiation protection program sufficient to ensure compliance with the provisions of Article 4.
- B. The licensee or registrant shall use, to the extent practical, procedures and engineering controls based upon sound radiation protection principles to achieve occupational doses and public doses that are as low as is reasonably achievable (ALARA).
- C. The licensee or registrant shall, at intervals not to exceed 12 months, review the radiation protection program content and implementation.
- D. To implement the ALARA requirements in subsection (B), and notwithstanding the requirements in R9-7-416, each licensee or registrant governed by 9 A.A.C. 7, Article 3 shall limit air emissions of radioactive material to the environment so that individual members of the public likely to receive the highest dose will not receive a total effective dose equivalent in excess of 0.1mSv (10 mrem) per year from the emissions. If a licensee or registrant subject to this requirement exceeds this limit, the licensee or registrant shall report the incident to the Department, in accordance with R9-7-444, and take prompt corrective action to prevent additional violations.
- E. Records.
1. Each licensee or registrant shall maintain records of the radiation protection program, including:
 - a. The provisions of the program; and
 - b. Audits and other reviews of program content and implementation.
 2. A licensee or registrant shall retain the records required by subsection (E)(1)(a) for three years after the termination of the license or registration. The licensee or registrant shall retain the records required by subsection (E)(1)(b) for three years after the record is made.
 3. The following licensees and registrants are exempt from the record requirements contained in this subsection:
 - a. B6-General Medical,
 - b. C9-Gas Chromatograph,
 - c. C10-General Industrial,
 - d. D15-Possession Only,
 - e. E2-X-ray Machine class B, and
 - f. E3-X-ray Machine class C.

Historical Note

New Section R9-7-407 recodified from R12-1-407, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-408. Occupational Dose Limits for Adults

- A. Each licensee or registrant shall control the occupational dose to individual adults, except for planned special exposures required in R9-7-413, to the following dose limits:
1. An annual limit, which is the more limiting of:
 - a. The total effective dose equivalent being equal to 0.05 Sv (5 rem); or
 - b. The sum of the deep-dose equivalent and the committed dose equivalent to any individual organ or tissue other than the lens of the eye being equal to 0.5 Sv (50 rem).
 2. The annual limits to the lens of the eye, to the skin, and to the extremities which are:
 - a. A lens dose equivalent of 0.15 Sv (15 rem), and
 - b. A shallow dose equivalent of 0.5 Sv (50 rem) to the skin of the whole body or to the skin of any extremity.
- B. Doses received in excess of the annual limits, including doses received during accidents, emergencies, and planned special exposures, shall be subtracted from the limits for planned special exposures that the individual may receive during the current year and during the individual's lifetime. See R9-7-413.
- C. The assigned deep-dose equivalent and shallow-dose equivalent are, for the portion of the body receiving the highest exposure, determined as follows:
1. The deep-dose equivalent, lens dose equivalent, and shallow-dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits, if the individual monitoring device was not in the region of highest potential exposure, or the results of individual monitoring are unavailable.
 2. If a protective apron is worn and monitoring is conducted as specified in R9-7-419(B), the effective dose equivalent for external radiation shall be determined as follows:
 - a. If only one individual monitoring device is used and it is located at the neck outside the protective apron, and the reported dose exceeds 25% of the limit specified in subsection (A), the reported deep-dose equivalent value multiplied by 0.3 is the effective dose equivalent for external radiation; or
 - b. When individual monitoring devices are worn, both under the protective apron at the waist and outside the protective apron at the neck, the effective dose equivalent for external radiation is assigned the value of the sum of the deep-dose equivalent reported for the individual monitoring device located at the waist under the protective apron multiplied by 1.5 and the deep-dose equivalent reported for the individual monitoring device located at the neck outside the protective apron multiplied by 0.04.
 3. When the external exposure is determined by measurement with an external personal monitoring device, the deep-dose equivalent must be used in place of the effective dose equivalent, unless the effective dose equivalent is determined by a dosimetry method approved by the Department. The assigned deep-dose equivalent shall be determined for the part of the body that receives the highest exposure. The assigned shallow-dose equivalent is the dose averaged over the contiguous 10 square centimeters of skin that receives the highest exposure. The deep-dose equivalent, lens-dose equivalent, and shallow-dose equivalent

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alent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits, if the individual monitoring device was not in the region of highest potential exposure, or the results of individual monitoring are unavailable.

- D. Derived air concentration (DAC) and annual limit on intake (ALI) values are presented in Table I of Appendix B and may be used to determine the individual's dose and to demonstrate compliance with the occupational dose limits.
- E. Notwithstanding the annual dose limits, the licensee shall limit the soluble Uranium intake by an individual to 10 milligrams in a week in consideration of chemical toxicity. See footnote 3 of Appendix B.
- F. The licensee or registrant shall reduce the dose that an individual may receive in the current year by the amount of occupational dose received while employed occupationally as a radiation worker by all previous employers. See R9-7-412.

Historical Note

New Section R9-7-408 recodified from R12-1-408, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-409. Summation of External and Internal Doses

- A. If a licensee or registrant is required to monitor according to both R9-7-419(B) and (C), the licensee or registrant shall add external and internal doses, and use the sum to demonstrate compliance with dose limits. If the licensee or registrant is required to monitor only according to R9-7-419(B) or only according to R9-7-419(C), summation is not required to demonstrate compliance with dose limits. The licensee or registrant may demonstrate compliance with the requirements for summation of external and internal doses according to subsections (B), (C), and (D). The dose equivalents for the lens of the eye, the skin, and the extremities are not included in the summation but are subject to separate limits (See R9-7-408(A)(2)).
- B. If the only intake of radionuclides is by inhalation, the total effective dose equivalent limit is not exceeded if the sum of the deep-dose equivalent divided by the total effective dose equivalent limit, and one of the following, does not exceed unity (1):
 1. The sum of the fractions of the inhalation ALI for each radionuclide, or
 2. The total number of derived air concentration-hours (DAC-hours) for all radionuclides divided by 2,000, or
 3. The sum of the calculated committed effective dose equivalents to all significantly irradiated organs or tissues (T) calculated from bioassay data using applicable biological models and expressed as a fraction of the annual limit. For purposes of this requirement, an organ or tissue is deemed to be significantly irradiated if, for that organ or tissue, the product of the weighting factors, W_T , and the committed dose equivalent, $H_{T,50}$, per unit intake is greater than 10% of the maximum weighted value of $H_{T,50}$, that is, $W_T H_{T,50}$, per unit intake for any organ or tissue.
- C. If the occupationally exposed individual also receives an intake of radionuclides by oral ingestion greater than 10% of the applicable oral ALI, the licensee or registrant shall account for this intake and include it in demonstrating compliance with the limits.
- D. The licensee or registrant shall evaluate and, to the extent practical, account for intakes through wounds or skin absorption. The intake through intact skin has been included in the

calculation of DAC for Hydrogen-3 and does not need to be evaluated or accounted for according to this subsection.

Historical Note

New Section R9-7-409 recodified from R12-1-409, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-410. Determination of External Dose from Airborne Radioactive Material

- A. Each licensee shall, when determining the dose from airborne radioactive material, include the contribution to the deep-dose equivalent, lens dose equivalent, and shallow dose equivalent from external exposure to the radioactive cloud. See Appendix B, footnotes 1 and 2.
- B. Airborne radioactivity measurements and DAC values shall not be used as the primary means to assess the deep-dose equivalent when the airborne radioactive material includes radionuclides other than noble gases or if the cloud of airborne radioactive material is not relatively uniform. The determination of the deep-dose equivalent to an individual shall be based upon measurements using instruments or individual monitoring devices.

Historical Note

New Section R9-7-410 recodified from R12-1-410, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-411. Determination of Internal Exposure

- A. For purposes of assessing dose used to determine compliance with occupational dose equivalent limits, each licensee or registrant shall, when required according to R9-7-419, take suitable and timely measurements of:
 1. Concentrations of radioactive materials in air in work areas,
 2. Quantities of radionuclides in the body,
 3. Quantities of radionuclides excreted from the body, or
 4. Combinations of these measurements,
- B. Unless respiratory protective equipment is used, as provided in R9-7-425, or the assessment of intake is based on bioassays, the licensee or registrant shall assume that an individual inhales radioactive material at the airborne concentration in which the individual is present.
- C. When specific information on the physical and biochemical properties of the radionuclides taken into the body or the behavior of the material in an individual is known, the licensee or registrant may:
 1. Use that information to calculate the committed effective dose equivalent, and, if used, the licensee or registrant shall document that information in the individual's record;
 2. Upon prior approval of the Department, adjust the DAC or ALI values to reflect the actual physical and chemical characteristics of airborne radioactive material, for example, aerosol size distribution or density; and
 3. Separately assess the contribution of fractional intakes of Class D, W, or Y compounds of a given radionuclide to the committed effective dose equivalent. See Appendix B.
- D. If the licensee or registrant chooses to assess intakes of Class Y material using the measurements given in subsection (A)(2) or (3), the licensee or registrant may delay the recording and reporting of the assessments for periods up to seven months, unless otherwise required by R9-7-444 or R9-7-445. This delay permits the licensee or registrant to make additional measurements basic to the assessments.
- E. If the identity and concentration of each radionuclide in a mixture are known, the fraction of the DAC applicable to the mixture for use in calculating DAC-hours is either:

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1. The sum of the ratios of the concentration to the appropriate DAC value, that is, D, W, or Y from Appendix B for each radionuclide in the mixture; or
 2. The ratio of the total concentration for all radionuclides in the mixture to the most restrictive DAC value for any radionuclide in the mixture.
- F.** If the identity of each radionuclide in a mixture is known, but the concentration of one or more of the radionuclides in the mixture is not known, the DAC for the mixture is the most restrictive DAC of any radionuclide in the mixture.
- G.** If a mixture of radionuclides in air exists, a licensee may disregard certain radionuclides in the mixture if:
1. The licensee uses the total activity of the mixture to demonstrate compliance with the dose limits in R9-7-408 and complies with the monitoring requirements in R9-7-419;
 2. The concentration of any radionuclide disregarded is less than 10% of its DAC; and
 3. The sum of these percentages for all of the radionuclides disregarded in the mixture does not exceed 30%.
- H.** When determining the committed effective dose equivalent, the following information may be considered:
1. In order to calculate the committed effective dose equivalent, the licensee may assume that the inhalation of 1 ALI, or an exposure of 2,000 DAC-hours, results in a committed effective dose equivalent of 0.05 Sv (5 rem) for radionuclides that have their ALIs or DACs based on the committed effective dose equivalent.
 2. For an ALI and the associated DAC determined by the nonstochastic organ dose limit of 0.5 Sv (50 rem), the intake of radionuclides that would result in a committed effective dose equivalent of 0.05 Sv (5 rem), that is, the stochastic ALI, is listed in parentheses in Table I of Appendix B. The licensee may, as a simplifying assumption, use the stochastic ALI to determine committed effective dose equivalent. However, if the licensee or registrant uses the stochastic ALI, the licensee shall also demonstrate that the limit in R9-7-408(A)(1)(b) is met.
- Historical Note**
- New Section R9-7-411 recodified from R12-1-411, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-412. Determination of Prior Occupational Dose**
- A.** For each individual who is likely to receive in a year an occupational dose that requires monitoring according to R9-7-419 the licensee shall:
1. Determine the occupational radiation dose received during the current year, and
 2. Attempt to obtain the records of lifetime cumulative occupational radiation dose.
- B.** Before permitting an individual to participate in a planned special exposure, the licensee or registrant shall determine:
1. The internal and external doses from all previous planned special exposures; and
 2. All doses in excess of the limits received during the lifetime of the individual, including doses received during accidents and emergencies; and
 3. All lifetime, cumulative, occupational radiation doses.
- C.** In complying with the requirements of subsection (A), a licensee or registrant shall:
1. Accept, as a record of the occupational dose that the individual received during the current year, a written and signed statement from the individual, or from the individual's most recent employer for work involving radiation exposure, that discloses the nature and the amount of any occupational dose that the individual received during the current year; and
 2. Accept, as the record of lifetime cumulative radiation dose, an up-to-date Department Form Y (available from the Department) or equivalent, signed by the individual and countersigned by an appropriate official of the most recent employer for work involving radiation exposure, or the individual's current employer, if the individual is not employed by the licensee or registrant; and
 3. Obtain reports of the individual's dose equivalent from the most recent employer for work involving radiation exposure, or the individual's current employer, if the individual is not employed by the licensee or registrant, by telephone, telegram, facsimile, or letter. The licensee or registrant shall request a written verification of the dose data if the authenticity of the transmitted report cannot be established.
- D. Records.**
1. The licensee or registrant shall record the exposure history, as required by subsection (A), on Department Form Y (available from the Department) or a similar clear and legible record of all the information required by this subsection. The form or record shall show each period in which the individual received occupational exposure to radiation or radioactive material and shall be signed by the individual who received the exposure. For each period for which the licensee or registrant obtains reports, the licensee or registrant shall use the dose shown in the report for preparing Department Form Y or its equivalent. For any period in which the licensee or registrant does not obtain a report, the licensee or registrant shall place a notation on Department Form Y or its equivalent indicating each period of time for which there is no data.
 2. The licensee or registrant is not required to reevaluate the separate external dose equivalents and internal committed dose equivalents or intakes of radionuclides assessed according to the rules in Article 4 in effect before January 1, 1994. Occupational exposure histories obtained and recorded on Department Form Y or its equivalent before January 1, 1994, would not have included effective dose equivalent but may be used in the absence of specific information on the intake of radionuclides by the individual.
 3. If the licensee or registrant is unable to obtain a complete record of an individual's current and previously accumulated occupational dose, the licensee or registrant shall:
 - a. In establishing administrative controls under R9-7-408(F) for the current year, reduce the allowable dose limit for the individual by 12.5 mSv (1.25 rem) for each quarter for which records were unavailable and the individual was engaged in activities that could have resulted in occupational radiation exposure; and
 - b. Not subject the individual to planned special exposures.
 4. The licensee or registrant shall retain current and prior records on Department Form Y or its equivalent for three years after the Department terminates each pertinent license or registration requiring this record. The licensee or registrant shall retain records used in preparing Department Form Y or its equivalent for three years after the record is made.

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Historical Note

New Section R9-7-412 recodified from R12-1-412, at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-413. Planned Special Exposures

A. A licensee or registrant may authorize an adult worker to receive doses in addition to and accounted for separately from the doses received under the limits specified in R9-7-408, provided that each of the following conditions is satisfied:

1. The licensee or registrant authorizes a planned special exposure only in an exceptional situation when alternatives that might avoid the dose estimated from the planned special exposure are unavailable or impractical.
2. The licensee or registrant, and employer if the employer is not the licensee or registrant, specifically authorizes the planned special exposure, in writing, before the exposure occurs.
3. Before a planned special exposure, the licensee or registrant ensures that each individual involved is:
 - a. Informed in writing of the purpose of the planned special exposure;
 - b. Informed in writing of the estimated doses, associated potential risks, and specific radiation levels or other conditions that might be involved in performing the task; and
 - c. Instructed in the measures to be taken to keep the dose ALARA, considering other risks that may be present.
4. Before permitting an individual to participate in a planned special exposure, the licensee or registrant shall ascertain prior doses as required by R9-7-412(B) for each individual involved.
5. Subject to R9-7-408(B), the licensee or registrant shall not authorize a planned special exposure that would cause an individual to receive a dose from all planned special exposures and all doses that exceed:
 - a. The numerical value of any of the dose limits in R9-7-408(A) in any year, and
 - b. Five times the annual dose limits in R9-7-408(A) during the individual's lifetime.
6. The licensee or registrant shall maintain records of a planned special exposure in accordance with subsections (B) and (C) and submit a written report to the Department within 30 days after the date of any planned special exposure conducted in accordance with this Section, informing the Department that a planned special exposure was conducted and indicating the date the planned special exposure occurred and the information required by subsection (B).
7. The licensee or registrant shall record the best estimate of the dose resulting from the planned special exposure in the individual's record and inform the individual, in writing, of the dose within 30 days after the date of the planned special exposure. The dose from a planned special exposure shall not be considered in controlling future occupational dose of the individual according to R9-7-408(A) but shall be included in evaluations required by subsections (A)(4) and (A)(5).

B. Records.

1. For each planned special exposure, the licensee or registrant shall maintain records that describe:
 - a. The exceptional circumstances requiring the use of a planned special exposure,
 - b. The name of the management official who authorized the planned special exposure and a copy of the signed authorization,

- c. What actions were necessary,
- d. Why the actions were necessary,
- e. What precautions were taken to assure that doses were minimized in accordance with R9-7-407(B),
- f. What individual and collective doses were expected,
- g. The doses actually received in the planned special exposure, and
- h. The process through which the employee involved in the planned special exposure has been informed in writing of the information contained in subsection (A)(3).

2. The licensee or registrant shall retain the records for three years after the Department terminates each pertinent license or registration.

C. A licensee shall submit a report to the Department no later than 30 days after a planned special exposure conducted in accordance with subsection (A). The report shall contain the date of the planned exposure and the information required by subsection (B).

Historical Note

New Section R9-7-413 recodified from R12-1-413, at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-414. Occupational Dose Limits for Minors

The annual occupational dose limits for minors are 10% of the annual occupational dose limits specified for adult workers in R9-7-408.

Historical Note

New Section R9-7-414 recodified from R12-1-414, at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-415. Dose Equivalent to an Embryo or Fetus

- A. A licensee or registrant shall ensure that the dose equivalent to an embryo or fetus during the entire pregnancy, due to occupational exposure of a declared pregnant woman, does not exceed 5 mSv (0.5 rem). Records shall be maintained according to R9-7-419(E)(4) and (5).
- B. The licensee or registrant shall make efforts to avoid substantial variation above a uniform monthly exposure rate to a declared pregnant woman to satisfy the limit in subsection (A).
- C. For purposes of this Section, the dose equivalent to the embryo or fetus is the sum of:
 1. The deep-dose equivalent to the declared pregnant woman; and
 2. The dose equivalent to the embryo or fetus resulting from radionuclides in the embryo or fetus and radionuclides in the declared pregnant woman.
- D. If the dose equivalent to the embryo or fetus is found to have exceeded 5 mSv (0.5 rem) or is within 0.5 mSv (0.05 rem) of this dose by the time the woman declares the pregnancy to the licensee or registrant, the licensee or registrant shall be deemed to be in compliance with subsection (A) if the additional dose equivalent to the embryo or fetus does not exceed 0.5 mSv (0.05 rem) during the remainder of the pregnancy.

Historical Note

New Section R9-7-415 recodified from R12-1-415, at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 24 A.A.R.
2151, effective July 12, 2018 (Supp. 18-3).

R9-7-416. Dose Limits for Individual Members of the Public

- A. Each licensee or registrant shall conduct operations so that:
 1. The total effective dose equivalent to any individual member of the public from the licensed or registered

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operation does not exceed 1 mSv (0.1 rem) in a year, excluding the dose contribution from background radiation, medical administration of radiation, exposure to an individual who has been administered radioactive material and released in accordance with R9-7-719, voluntary participation in a medical research program, and the licensee's or registrant's disposal of radioactive material into sanitary sewerage in accordance with R9-7-436; and

2. The dose in any unrestricted area from an external source excluding the dose contribution from an individual who has been administered radioactive material and released in accordance with R9-7-719, does not exceed 0.02 mSv (0.002 rem) in any one hour.

- B. Registrants possessing radiation machines in operation before August 10, 1994, are exempt from the requirement in subsection (A)(1). Operation of these machines shall be conducted so that the total effective dose equivalent to any individual member of the public does not exceed 5 mSv (0.5 rem) in a year.
- C. A licensee, registrant, or an applicant for a license or registration may apply for Department authorization to operate with an annual dose limit of 5 mSv (0.5 rem) for an individual member of the public. The application shall include the following information:
 1. An explanation of the need for and the expected duration of operations in excess of the limit in subsection (A), and
 2. The licensee's or registrant's program to assess and control dose within the 5 mSv (0.5 rem) annual limit; and
 3. The procedures to be followed to maintain the dose in accordance with R9-7-407(B).
- D. A licensee or registrant shall comply with the U.S. Environmental Protection Agency's applicable environmental radiation standards in 40 CFR 190, 2003 edition, published July 1, 2003, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, which are incorporated by reference, on file with the Department and contain no future editions or amendments.
- E. The Department may impose additional restrictions on radiation levels in unrestricted areas and on the total quantity of radionuclides that a licensee or registrant may release in effluents in order to restrict the collective dose.
- F. Each licensee or registrant shall make or cause to be made surveys of radiation levels in unrestricted areas and radioactive materials contained in effluents released to unrestricted areas.
- G. Each licensee or registrant shall:
 1. Demonstrate by measurement or calculation that the total effective dose equivalent to the individual likely to receive the highest dose from the licensed or registered operation does not exceed the annual dose limit; or
 2. Demonstrate that:
 - a. The annual average concentrations of radioactive material released in gaseous and liquid effluents at the boundary of the unrestricted area do not exceed the values specified in Appendix B, Table II; and
 - b. If an individual were continually present in an unrestricted area, the dose from external sources would not exceed 0.02 mSv (0.002 rem) in an hour and 0.5 mSv (0.05 rem) in a year.
- H. Upon approval from the Department, the licensee or registrant may adjust the effluent concentration values in Appendix B, Table II for members of the public, to take into account the actual physical and chemical characteristics of the effluents, such as aerosol size distribution, solubility, density, radioactive decay equilibrium, and chemical form.
- I. Each licensee or registrant shall maintain records sufficient to demonstrate compliance with the dose limit for individual members of the public and shall retain the records for three

years after the Department terminates each pertinent license or registration.

Historical Note

New Section R9-7-416 recodified from R12-1-416, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-417. Testing for Leakage or Contamination of Sealed Sources

- A. A licensee in possession of any sealed source shall ensure that:
 1. Each sealed source, except as specified in subsection (B), is tested for leakage or contamination and the test results are received before the sealed source is put into use unless the licensee has a certificate from the transferor indicating that the sealed source was tested within six months before transfer to the licensee or registrant.
 2. Each sealed source that is not designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed six months or at alternative intervals approved by the Department, after evaluation of information specified by R9-7-311(D)(2) or equivalent information specified by an Agreement State, a Licensing State, or the U.S. Nuclear Regulatory Commission.
 3. Each sealed source that is designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed three months or at alternative intervals approved by the Department, after evaluation of information specified by R9-7-311(D)(2) or equivalent information specified by an Agreement State, a Licensing State, or the Nuclear Regulatory Commission.
 4. Each sealed source suspected of damage or leakage is tested for leakage or contamination before further use.
 5. Tests for leakage for all sealed sources, except brachytherapy sources manufactured to contain radium, are capable of detecting the presence of 185 Bq (0.005 μ Ci) of radioactive material on a test sample. The person conducting the test shall take test samples from the sealed source or from the surfaces of the container in which the sealed source is stored or mounted on which contamination could accumulate. For a sealed source contained in a device, the person conducting the test shall obtain test samples when the source is in the "off" position.
 6. The test for leakage from brachytherapy sources containing radium is capable of detecting an absolute leakage rate of 37 Bq (0.001 μ Ci) of Radon-222 in a 24-hour period when the collection efficiency for Radon-222 and its daughters has been determined with respect to collection method, volume, and time.
 7. Tests for contamination from radium daughters are taken on the interior surface of brachytherapy source storage containers and are capable of detecting the presence of 185 Bq (0.005 μ Ci) of a radium daughter which has a half-life greater than four days.
- B. A licensee need not perform tests for leakage or contamination on the following sealed sources:
 1. Sealed sources containing only radioactive material with a half-life of less than 30 days;
 2. Sealed sources containing only radioactive material as a gas;
 3. Sealed sources containing 3.7 MBq (100 μ Ci) or less of beta or photon-emitting material or 370 kBq (10 μ Ci) or less of alpha-emitting material;
 4. Sealed sources containing only Hydrogen-3;
 5. Seeds of Iridium-192 encased in nylon ribbon; and
 6. Sealed sources, except teletherapy and brachytherapy sources, which are stored, not being used, and identified as in storage. The licensee shall test each sealed source

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for leakage or contamination and receive the test results before any use or transfer unless it has been tested for leakage or contamination within six months before the date of use or transfer.

- C. Persons specifically authorized by the Department, an Agreement State, a Licensing State, or the U.S. Nuclear Regulatory Commission shall perform tests for leakage or contamination from sealed sources.
- D. A licensee shall maintain for Department inspection test results in units of becquerel or microcurie.
- E. The following is considered evidence that a sealed source is leaking:
 1. The presence of 185 Bq (0.005 μ Ci) or more of removable contamination on any test sample.
 2. Leakage of 37 Bq (0.001 μ Ci) of Radon-222 per 24 hours for brachytherapy sources manufactured to contain radium.
 3. The presence of removable contamination resulting from the decay of 185 Bq (0.005 μ Ci) or more of radium.
- F. A licensee shall immediately withdraw a leaking sealed source from use and shall take action to prevent the spread of contamination. The leaking sealed source shall be repaired or disposed of in accordance with this Article.
- G. A licensee shall file a report with the Department within five days if the test for leakage or contamination indicates a sealed source is leaking or contaminated. The report shall include the equipment involved, the test results, and the corrective action taken.
- H. A licensee shall maintain records of the tests for leakage required in subsection (A) for three years after the records are made.

Historical Note

New Section R9-7-417 recodified from R12-1-417, at 24

A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-418. Surveys and Monitoring

- A. Each licensee or registrant shall make, or cause to be made, surveys if surveys are:
 1. Necessary for the licensee or registrant to comply with Article 4, and
 2. Reasonable under the circumstances to evaluate:
 - a. The magnitude and extent of radiation levels, and
 - b. Concentrations or quantities of residual radioactivity, and
 - c. The potential radiological hazards of the radiation levels and residual radioactivity detected.
- B. All personnel dosimeters, except for direct and indirect reading pocket ionization chambers and those dosimeters used to measure the dose to any extremity, that require processing to determine the radiation dose and that are used by licensees and registrants to comply with R9-7-408, with other applicable provisions of these rules, or with conditions specified in a license or registration shall be processed and evaluated by a dosimetry processor:
 1. Holding current personnel dosimetry accreditation from the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute of Standards and Technology, according to NVLAP procedures published March 1994 as NIST Handbook 150, and NIST Handbook 150-4, published August 1994, which is incorporated by reference, published by the U.S. Government Printing Office, Washington D.C. 20402-9325, and on file with the Department. The material incorporated by reference contains no future editions or amendments;

2. Approved in this accreditation process for the type of radiation or radiations included in the NVLAP program that most closely approximates the type of radiation or radiations for which the individual wearing the dosimeter is monitored; and
3. Film badges must be replaced at periods not to exceed one month; other personnel dosimeters processed and evaluated by an accredited NVLAP processor must be replaced at periods not to exceed three months.

- C. The licensee or registrant shall ensure that adequate precautions are taken to prevent a deceptive exposure of an individual monitoring device and that personnel monitoring devices are issued to, and used by only the individual to whom the monitoring device has been first issued during any reporting period.
- D. A licensee shall ensure that survey instruments and personnel dosimeters that are used to make quantitative measurements are calibrated in accordance with R9-7-449.
- E. Records.
 1. Each licensee or registrant shall maintain records showing the results of surveys required by this Section and R9-7-433(B). The licensee or registrant shall retain these records for three years after the record is made.
 2. The licensee or registrant shall retain each of the following records for three years after the Department terminates the license or registration:
 - a. Records of the survey results used to determine the dose from external sources of radiation, in the absence of or in combination with individual monitoring data, and provide an assessment of individual dose equivalents;
 - b. Records of the results of measurements and calculations used to determine individual intakes of radioactive material and to assess an internal dose;
 - c. Records showing the results of air sampling, surveys, and bioassays required according to R9-7-425(A)(3)(a) and (b);
 - d. Records of the measurement and calculation results used to evaluate the release of radioactive effluents to the environment; and
 - e. Notwithstanding subsection (A) of this part, records from surveys describing the location and amount of subsurface residual radioactivity identified at the site must be kept with records important for decommissioning, and such records must be retained in accordance with R9-7-323, as applicable.

Historical Note

New Section R9-7-418 recodified from R12-1-418, at 24

A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-419. Conditions Requiring Individual Monitoring of External and Internal Occupational Dose

- A. Each licensee or registrant shall monitor exposures from sources of radiation at levels sufficient to demonstrate compliance with the occupational dose limits of this Article.
- B. At minimum each licensee or registrant shall supply and require the use of individual monitoring devices by the following personnel:
 1. Adults likely to receive, in one year, an intake in excess of 10% of the applicable ALI in Table I, Columns 1 and 2, of Appendix B;
 2. Minors and declared pregnant women likely to receive, in one year, a committed effective dose equivalent in excess of 0.5 mSv (0.05 rem);

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3. Adults likely to receive, in one year from radiation sources external to the body, a dose in excess of 10 percent of the limits in R9-7-408(A);
 4. Minors likely to receive, in one year, from radiation sources external to the body, a deep dose equivalent in excess of 1 mSv (0.1 rem), a lens dose equivalent in excess of 1.5 mSv (0.15 rem), or a shallow dose equivalent to the skin or to the extremities in excess of 5 mSv (0.5 rem);
 5. Declared pregnant women likely to receive during the entire pregnancy, from radiation sources external to the body, a deep dose equivalent in excess of 1 mSv (0.1 rem) (Note: All of the occupational doses in R9-7-408 continue to be applicable to the declared pregnant worker as long as the embryo/fetus dose limit is not exceeded.);
 6. Individuals entering a high or very high radiation area;
 7. Individuals operating mobile x-ray equipment as described in R9-7-608;
 8. Individuals holding animals for diagnostic x-ray procedures, as described in R9-7-613;
 9. Individuals servicing enclosed beam x-ray systems with bypassed interlocks, as described in R9-7-803;
 10. Individuals operating open beam fluoroscopic systems and ancillary personnel working in the room when the fluoroscopic system is in use, except when relieved of this requirement by registration condition;
 11. Individuals performing well logging, as described in Article 17;
 12. Individuals, wearing a finger or wrist individual monitoring device, during the operation of an open-beam or hand held analytical x-ray system or equipment with no safety devices as described in R9-7-806(C) and (F); and
 13. Individuals, wearing a finger or wrist individual monitoring device, performing repairs that require the presence of a primary beam of the analytical x-ray system or equipment, as described in R9-7-806(C) and (F).
- C.** Each licensee shall monitor the occupational intake of radioactive material by and assess the committed effective dose equivalent to:
1. Adults likely to receive, in one year, an intake in excess of 10 percent of the applicable ALI in Table 1, Columns 1 and 2, of Appendix B;
 2. Minors likely to receive, in one year, a committed effective dose equivalent in excess of 1 mSv (0.1 rem); and
 3. Declared pregnant women likely to receive, during the entire pregnancy, a committed effective dose equivalent in excess of 1 mSv (0.1 rem).
- D.** Each licensee or registrant shall require that all individual monitoring devices be located on individuals according to the following requirements:
1. An individual monitoring device, used to obtain the dose equivalent to an embryo or fetus of a declared pregnant woman according to R9-7-415, shall be located under the protective apron at the waist. A qualified expert shall be consulted to determine the dose equivalent to the embryo or fetus if this individual monitoring device has a monthly reported dose equivalent value that exceeds 0.5 millisieverts (50 millirem). For purposes of this subsection, the value for determining the dose equivalent to an embryo or fetus under R9-7-415(C), for occupational exposure to radiation from medical fluoroscopic equipment, is the value reported by the individual monitoring device worn at the waist underneath the protective apron, which has been corrected for the particular individual and the work environment by a qualified expert.
 2. An individual monitoring device used for lens dose equivalent shall be located at the neck or an unshielded location closer to the eye, outside the protective apron.
 3. If only one individual monitoring device is used to determine the effective dose equivalent for external radiation, according to R9-7-408(C)(2)(a), the device shall be located at the neck outside the protective apron. If a second individual monitoring device is used for the same purpose, it shall be located under the protective apron at the waist. A second individual monitoring device is required for a declared pregnant woman.
 4. An individual, wearing an extremity personnel monitoring device, during the operation of an open-beam or hand-held analytical x-ray system with no safety devices or an individual performing repairs in the presence of a primary beam of the analytical x-ray system or equipment, as described in R9-7-806(C) and (F), shall wear the device on the individual's finger or wrist.
- E. Records.**
1. Each licensee or registrant shall maintain records of doses received by all individuals for whom monitoring is required according to this Section, and records of doses received during planned special exposures, accidents, and emergency conditions. Assessments of dose equivalent and records made using units in effect before January 1, 1994, need not be changed. These records shall include, when applicable:
 - a. The deep-dose equivalent to the whole body, lens dose equivalent, shallow-dose equivalent to the skin, and shallow-dose equivalent to the extremities;
 - b. The estimated intake of radionuclides;
 - c. The committed effective dose equivalent assigned to the intake of radionuclides;
 - d. The specific information used to assess the committed effective dose equivalent according to R9-7-411(A) and (C), and when required R9-7-419;
 - e. The total effective dose equivalent when required by R9-7-409; and
 - f. The total of the deep-dose equivalent and the committed dose to the organ receiving the highest total dose;
 2. The licensee or registrant shall make entries of the records specified in subsection (D)(1), at intervals not to exceed one year;
 3. The licensee or registrant shall maintain at the inspection site the records specified in subsection (D)(1) in a clear and legible method that contains all the information required by this subsection;
 4. The licensee or registrant shall maintain the records of dose to an embryo or fetus with the records of dose to the declared pregnant woman. The declaration of pregnancy, including the estimated date of conception, shall also be kept on file but may be maintained separately from the dose records; and
 5. The licensee or registrant shall retain each required form or record for three years after the Department terminates each pertinent license or registration requiring the record.

Historical Note

New Section R9-7-419 recodified from R12-1-419, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-420. Control of Access to High Radiation Areas

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- A. A licensee or registrant shall ensure that each entrance or access point to a high radiation area has one or more of the following features:
 - 1. A control device that, upon entry into the area, causes the level of radiation to be reduced below the level at which an individual might receive a deep-dose equivalent of 1 mSv (0.1 rem) in one hour at 30 centimeters from the source from any surface that the radiation penetrates;
 - 2. A control device that energizes a conspicuous visible or audible alarm signal so that the individual entering the high radiation area and the supervisor of the activity are made aware of the entry; or
 - 3. Entryways that are locked, except during periods when access to the areas is required, with positive control over each individual entity.
- B. In place of the controls required by subsection (A) for a high radiation area, the licensee or registrant may substitute continuous direct or electronic surveillance that is capable of preventing unauthorized entry.
- C. The licensee or registrant may apply to the Department for approval of alternative methods for controlling access to high radiation areas.
- D. The licensee or registrant shall establish the controls required by subsections (A) and (C) in a way that does not prevent individuals from leaving a high radiation area.
- E. The licensee or registrant is not required to control each entrance or access point to a room or other area that is a high radiation area solely because of the presence of radioactive materials prepared for transport and packaged and labeled in accordance with the regulations of the U.S. Department of Transportation, provided that:
 - 1. The packages do not remain in the area longer than three days, and
 - 2. The dose rate at 1 meter from the external surface of any package does not exceed 0.1 mSv (0.01 rem) per hour.
- F. The licensee or registrant is not required to control entrance or access to rooms or other areas in hospitals solely because of the presence of patients containing radioactive material, provided that there are personnel in attendance who are taking the necessary precautions to prevent the exposure of individuals to radiation or radioactive material in excess of the established limits in Article 4 and operate in accordance with R9-7-407(B) and the provisions of the licensee's or registrant's radiation protection program.
- G. The registrant is not required to control entrance or access to rooms or other areas containing sources of radiation capable of producing a high radiation area if the registrant has met all the specific requirements for access and control specified in other applicable Articles, such as Article 5 for industrial radiography, Article 6 for x-rays in the healing arts, and Article 9 for particle accelerators.

Historical Note

New Section R9-7-420 recodified from R12-1-420, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-421. Control of Access to Very-high Radiation Areas

- A. In addition to the requirements in R9-7-420, a licensee or registrant shall institute measures to ensure that an individual is not able to gain unauthorized or inadvertent access to areas in which radiation levels could be encountered at 5 Gy (500 rad) or more in one hour at 1 meter from a source or from any surface that the radiation penetrates. This requirement does not apply to rooms or areas in which diagnostic x-ray systems are the only source of radiation or non-self-shielded irradiators.
- B. The registrant is not required to control entrance or access to rooms or other areas containing sources of radiation capable of

producing a very high radiation area, described in subsection (A), if the registrant has met all requirements for access and control specified in other applicable Articles, such as Article 5 for industrial radiography, Article 6 for x-rays in the healing arts, and Article 9 for particle accelerators.

- C. Each licensee or registrant shall maintain records of tests made according to R9-7-422(B)(9) on entry control devices for very-high radiation areas. These records shall include the date, time, and results of each test of function.
- D. The licensee or registrant shall retain the records required by this Section for three years after the record is made.

Historical Note

New Section R9-7-421 recodified from R12-1-421, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-422. Control of Access to Irradiators (Very-high Radiation Areas)

- A. This Section applies to licensees or registrants with sources of radiation in non-self-shielded irradiators. This Section does not apply to sources of radiation that are used in teletherapy, industrial radiography, or completely self-shielded irradiators in which the source of radiation is both stored and operated within the same shielding radiation barrier and, in the designed configuration of the irradiator, is always physically inaccessible to any individual and cannot create high levels of radiation in an area that is accessible to any individual.
- B. A licensee or registrant shall ensure that each area in which radiation levels may exceed 5 Gy (500 rad) in one hour at 1 meter from a source that is used to irradiate materials meets the following requirements:
 - 1. Each entrance or access point shall be equipped with entry control devices that:
 - a. Function automatically to prevent any individual from inadvertently entering a very high radiation area;
 - b. Permit deliberate entry into the area only after a control device is actuated that causes the radiation level within the area, from the source of radiation, to be reduced below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of 1 mSv (0.1 rem) in one hour; and
 - c. Prevent operation of the source of radiation if it would produce radiation levels in the area that could result in a deep-dose equivalent to an individual in excess of 1 mSv (0.1 rem) in one hour.
 - 2. If the control devices required in subsection (B)(1) fail to function, additional control devices shall be provided so that:
 - a. The radiation level within the area, from the source of radiation, is reduced below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of 1 mSv (0.1 rem) in one hour; and
 - b. Conspicuous visible and audible alarm signals are generated so that an individual entering the area is aware of the hazard. The individual who enters the very-high radiation area after an alarm signals shall be familiar with the process and equipment. Before entering, the individual shall ensure that a second individual is present and aware of the first person's actions.
 - 3. The licensee or registrant shall provide control devices so that, upon failure or removal of physical radiation barriers other than the sealed source's shielded storage container:

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- a. The radiation level from the source of radiation is reduced below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of 1 mSv (0.1 rem) in one hour, and
 - b. Conspicuous visible and audible alarm signals are generated so that potentially affected individuals are aware of the hazard. Potentially affected individuals shall notify the licensee or registrant of the failure or removal of the physical barriers.
4. When the shield for stored sealed sources is a liquid, the licensee or registrant shall provide means to monitor the integrity of the shield and to signal, automatically, loss of adequate shielding.
 5. Physical radiation barriers that comprise permanent structural components, such as walls, that have no credible probability of failure or removal in ordinary circumstances need not meet the requirements of subsections (B)(3) and (4).
 6. The licensee or registrant shall equip each area with devices that will automatically generate conspicuous visible and audible alarm signals to alert personnel in the area before the source of radiation can be put into operation and in time for any individual in the area to operate a clearly identified control device, installed in the area, and which can prevent the source of radiation from being put into operation.
 7. The licensee or registrant shall control each area by use of administrative procedures and devices necessary to ensure that the area is cleared of personnel before each use of the source of radiation.
 8. The licensee or registrant shall check each area by radiation measurement to ensure that, before the first individual's entry into the area after any use of the source of radiation, the radiation level from the source of radiation in the area will not expose an individual to a deep-dose equivalent in excess of 1 millisievert (0.1 rem) in one hour.
 9. The licensee or registrant shall test the entry control devices required in subsection (B)(1) for proper functioning and keep records according to R9-7-421.
 - a. Testing shall be conducted before initial operation with the source of radiation on any day, unless operations were continued uninterrupted from the previous day;
 - b. Testing shall be conducted before resumption of operation of the source of radiation after any unintentional interruption;
 - c. The licensee or registrant shall submit to the Department a schedule of testing; and
 - d. The licensee or registrant shall include in the schedule a listing of the periodic testing that will be followed.
 10. The licensee or registrant shall not conduct operations, other than those necessary to place the source of radiation in a safe condition or effect repairs on controls, unless control devices are functioning properly.
 11. The licensee or registrant shall control entry and exit portals that are used in transporting materials to and from the irradiation area, and that are not intended for use by personnel, with devices and administrative procedures necessary to physically protect and warn against inadvertent entry by an individual through one of the portals. Exit portals for irradiated materials shall be equipped to detect and signal the presence of any uncontained radioactive material that is carried toward an exit and automatically prevent contained radioactive material from being carried out of the area.
- C. A licensee, registrant, or applicant seeking a license or registration for a source of radiation within the purview of subsection (B) that will be used in a variety of positions or in locations, such as open fields or forests, that make it impractical to comply with certain requirements of subsection (B) may apply to the Department for approval of alternative safety measures. Alternative safety measures shall provide personnel protection at least equivalent to that specified in subsection (B). At least one of the alternative measures shall be an entry-preventing interlock control, based on a measurement of the radiation that ensures the absence of high radiation levels before an individual can gain access to the area where the sources of radiation are used.
 - D. A licensee or registrant shall provide the entry control devices required by subsections (B) and (C) in such a way that no individual will be prevented from leaving the area.
 - E. Records.
 1. Each licensee or registrant shall maintain records of tests made according to subsection (B)(9) on entry control devices for very-high radiation areas. These records shall include the date and results of each test of function.
 2. The licensee or registrant shall retain the records for three years from the date the record is made.

Historical Note

New Section R9-7-422 recodified from R12-1-422, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-423. Use of Process or Other Engineering Controls

A licensee shall use, to the extent practicable, process or other engineering controls, such as containment, decontamination, or ventilation, to control the concentration of radioactive material in air.

Historical Note

New Section R9-7-423 recodified from R12-1-423, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-424. Use of Other Controls

A. If it is not practical to apply process or other engineering controls to control concentrations of radioactive material in the air to values below those that define an airborne radioactivity area, the licensee shall, consistent with maintaining the total effective dose equivalent according to R9-7-407(B), increase monitoring and limit intakes by one or more of the following means:

1. Control access,
2. Limit exposure times,
3. Use respiratory protection equipment, or
4. Use other controls.

B. If the licensee performs an ALARA analysis to determine whether or not respirators should be used, the licensee may consider safety factors other than radiological factors. The licensee shall also consider the impact of respirator use on workers' industrial health and safety.

Historical Note

New Section R9-7-424 recodified from R12-1-424, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-425. Use of Individual Respiratory Protection Equipment

A. If a licensee assigns or permits the use of respiratory protection equipment to limit the intake of radioactive material,

1. Except as provided in subsection (A)(2), the licensee shall use only respiratory protection equipment that is tested and certified by the National Institute for Occupational Safety and Health (NIOSH).

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2. If the licensee wishes to use equipment that has not been tested or certified by NIOSH, or for which there is no schedule for testing or certification, the licensee shall submit an application to the Department and request authorization for use of this equipment, except as otherwise provided in this Section. The licensee shall provide evidence with the application that the material and performance characteristics of the equipment provide the asserted degree of protection under anticipated conditions of use. The licensee shall demonstrate the degree of protection by providing reliable test information.
3. The licensee shall implement and maintain a respiratory protection program that includes:
 - a. Air sampling sufficient to identify the potential hazard, permit proper equipment selection, and estimate doses;
 - b. Surveys and bioassays, as necessary, to evaluate actual intakes;
 - c. Testing of respirators for operability (user seal check for face sealing devices and functional check for other devices) immediately before each use;
 - d. Written procedures regarding:
 - i. Monitoring, including air sampling and bioassays;
 - ii. Supervision and training of respirator users;
 - iii. Fit testing;
 - iv. Respirator selection;
 - v. Breathing air quality;
 - vi. Inventory and control;
 - vii. Storage, issuance, maintenance, repair, testing, and quality assurance of respiratory protection equipment;
 - viii. Recordkeeping; and
 - ix. Limitations on periods of respirator use and relief from respirator use;
 - e. Determination by a physician that each individual user is able to use respiratory protection equipment:
 - i. Before the initial fitting of a face-sealing respirator;
 - ii. Before the first field use of a non-face-sealing respirator, and
 - iii. Every 12 months after initial fitting or first use, or periodically at a frequency determined by a physician; and
 - f. Fit testing, with a fit factor ≥ 10 times the APF for a negative pressure device and a fit factor ≥ 500 for any positive pressure, continuous flow, and pressure-demand device, before the first field use of tight-fitting, face-sealing respirators and periodically after first use at least yearly. The licensee shall perform fit testing with the face piece operating in the negative pressure mode.
4. The licensee shall advise each respirator user that the user may leave the area at any time for relief from respirator use, in the event of equipment malfunction, physical or psychological distress, procedural or communication failure, significant deterioration of operating conditions, or any other condition that might require relief.
5. The licensee shall consider manufacturer limitations regarding respirator type and mode of use. When selecting a respiratory device, the licensee shall provide for vision correction, adequate communication, low temperature work environments, and the concurrent use of other safety or radiological protection equipment. The licensee shall use equipment in a manner that does not interfere with the proper operation of the respirator.
6. The licensee shall provide standby rescue persons whenever one-piece atmosphere-supplying suits, or any combination of supplied air respiratory protection device and personnel protective equipment are used from which an unaided individual would have difficulty extricating himself or herself. The licensee shall equip standby rescue persons with respiratory protection devices or other apparatus designed for potential hazards and anticipated conditions of use. The standby rescue persons shall observe or otherwise maintain continuous communication with the workers (visual, voice, signal line, telephone, radio, or other suitable means), and be immediately available to assist them in case of a failure of the air supply or for any other reason that requires relief from distress. The licensee shall provide at least one standby rescue person for every five workers, who is immediately available to assist any worker using this type of equipment and provide effective emergency rescue if needed.
7. The licensee shall supply atmosphere-supplying respirators with respirable air of grade D quality or better as defined by the Compressed Gas Association in publication G-7.1, "Commodity Specification for Air," 1997 and included in the regulations of OSHA (29 CFR 1910.134(i)(1)(ii)(A) through (E), July 1, 2003, incorporated by reference and on file with the Department, containing no future editions or amendments). Grade D quality air criteria include:
 - a. Oxygen content (v/v) of 19.5-23.5%;
 - b. Hydrocarbon (condensed) content of 5 milligrams per cubic meter of air or less;
 - c. Carbon monoxide (CO) content of 10 ppm or less;
 - d. Carbon dioxide content of 1,000 ppm or less; and
 - e. Lack of noticeable odor.
8. The licensee shall ensure that no objects, materials, or substances, such as facial hair, or any conditions that interfere with the face-to-face piece seal or valve function, and that are under the control of the respirator wearer, are present between the skin of the wearer's face and the sealing surface of a tight-fitting respirator face piece.
9. In estimating the dose to individuals from intake of airborne radioactive materials, the licensee shall use the concentration of radioactive material in the air that is inhaled when respirators are worn, which is determined by dividing the ambient concentration in air without respiratory protection by the assigned protection factor. If the dose is later found to be greater than the estimated dose, the licensee shall modify the calculation using the corrected value. If the dose is later found to be less than the estimated dose, the licensee may modify the calculation using the corrected value.
- B. The licensee shall use Appendix A to select equipment and associated assigned protection factors.
- C. A licensee shall apply to the Department for authorization to use assigned protection factors in excess of those specified in Appendix A. To apply for authorization the licensee shall:
 1. State the reason for the higher protection factors; and
 2. Demonstrate that the requested respiratory protective equipment provides the higher protection factors under the proposed conditions of use.
- D. The licensee shall notify the Department in writing at least 30 days before the date that respiratory protective equipment is first used according to subsection (A) or (C).

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Historical Note

New Section R9-7-425 recodified from R12-1-425, at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-426. Security of Stored Sources of Radiation

A licensee or registrant shall secure from unauthorized removal or access licensed or registered sources of radiation that are stored in unrestricted areas.

Historical Note

New Section R9-7-426 recodified from R12-1-426, at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-427. Control of Sources of Radiation Not in Storage

- A. A licensee shall control and maintain constant surveillance of licensed radioactive material that is in an unrestricted area and is not in storage or in a patient.
- B. A registrant shall maintain control of radiation machines that are in an unrestricted area and not in storage.

Historical Note

New Section R9-7-427 recodified from R12-1-427, at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-428. Caution Signs

- A. Unless otherwise authorized by the Department, a licensee or registrant shall use the symbol prescribed by this Section with the colors magenta, or purple, or black on yellow background as the standard radiation symbol. The symbol prescribed is the three-bladed design as follows:

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1. Cross-hatched area is to be magenta, purple, or black; and
2. The background is to be yellow.



- B. Notwithstanding the requirements of subsection (A), licensees or registrants are authorized to label sources of radiation, source holders, or device components containing sources of radiation that are subjected to high temperatures, with conspicuously etched or stamped radiation caution symbols that lack the color scheme required in subsection A.
- C. In addition to the contents of signs and labels prescribed in this Article, the licensee or registrant shall provide, on or near the required signs and labels, additional information to make individuals aware of potential radiation exposures and to minimize the exposures.

Historical Note

New Section R9-7-428 recodified from R12-1-428, at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-429. Posting

- A. A licensee or registrant shall post each radiation area with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, RADIATION AREA."
- B. The licensee or registrant shall post each high radiation area with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, HIGH RADIATION AREA" or "DANGER, HIGH RADIATION AREA."
- C. The licensee or registrant shall post each very-high radiation area with a conspicuous sign or signs bearing the radiation

symbol and the words "GRAVE DANGER, VERY HIGH RADIATION AREA."

- D. The licensee shall post each airborne radioactivity area with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, AIRBORNE RADIOACTIVITY AREA" or "DANGER, AIRBORNE RADIOACTIVITY AREA."
- E. The licensee shall post each area or room in which there is used or stored an amount of licensed material exceeding 10 times the quantity of licensed material specified in Appendix C with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL(S)" or "DANGER, RADIOACTIVE MATERIAL(S)."

Historical Note

New Section R9-7-429 recodified from R12-1-429, at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-430. Exceptions to Posting Requirements

- A. A licensee or registrant is not required to post caution signs in areas or rooms containing sources of radiation for periods of less than eight hours, if each of the following conditions is met:
 1. The sources of radiation are constantly attended during these periods by an individual who takes precautions necessary to prevent exposure of individuals to sources of radiation in excess of limits established in this Article; and
 2. The area or room is subject to the licensee's or registrant's control.
- B. A licensee or registrant is not required to post a caution sign in a room or other area in a hospital that is occupied by an individual who has been administered radioactive material, if the individual meets the criteria for release in R9-7-719.
- C. A licensee or registrant is not required to post a caution sign in a room or area because of the presence of a sealed source, provided the radiation level at 30 centimeters from the surface of the sealed source container or housing does not exceed 0.05 mSv (0.005 rem) per hour.
- D. A hospital or clinic licensee is exempt from the posting requirements in R9-7-429 for a teletherapy room if:
 1. Access to the room is controlled according to R9-7-731; and
 2. Personnel in attendance take necessary precautions to prevent the inadvertent exposure of workers, other patients, and members of the public to radiation that exceeds the limits established in this Chapter.
- E. A registrant is not required to post a caution sign in a room or area because of the presence of radiation machines used solely for diagnosis in the healing arts.

Historical Note

New Section R9-7-430 recodified from R12-1-430, at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-431. Labeling Containers and Radiation Machines

- A. A licensee shall ensure that each container of licensed material is labeled with a durable, clearly visible radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL." The label shall also provide information, such as the radionuclides present, an estimate of the quantity of radioactivity, the date for which the radioactivity is estimated, radiation level, kind of material, and mass enrichment, to permit an individual handling or using a container, or working in the vicinity of a container, to take precautions to avoid or minimize exposure.
- B. Before removal or disposal of an empty, uncontaminated container to an unrestricted area, each licensee shall remove or deface the radioactive material label or otherwise clearly indi-

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cate that the container no longer contains radioactive materials.

- C. Each registrant shall ensure that each radiation machine is labeled in a conspicuous manner to caution an individual that radiation is produced when it is energized.
- D. A licensee shall label each syringe and vial that contains a radiopharmaceutical used in the practice of medicine with the radiopharmaceutical content. Each syringe shield and vial shield shall be labeled, unless the label on the syringe or vial is visible when shielded. The label shall contain the radiopharmaceutical name or its abbreviation, the clinical procedure to be performed, or the name of the person being administered the radiopharmaceutical. Color-coding syringe shields and vial shields does not meet the labeling requirement.

Historical Note

New Section R9-7-431 recodified from R12-1-431, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-432. Labeling Exemptions

A licensee is not required to label:

1. Containers holding licensed material in quantities less than the quantities listed in Appendix C;
2. Containers holding licensed material in concentrations less than those specified in Table III of Appendix B;
3. Containers attended by an individual who takes precautions necessary to prevent exposure of individuals to radiation in excess of the limits established in this Article;
4. Containers holding radioactive material that do not exceed the limits for excepted quantity or article as defined and limited in 49 CFR 173.403, and 173.421 through 173.424, and are transported, packaged, and labeled in accordance with 49 CFR 172.436 through 172.440 (Revised October 1, 2007, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.);
5. Containers that are accessible only to individuals authorized to handle, use, or work in the vicinity of the containers, if the contents are identified to these individuals by a readily available written record, retained as long as the container is in use for the purpose indicated on the record. (Examples of containers of this type are containers in locations such as water-filled canals, storage vaults, or hot cells.); or
6. Installed manufacturing or process equipment, such as piping and tanks.

Historical Note

New Section R9-7-432 recodified from R12-1-432, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-433. Procedures for Receiving and Opening Packages

- A. Each licensee who expects to receive a package containing quantities of radioactive material in excess of a Type A quantity, as defined in 10 CFR 71.4, January 1, 2005, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. The material incorporated by reference contains no future editions or amendments. The licensee shall make arrangements to receive:
 1. The package when the carrier offers it for delivery; or
 2. The notification of the arrival of the package at the carrier's terminal and to take possession of the package expeditiously.
- B. Each licensee shall:
 1. Monitor the external surfaces of a package, labeled with a Radioactive White I, Yellow II, or Yellow III as specified

in 49 CFR 172.403 and 172.436 through 172.440, October 1, 2004, which are incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. The material incorporated by reference contains no future editions or amendments. The licensee shall test the package for radioactive contamination, unless the package contains only radioactive material in the form of gas or in special form, as defined in R9-7-102; and

2. Monitor the external surfaces of a package, labeled with a Radioactive White I, Yellow II, or Yellow III as specified in subsection (B)(1), for radiation levels unless the package contains quantities of radioactive material that are less than or equal to the Type A quantity, defined in 10 CFR 71, and referenced in subsection (A); and
 3. Monitor all packages known to contain radioactive material for radioactive contamination and radiation levels if there is evidence of degradation of package integrity, such as packages that are crushed, wet, or damaged.
- C. The licensee shall perform the monitoring required by subsection (B) as soon as practical after receipt of the package, but not later than three hours after the package is received at the licensee's facility if it is received during the licensee's normal working hours, or not later than three hours from the beginning of the next working day if it is received after working hours.
 - D. The licensee shall immediately notify by telephone the final delivery carrier and the Department at 480-202-4982:
 1. When:
 - a. Removable radioactive surface contamination exceeds 22 dpm/cm² for beta-gamma emitting radionuclides or 2.2 dpm/cm² for alpha-emitting radionuclides, wiping a minimum surface area of 300 square centimeters (46 square inches), or the entire surface if less than 300 square centimeters (46 square inches); or
 - b. External radiation levels exceed the limits of 2 millisieverts (200 millirem) per hour; and
 2. Include in the notification the following information:
 - a. The caller's name, official title, and call back telephone number;
 - b. The date and time of monitoring;
 - c. A description of how the limits in subsection (D)(1) were exceeded, including the amount of radiation detected;
 - d. The isotopes, quantities, and chemical and physical form of the licensed material in the package; and
 - e. Any personnel radiation exposure data available.
 - E. Each licensee shall:
 1. Establish, maintain, and retain written procedures for safely opening packages that contain radioactive material, and
 2. Ensure that the procedures are followed and that due consideration is given to special instructions for the type of package being opened.
 - F. Licensees transferring special form sources in vehicles owned or operated by the licensee to and from a work site are exempt from the contamination monitoring requirements of subsection (B) but are not exempt from the monitoring requirement in subsection (B) for measuring radiation levels that ensures that the source of radiation is still properly lodged in its shield.

Historical Note

New Section R9-7-433 recodified from R12-1-433, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-434. General Requirements for Waste Disposal

- A. A licensee shall dispose of licensed material only:
1. By transfer to an authorized recipient as provided in R9-7-439 or in Article 3, or to the U.S. Department of Energy;
 2. By decay in storage, according to R9-7-438(C);
 3. By release in effluents within the limits in R9-7-416; or
 4. As authorized according to R9-7-435, R9-7-436, R9-7-437, R9-7-438, or R9-7-438.01;
- B. To receive waste that contains licensed material from other persons, a person shall be specifically licensed for:
1. Treatment prior to disposal,
 2. Treatment or disposal by incineration,
 3. Decay in storage,
 4. Disposal at a land disposal facility licensed according to Article 3, or
 5. Storage until transferred to a storage or disposal facility authorized to receive the waste.

Historical Note

New Section R9-7-434 recodified from R12-1-434, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-435. Method for Obtaining Approval of Proposed Disposal Procedures

For disposal of licensed material generated in the licensee's operations, a licensee or applicant for a license may apply to the Department for approval of proposed disposal procedures, not otherwise authorized in this Chapter. Each application shall include:

1. A description of the waste containing licensed material to be disposed of, including the physical and chemical properties that have an impact on risk evaluation;
2. The proposed manner and conditions of waste disposal;
3. An analysis and evaluation of pertinent information on the nature of the environment;
4. The nature and location of other potentially affected facilities; and
5. An analysis and procedure to ensure that doses comply with R9-7-407(B), and are within the dose limits in this Article.

Historical Note

New Section R9-7-435 recodified from R12-1-435, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-436. Disposal by Release into Sanitary Sewerage System

- A. A licensee may discharge licensed material into sanitary sewerage if each of the following conditions is satisfied:
1. The material is readily soluble or is readily dispersible biological material, in water;
 2. The quantity of licensed radioactive material that the licensee releases into the sewer in one month divided by the average monthly volume of water released into the sewer by the licensee or registrant does not exceed the concentration listed in Appendix B, Table III; and
 3. If more than one radionuclide is released, the following conditions shall also be satisfied:
 - a. The licensee shall determine the fraction of the limit in Appendix B, Table III represented by discharges into sanitary sewerage by dividing the actual monthly average concentration of each radionuclide released by the licensee or registrant into the sewer

by the concentration of that radionuclide listed in Appendix B, Table III;

- b. The sum of the fractions for each radionuclide required by subsection (A)(3)(a) does not exceed unity; and
 - c. The total quantity of licensed radioactive material that the licensee releases into the sanitary sewerage in a year does not exceed 185 GBq (5 Ci) of Hydrogen-3, 37 GBq (1 Ci) of Carbon-14, and 37 GBq (1 Ci) of all other radioactive materials combined.
- B. Excreta from individuals undergoing medical diagnosis or therapy with radioactive material are not subject to the limitations contained in subsection (A).

Historical Note

New Section R9-7-436 recodified from R12-1-436, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-437. Treatment or Disposal by Incineration

A licensee shall treat or dispose of licensed material by incineration only in the amounts and forms specified in R9-7-438 or as specifically approved by the Department according to R9-7-435.

Historical Note

New Section R9-7-437 recodified from R12-1-437, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-438. Disposal of Specific Wastes

- A. A licensee may dispose of the following licensed material as if it were not radioactive:
1. 1.85 kBq (0.05 μ Ci), or less, of Hydrogen-3 or Carbon-14 per gram of medium used for liquid scintillation counting; and
 2. 1.85 kBq (0.05 μ Ci), or less, of Hydrogen-3 or Carbon-14 per gram of animal tissue, averaged over the weight of the entire animal.
 3. 1.85 kBq (0.05 μ Ci), or less, of Iodine-125 per gram of medium used in analyzing in vitro laboratory samples and associated sample holders contaminated during the laboratory procedure.
- B. A licensee shall not dispose of tissue, contaminated with radioactive material, according to subsection (A)(2) in a manner that would permit its use either as food for humans or as animal feed.
- C. A licensee may hold radioactive material with a physical half-life of less than or equal to 120 days for decay in storage before disposal without regard to its radioactivity, and is exempt from the requirements of R9-7-434, provided:
1. The licensee monitors the radioactive material at the surface before disposal and determines that its radioactivity cannot be distinguished from the background radiation level with an appropriate radiation detection survey meter set on its most sensitive scale and with no interposed shielding; and
 2. The licensee removes or obliterates all radiation labels, except for radiation labels on materials that are within containers and that will be managed as biomedical waste after they have been released from the licensee.
- D. The licensee shall maintain records in accordance with R9-7-441.

Historical Note

New Section R9-7-438 recodified from R12-1-438, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-438.01. Disposal of Certain Radioactive Material

- A. Licensed material as defined in the definition of radioactive material in R9-7-102 may be disposed of in accordance with this Article, even though it is not defined as low-level radioac-

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tive waste. Therefore, any licensed radioactive material being disposed of at a facility, or transferred for ultimate disposal at a facility licensed by the Department, must meet the requirements of R9-7-439.

- B.** A licensee may dispose of radioactive material, as defined in the definition of radioactive material in R9-7-102, at a disposal facility authorized to dispose of such material in accordance with any federal or state solid or hazardous waste law, including the Solid Waste Disposal Act, as authorized under the Energy Policy Act of 2005.

Historical Note

New Section R9-7-438.01 recodified from R12-1-438.01, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-439. Transfer for Disposal and Manifests

- A.** Any licensee shipping radioactive waste intended for ultimate disposal at a licensed land disposal facility (for purposes of this rule "land disposal facility" means the land, buildings, structures, and equipment that are intended to be used for the disposal of radioactive waste. A geologic repository is not a land disposal facility) shall comply with 10 CFR 20.2006 and 10 CFR 20 Appendix G, published January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- B.** An authorized representative of the waste generator shall provide the certification required in 10 CFR 20, Appendix G, Section II, which is incorporated by reference in subsection (A).

Historical Note

New Section R9-7-439 recodified from R12-1-439, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-440. Compliance with Environmental and Health Protection Regulations

Nothing in R9-7-434, R9-7-435, R9-7-436, R9-7-437, R9-7-438, or R9-7-439 relieves the licensee from complying with other applicable federal, state, and local rules or regulations governing any other toxic or hazardous properties of materials that may be disposed of according to the rules listed in Article 4 of this Chapter.

Historical Note

New Section R9-7-440 recodified from R12-1-440, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-441. Records of Waste Disposal

- A.** Each licensee shall maintain records of the disposal of licensed materials made in accordance with R9-7-435, R9-7-436, R9-7-437, R9-7-438, and disposal by burial in soil, including burials authorized before February 25, 1985.
- B.** The licensee shall retain the records required by subsection (A) until the Department terminates each pertinent license requiring the record. The licensee shall provide for the disposition of these records prior to license termination.

Historical Note

New Section R9-7-441 recodified from R12-1-441, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-442. Department Inspection of Shipments of Waste

Each shipment of waste to a disposal facility, licensed under R9-7-1302(D)(11), is subject to inspection by the Department before shipment or transportation. The waste shipper shall notify the Department not less than five working days before the scheduled shipment or transportation of waste to a licensed disposal facility.

Historical Note

New Section R9-7-442 recodified from R12-1-442, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-443. Reports of Stolen, Lost, or Missing Licensed or Registered Sources of Radiation

- A.** Each licensee or registrant shall report to the Department by telephone, as specified in R9-7-448(C), as follows:
1. Immediately after it becomes known to the licensee that licensed radioactive material in an aggregate quantity equal to or greater than 1,000 times the quantity specified in Appendix C is stolen, lost, or missing under circumstances that indicate to the licensee that an exposure could result to individuals in unrestricted areas;
 2. Within 30 days after it becomes known to the licensee that licensed radioactive material in an aggregate quantity greater than 10 times the quantity specified in Appendix C is stolen, lost, or missing, and is still missing; and
 3. Immediately after it becomes known to the registrant that a radiation machine is stolen, lost, or missing.
- B.** Each licensee or registrant required to make a report according to subsection (A) shall, within 30 days after making the telephone report, make a written report to the Department that contains the following information:
1. A description of the licensed or registered source of radiation involved, including, for radioactive material, the kind, quantity, and chemical and physical form; and, for radiation machines, the manufacturer, model, serial number, type, and maximum energy of radiation emitted;
 2. A description of the circumstances under which the loss or theft occurred;
 3. A statement of disposition, or probable disposition, of the licensed or registered source of radiation;
 4. Exposures of individuals to radiation, circumstances under which the exposures occurred, and the possible total effective dose equivalent to persons in unrestricted areas;
 5. Actions that have been taken, or will be taken, to recover the source of radiation; and
 6. Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed or registered sources of radiation.
- C.** After filing the written report required in subsection (B), the licensee or registrant shall also report additional substantive information on the loss or theft within 30 days after the licensee or registrant learns of the information.
- D.** The licensee or registrant shall provide the Department with the names of individuals who may have received an exposure to radiation as a result of an incident reported to the Department under subsection (B).

Historical Note

New Section R9-7-443 recodified from R12-1-443, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-444. Reports of Exposures, Radiation Levels, and Concentrations of Radioactive Material Exceeding the Limits

- A.** In addition to the notification required by R9-7-445, each licensee or registrant shall submit a written report within 30 days after learning of any of the following:
1. Incidents for which notification is required by R9-7-445;
 2. Doses in excess of any of the following:
 - a. The occupational dose limits for adults in R9-7-408;

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- b. The occupational dose limits for a minor in R9-7-414;
 - c. The limits for an embryo or fetus of a declared pregnant woman in R9-7-415;
 - d. The limits for an individual member of the public in R9-7-416;
 - e. Any applicable limit in the license or registration; or
 - f. The ALARA limit on air emissions in R9-7-407;
3. Levels of radiation or concentrations of radioactive material in:
- a. A restricted area in excess of applicable limits in the license or registration, or
 - b. An unrestricted area in excess of 10 times the applicable limit in this Article or in the license or registration, whether or not this involves an exposure of any individual to a dose in excess of the limits in R9-7-416;
4. Radiation levels or concentrations of radioactive material in excess of the standards in 40 CFR 190, 2003 edition, published July 1, 2003, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408 which is incorporated by reference and on file with the Department, if the licensee is subject to these federal standards, or there is a license condition referencing the 40 CFR 190 standards. This incorporation by reference contains no future editions or amendments.
- B. Contents of reports.**
- 1. Each report shall contain a description of each individual's exposure to radiation and radioactive material, including as applicable:
 - a. Estimates of each individual's dose;
 - b. The levels of radiation and concentrations of radioactive material involved;
 - c. The cause of the elevated exposures, dose rates, or concentrations; and
 - d. Corrective steps taken or planned to ensure against a recurrence, including the schedule for achieving conformance with applicable limits, generally applicable environmental standards, and associated license or registration conditions.
 - 2. Each report filed according to subsection (A) shall include for each occupationally overexposed individual: name, Social Security number, and date of birth. With respect to the limit for an embryo or fetus in R9-7-415, the identifiers in the report should be those of the declared pregnant woman. The report shall be prepared so that information regarding each overexposed individual is stated in a separate and detachable part of the report.
- C. All licensees or registrants who make reports according to subsection (A) shall submit the report in writing to the Department.**

Historical Note

New Section R9-7-444 recodified from R12-1-444, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-445. Notification of Incidents

- A. Immediate notification:** Each licensee or registrant shall immediately report to the Department, as specified in R9-7-448(C), any event involving a radiation source that may have caused or threatens to cause any of the following conditions:
- 1. An individual to receive:
 - a. A total effective dose equivalent of 0.25 Sv (25 rem) or more;

- b. A lens dose equivalent of 0.75 Sv (75 rem) or more; or
 - c. A shallow-dose equivalent to the skin or extremities of 2.5 Gy (250 rads) or more; or
2. The release of radioactive material, inside or outside of a restricted area but not including a location where personnel are not normally stationed during routine operations, such as a hot-cell or process enclosure, so if an individual had been present for 24 hours, the individual could have received five times the annual limit on intake.
- B. Twenty-four hour notification:** Each licensee or registrant shall, within 24 hours of discovery of the event, report to the Department, as specified in R9-7-448(C), any event involving loss of control of a radiation source possessed by the licensee or registrant that may have caused, or threatens to cause, any of the following conditions:
- 1. An individual to receive, in a period of 24 hours:
 - a. A total effective dose equivalent exceeding 0.05 Sv (5 rem);
 - b. A lens dose equivalent exceeding 0.15 Sv (15 rem); or
 - c. A shallow-dose equivalent to the skin or extremities exceeding 0.5 Gy (50 rads); or
 - 2. The release of radioactive material, inside or outside of a restricted area but not including a location where personnel are not normally stationed during routine operations, such as a hot-cell or process enclosure, so, if an individual had been present for 24 hours, the individual could have received an intake in excess of one occupational annual limit of intake.
- C. A licensee or registrant shall prepare any report filed with the Department according to this Section so that names of individuals who have received exposure to radiation or radioactive material are stated in a separate and detachable part of the report.**
- D. If the Department does not respond to the initial telephone call made according to subsection (A) or (B) and R9-7-448(C), the licensee or registrant shall report to the Department of Public Safety and continue with reasonable efforts to contact the Department Duty Officer until contact is made.**
- E. The provisions of this Section do not apply to a dose that results from a planned special exposure, if the dose is within the limits for planned special exposures and reported according to R9-7-413(C).**

Historical Note

New Section R9-7-445 recodified from R12-1-445, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-446. Notifications and Reports to Individuals

- A. Requirements for notification and reports to individuals of exposure to radiation or radioactive material are specified in R9-7-1004.**
- B. In addition to the reporting requirements in R9-7-444 and R9-7-445, each licensee or registrant shall notify the individual exposed to radiation or radioactive material. The notice to the exposed individual shall be provided no later than the date the report is submitted to the Department and shall comply with R9-7-1004(A).**

Historical Note

New Section R9-7-446 recodified from R12-1-446, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-447. Vacating Premises

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- A. If a facility has been used for activities involving radioactive material a licensee shall notify the Department in writing of the intent to vacate the facility no less than 45 days before relinquishing possession or control of the facility.
- B. If a facility is contaminated with radioactive material, a licensee vacating the facility shall decontaminate it using Department-approved procedures.
- C. The Department shall inspect a vacated facility to determine whether it is contaminated with radioactive material.

Historical Note

New Section R9-7-447 recodified from R12-1-447, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-448. Additional Reporting

- A. Each licensee shall notify the Department, according to subsection (C), as soon as possible, but not later than four hours after the discovery of an event, and take immediate protective actions necessary to avoid exposures to radiation or radioactive materials that could exceed the limits specified in this Chapter or releases of licensed material that could exceed the limits specified in this Chapter. For purposes of this Section, event means a radiation accident involving a fire, explosion, gas release, or similar occurrence.
- B. Each licensee shall notify the Department, according to subsection (C), within 24 hours after discovering any of the following events involving licensed material:
 - 1. A contamination event that:
 - a. Requires that anyone having access to the contaminated area be restricted for more than 24 hours by the imposition of additional radiological controls to prohibit entry into the area;
 - b. Involves a quantity of radioactive material greater than five times the lowest annual limit on intake specified in Appendix B of this Article; and
 - c. Results in access to the contaminated area being restricted for a reason other than to allow radionuclides with a half-life of less than 24 hours to decay prior to decontamination.
 - 2. An event in which equipment is disabled or fails to function as designed when:
 - a. The equipment is part of a system designed to prevent releases exceeding the limits specified in this Chapter, to prevent exposures to radiation and radioactive materials exceeding limits specified in this Chapter, or to mitigate the consequences of an accident;
 - b. The equipment performs a safety function; and
 - c. No redundant equipment is available and operable to perform the required safety function.
 - 3. An event that requires urgent medical treatment of an individual with radioactive contamination on the individual's clothing or body.
 - 4. A fire or explosion damaging any licensed material or any device, container, or equipment containing licensed material when:
 - a. The quantity of material involved is greater than five times the lowest annual limit on intake specified in Appendix B of this Article, and
 - b. The damage affects the integrity of the licensed material or its container.
- C. Each licensee shall make reports by telephone to the Department at 480-202-4982 and, to the extent that the information is available at the time of notification, include the following information:
 - 1. The caller's name, official title, and call back telephone number;
 - 2. A description of the event, including date and time;
 - 3. The exact location of the event;
 - 4. The isotopes, quantities, and chemical and physical form of the licensed material involved; and
 - 5. Any personnel radiation exposure data available.
- D. Each licensee who makes a report required by subsection (A) or (B) shall submit to the Department a written follow-up report within 30 days of the initial report. Written reports prepared as required by other rules may be submitted to fulfill this requirement if the reports contain all of the required information in this subsection. The report shall include the following:
 - 1. A description of the event, including the probable cause and the manufacturer and model number (if applicable) of any equipment that failed or malfunctioned;
 - 2. The exact location of the event;
 - 3. The isotopes, quantities, and chemical and physical form of the licensed material involved;
 - 4. Date and time of the event;
 - 5. Corrective actions taken or planned and the results of any evaluations or assessments; and
 - 6. The extent of personnel exposure to radiation or to radioactive materials without identification of each exposed individual by name.
- E. Each licensee that makes a report required by subsection (A) or (B) shall submit a written follow-up report to the Department within 30 days after the initial report.

Historical Note

New Section R9-7-448 recodified from R12-1-448, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2). Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-449. Survey Instruments and Pocket Dosimeters

- A. Each licensee or registrant shall ensure that survey instruments used to show compliance with this Article have been calibrated before first use, annually, and following repair, unless otherwise specified in this Chapter.
- B. To satisfy the requirements of subsection (A), the licensee or registrant shall:
 - 1. For each scale to be calibrated, calibrate two readings separated by at least 50 percent of scale rating; and
 - 2. Conspicuously note on the instrument the apparent radiation level, in appropriate units for the type of survey instrument being used and the date of calibration.
- C. Each licensee or registrant shall check each survey instrument for proper operation with the dedicated check source after calibration and before each use.
- D. The licensee or registrant shall retain a record of each calibration required in subsection (A) for three years. The record shall include:
 - 1. A description of the calibration procedure; and
 - 2. A description of the source used, the certified dose rates from the source, the rates indicated by the instrument being calibrated, the correction factors deduced from the calibration data, the signature of the individual who performed the calibration, and the date of calibration.
- E. To meet the requirements of subsections (A), (B), and (C), the licensee or registrant may obtain the services of persons licensed or registered by the Department, the NRC, an Agreement State, or a Licensing State to perform calibrations of survey instruments. Licensing records of the service person

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authorization shall be maintained for three years by the licensee or registrant obtaining the service.

- F. Each licensee or registrant shall ensure that pocket dosimeters used to show compliance with this Article:
1. Have been evaluated for proper operation annually and following repair, using a procedure acceptable to the Department, unless a more frequent evaluation is required by license condition (Unless the dosimeter is electronic, the evaluation of the dosimeter shall include a drift test over a 24-hour period.); and
 2. Meet the performance criteria listed in R9-7-523(C) and R9-7-1130(C).
- G. Records of personnel dosimeter operational checks shall be maintained for three years.

Historical Note

New Section R9-7-449 recodified from R12-1-449, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-450. Sealed Sources

- A. A licensee shall only receive, possess, and use radioactive materials contained in a sealed source that has been manufactured, labeled, packaged, and distributed in accordance with a specific license for its manufacture and distribution. The license to manufacture and distribute a sealed source shall be issued by the Department, the U.S. Nuclear Regulatory Commission, a Licensing State, or another Agreement State.
- B. A licensee who possesses and uses a sealed source, or any device or equipment that contains a sealed source, shall follow the radiation safety and handling instructions approved by the Department or follow the radiation safety and handling instructions furnished by the manufacturer on the label attached to the source, on the permanent container of the source, or in a leaflet or brochure that accompanies the source, and maintain the instructions in a legible and conveniently available form. If the handling instructions, leaflet, or brochure is no longer available and a copy cannot be obtained from the manufacturer, the licensee shall notify the Department that the source handling information is no longer available.
- C. Inventories:
1. An inventory shall be conducted at intervals not to exceed six months, unless a shorter interval is specified by license condition.
 2. The records of the inventory shall be maintained for three years from the date of the inventory, and shall be available for inspection by the Department.
 3. The information recorded shall include:
 - a. The kind and quantity of radioactive material,
 - b. The model and serial number of the source or the device in which it is mounted,
 - c. The location of the sealed source,
 - d. The date of the inventory, and
 - e. The signature of the person performing the inventory.
- D. Any licensee who possesses and uses sealed sources in the practice of medicine shall conduct a physical inventory according to the requirements in 9 A.A.C. 7, Article 7.
- E. Sealed sources, containing radioactive material, shall not be opened unless authorized by license condition.
- F. Sealed sources and machines, devices, or equipment containing sealed sources shall be used in accordance with procedures described in the manufacturer's instructions and the safety precautions described in the Nuclear Regulatory Commission Sealed Sources and Device Registry, unless the instructions or precautions conflict with these rules or license condition.

Historical Note

New Section R9-7-450 recodified from R12-1-450, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-451. Termination of a Radioactive Material License or a Licensed Activity

- A. As the final step before terminating a radioactive material use program licensed under R9-7-312, the licensee shall:
1. Certify to the Department the disposition of all licensed material, including accumulated wastes, by submitting a complete description of a disposal plan with signed receipts from all licensed persons receiving the licensed material; and
 2. Conduct a radiation survey of the premises where the licensed activities were carried out to demonstrate that the premises are suitable for release in accordance with the criteria for decommissioning in R9-7-452 and submit to the Department a report of the results of this survey, unless the licensee demonstrates in some other manner acceptable to the Department that the premises are suitable for release in accordance with the criteria for decommissioning in R9-7-452.
- B. Before terminating a licensed program, each licensee authorized to possess radioactive material with a half-life greater than 120 days, in any unsealed form, shall forward the following records to the Department:
1. Records of disposal of the licensed material required by R9-7-435, R9-7-436, R9-7-437, and R9-7-438; and
 2. Records required by R9-7-418.
- C. If a licensed activity is transferred or assigned in accordance with subsection (E), each licensee authorized to possess radioactive material with a half-life greater than 120 days, in any unsealed form, shall transfer the following records to the new licensee and the new licensee shall maintain these records until the license is terminated:
1. Records of disposal of licensed material required by R9-7-435, R9-7-436, R9-7-437, and R9-7-438; and
 2. Records required by R9-7-418.
- D. Before the Department terminates a license, each licensee shall forward the records required by subsection (E) to the Department.
- E. A person licensed under R9-7-312 shall maintain required records regarding decommissioning of a facility in a location identified on the license until the Department releases the site for unrestricted use. Before transfer or assignment of licensed activities, a licensee shall transfer all records required by this Section to the transferee. If records relating to facility decommissioning are kept for other purposes, the transferee shall refer to these records and provide their location on the transferee's application for a license. The transferee shall maintain the records until the Department terminates the transferee's new license. The new licensee shall maintain the following decommissioning records for Department review:
1. Records of spills or other occurrences involving the spread of contamination in and around the facility, equipment, or site. The licensee shall maintain a record of any instance when contamination remains after cleanup procedures or there is a reasonable likelihood that a contaminant has spread to an inaccessible area, as in the case of possible seepage into porous material such as concrete. These records shall include any known information that identifies any radionuclide involved and its quantity, form, and concentration.
 2. As-built drawings showing modifications of structures and equipment in restricted areas where radioactive materials are used or stored, and locations of possible inacces-

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sible contamination, such as buried pipes. If as-built drawings are referenced, the licensee need not index each relevant document individually. If drawings are not available, the licensee shall provide records with known information concerning these areas and locations, as prescribed in subsection (E)(1).

3. Except for areas that contain depleted uranium used only for shielding or as penetrators in unused munitions, a list, contained in a single document and updated every two years, of the following:
 - a. Any area designated or formerly designated as a restricted area as defined under R9-7-102;
 - b. Any area outside of a restricted area for which documentation is required under subsection (B)(1);
 - c. Any area outside of a restricted area where wastes have been buried;
 - d. Any area outside of a restricted area that contains regulated radioactive material that will require the licensee to either decontaminate the area for decommissioning under R9-7-452 or obtain disposal approval under R9-7-435; and
 - e. Any restricted area where wastes have been buried.
4. Records of the cost estimate performed for the decommissioning funding plan or the amount certified by the Department for decommissioning and the method for assuring funding, if either a funding plan or certification is used.

Historical Note

New Section R9-7-451 recodified from R12-1-451, at 24

A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R.

2151, effective July 12, 2018 (Supp. 18-3).

R9-7-452. Radiological Criteria for License Termination**A. General provisions and scope:**

1. The criteria in this Section apply to the decommissioning of facilities licensed under Article 3 of this Chapter. The criteria do not apply to uranium and thorium recovery facilities already subject to 10 CFR 40, Appendix A, or to uranium solution extraction facilities.
2. The criteria in this Section do not apply to sites that:
 - a. Have been decommissioned before the effective date of this Section; or
 - b. Have previously submitted and received Department approval of a license termination plan (LTP) or decommissioning plan.
3. If a site has been decommissioned and the license terminated in accordance with the criteria in this Section, the Department shall not require additional cleanup unless, based on new information, the Department determines that the criteria of this Section were not met and residual radioactivity at the site is a threat to public health and safety.
4. When calculating the TEDE for the average member of the critical group, a licensee shall use the peak annual dose expected within the first 1000 years after decommissioning.

B. Radiological criteria for unrestricted use. The Department considers a site acceptable for unrestricted use if the licensee reduces residual radioactivity, distinguishable from background radiation, to a TEDE for an average member of the critical group that does not exceed 0.15 mSv (15 mrem) per year, including radiation from groundwater sources of drinking water, and the residual radioactivity is as low as reasonably achievable (ALARA). To determine the level that is ALARA,

the Department and the licensee shall take into account any detriment, such as deaths from transportation accidents, that is likely to result from decontamination and waste disposal.

C. Criteria for license termination under restrictive conditions. The Department considers a site acceptable for license termination if the licensee meets all of the following restrictive conditions:

1. The licensee demonstrates that a reduction in residual radioactivity, necessary to comply with subsection (B), will result in net public or environmental harm or is not being made because the residual level of radioactivity is ALARA. To determine the level that is ALARA, the Department and the licensee shall take into account any detriment, such as deaths from transportation accidents, that is likely to result from decontamination and waste disposal;
2. The licensee establishes one or more legally enforceable institutional controls that reduce residual radioactivity, distinguishable from background radiation, to a TEDE for the average member of the critical group that does not exceed (0.15 mSv) 15 mrem per year, including radiation from groundwater sources of drinking water;
3. The licensee demonstrates financial assurance that complies with R9-7-323(C), which enables an independent third party, including a governmental custodian of the site, to assume and carry out responsibilities for control and maintenance of the site and funds placed into a trust segregated from the licensee's assets and outside the licensee's administrative control, and in which the adequacy of the trust funds is to be assessed based on an assumed annual 1 percent real rate of return on investment;
4. The licensee submits a decommissioning plan or License Termination Plan (LTP) to the Department, indicating the licensee's intent to decommission in accordance with R9-7-323 and specifying that the licensee intends to decommission by restricting use of the site. The licensee shall document in the LTP or decommissioning plan how comments from individuals and institutions in the community, who may be affected by the decommissioning, have been sought and addressed after analysis.
 - a. If a licensee is restricting use of the site, the licensee shall seek comments from the public concerning the proposed decommissioning, regarding all of the following matters:
 - i. Whether the institutional controls proposed by the licensee will reduce residual radioactivity, distinguishable from background radiation, to a TEDE for the average member of the critical group that does not exceed 0.15 mSv (15 mrem) per year; are enforceable; and do not impose an unreasonable burden on the local community or other affected parties; and
 - ii. Whether the licensee has provided financial assurance that complies with R9-7-323(C), which enables an independent third party, including a governmental custodian of the site, to assume and carry out responsibilities for control and maintenance of the site;
 - b. In seeking comments on the issues identified in subsection (C)(4)(a), the licensee shall provide for:
 - i. Participation by representatives of a broad cross section of community interests that may be affected by the decommissioning;

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- ii. An opportunity for a comprehensive discussion of the issues by all of the community representatives; and
 - iii. A publicly available document that contains or access to each oral and written comment that reflects the viewpoints of community representatives on each issue and the extent of agreement or disagreement among representatives on each issue; and
- 5. The licensee reduces residual radioactivity, distinguishable from background radiation, at the site so that if the institutional controls are no longer in effect, the TEDE for the average member of the critical group is as low as reasonably achievable and does not exceed 1 mSv (100 mrem) per year; unless the licensee:
 - a. Demonstrates that a further reduction in residual radioactivity necessary to comply with subsection (C)(5) is not technically achievable or economically feasible, or will result in net public or environmental harm;
 - b. Provides for durable institutional controls; and
 - c. Provides financial assurance that complies with R9-7-323(C), which enables an independent third party, including a governmental custodian of the site, to carry out periodic rechecks of the site, no less frequently than every five years; assures that each institutional control remains in place according to subsection (C)(3); and assumes and carries out responsibilities for maintenance of the institutional control.
- D. Alternate criteria for license termination:**
 - 1. Based on circumstances that relate to a specific license, the Department may terminate the license using the following alternate criteria for subsections (B) or (C)(2), if the licensee demonstrates that the TEDE from residual radioactivity, distinguishable from background radiation, for an average member of the critical group does not exceed 0.15 mSv (15 mrem) per year, and if the licensee:
 - a. Ensures that public health and safety is protected by submitting an analysis of possible sources of exposure, prepared by a independent qualified expert, which indicates whether it is likely that the dose from all human-made sources combined, other than medical sources, is more than the 1 mSv/y (100 mrem/y) limit in R9-7-416;
 - b. Employs to the extent practicable, restrictions on site use, according to the provisions of subsection (C) to minimize exposures at the site;
 - c. Reduces doses to ALARA levels, taking into consideration any detriments such as traffic accidents expected to potentially result from decontamination and waste disposal;
 - d. Submits a decommissioning plan or License Termination Plan (LTP) to the Department that indicates the licensee's intent to decommission in accordance with R9-7-323, and specifies that the licensee proposes to decommission by use of alternate criteria. The licensee shall document in the decommissioning plan or LTP how comments from individuals and institutions in the community, who may be affected by the decommissioning, have been sought and addressed after analysis. In seeking comments, the licensee shall provide for:
 - i. Participation by representatives of a broad cross section of community interests that may be affected by the decommissioning;
 - ii. An opportunity for a comprehensive discussion of the issues by all of the community representatives; and
 - iii. A publicly available document that contains or access to each oral and written comment that reflects viewpoints of community representatives on each issue and the extent of agreement and disagreement among the representatives on each issue; and
 - e. Has provided sufficient financial assurance in the form of a trust fund to enable an independent third party, including a governmental custodian of a site, to assume and carry out responsibilities for any necessary control and maintenance of the site.
- 2. The use of alternate criteria to terminate a license requires approval by the Department after consideration of any comments provided by the U.S. Environmental Protection Agency and any public comments submitted under subsection (E).
- E. Public notification and public participation:**
 - 1. Upon the receipt of an LTP or decommissioning plan from a licensee, or a proposal by a licensee for release of a site under subsection (C) or (D), or whenever the Department determines that notice will serve the public interest, the Department shall notify and solicit comments from:
 - a. Local and state governments in the vicinity of the site and any Indian Nation or other indigenous people that have treaty or statutory rights that could be affected by the decommissioning; and
 - b. The U.S. Environmental Protection Agency.
 - 2. To comply with subsection(E)(1) the Department shall publish a notice in a local newspaper, send letters to state or local organizations on its mailing list, hold a public hearing that is readily accessible to individuals in the vicinity of the site, and solicit comments from the public.
- F. Minimization of contamination.** After the effective date of this Section, an applicant for a license, other than a renewal, shall describe in the application how facility design and procedures for operation will facilitate eventual decommissioning and minimize, to the extent practicable, the generation of radioactive waste and contamination of the facility and the environment.
 - 1. Applicants for standard design certifications, standard design approvals, and manufacturing licenses shall describe in the application how facility design will minimize, to the extent practicable, contamination of the facility and the environment, facilitate eventual decommissioning, and minimize, to the extent practicable, the generation of radioactive waste.
 - 2. Licensees shall, to the extent practical, conduct operations to minimize the introduction of residual radioactivity into the site, including the subsurface, in accordance with the existing radiation protection requirements in this Article and radiological criteria for license termination in this Article.
- G.** The Department considers a site acceptable for unrestricted use if the residual radioactivity, distinguishable from background radiation, is equal to or less than the values in Table 1.

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Historical Note

New Section R9-7-452 recodified from R12-1-452, at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Table 1. Acceptable Surface Contamination 1 Levels

| Radionuclide ¹ | Average ^{2,3} | Maximum ^{2,4} | Removable ^{2,5} |
|--------------------------------------------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|
| U-nat, U-235, U-238, and associated decay products | 5,000 dpm/ 100 cm ² | 15,000 dpm/ 100cm ² | 1,000 dpm/ 100 cm ² |
| Transuranics, Ra-226, Ra-228, Th-230, Pa-231, Ac-227, I-125, I-129 | 100dpm/ 100cm ² | 300 dpm/ 100cm ² | 20dpm/ 100cm ² |
| Th-nat, Th-232, Sr-90, Ra-223, Ra-224, U-232, I-126, I-131, I-133 | 1000 dpm/ 100cm ² | 3000 dpm/ 100cm ² | 200 dpm/ 100cm ² |
| Beta-gamma (Exceptions noted above) | 5,000 dpm/ 100 cm ² | 15,000 dpm/ 100cm ² | 1,000 dpm/ 100 cm ² |

¹ Where surface contamination by both alpha-and beta-gamma-emitting radionuclides exists, the limits established for alpha-and beta-gamma-emitting radionuclides apply independently.

² As used in this table, dpm (disintegrations per minute) means the rate of emission by radioactive material as determined by correcting the counts per minute observed on an instrument calibrated for background, efficiency, and geometric factors associated with the instrumentation, in accordance with R9-7-449.

³ Measurements of average contamination level shall not be averaged over more than one square meter. For objects of less surface area, the average shall be derived for each object.

⁴ The maximum contamination level applies to an area of not more than 100 cm².

⁵ The amount of removable radioactive material per 100 cm² of surface area shall be determined by wiping that area with dry filter or soft absorbent paper, applying moderate pressure, and assessing the amount of radioactive material on the wipe with an instrument calibrated in accordance with R9-7-449. When removable contamination on objects of surface area A (where A is less than 100 sq. cm) is determined, the entire surface shall be wiped and the contamination level multiplied by 100/A to convert to a "per 100 sq. cm" basis.

Historical Note

New Article 4, Table 1 recodified from 12 A.A.C. 1, Article 4, Table 1, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-453. Reports to Individuals of Exceeding Dose Limits

Any licensee or registrant that reports a personnel exposure to the Department in accordance with R9-7-413(A)(6), R9-7-444, or R9-7-452 shall:

1. Notify the exposed individual of the exposure addressed in the report; and

2. Transmit the report to the exposed individual at the same time the Department is notified of the exposure.

Historical Note

New Section R9-7-453 recodified from R12-1-453, at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-454. Nationally Tracked Sources

- A licensee who manufactures, receives, transfers, disassembles, or disposes of a nationally tracked source shall complete and submit to the Nuclear Regulatory Commission's National Source Tracking System and the Department, a National Source Tracking Transaction Report that contains the information required in 10 CFR 20.2207(a) through (e), revised August 9, 2021, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments. The report shall be submitted by the close of the next business day after the transaction using a reporting method specified in 10 CFR 20.2207(f), revised January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- The initial National Source Tracking Transaction Report shall contain the information required in subsection (A), be submitted using a method specified in 10 CFR 20.2207(f), revised August 9, 2021, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- A licensee shall correct any error in previously filed National Source Tracking Transaction Reports or file a new report for any missed transaction within five business days of the discovery of the error or missed transaction in accordance with 10 CFR 20.2207(g), revised August 9, 2021, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- A licensee who receives a nationally tracked sealed source shall not disassemble the source unless specifically authorized to do so by the Department.

Historical Note

New Section R9-7-454 recodified from R12-1-454, at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-455. Security Requirements for Portable Gauges

- A licensee that uses a portable gauge shall use a minimum of two independent controls to maintain security while:
 1. Transporting a portable gauge; and
 2. Storing a portable gauge.
- Each control shall form a tangible barrier that will prevent unauthorized removal whenever a portable gauge is not under the control and constant surveillance of the licensee.
- A licensee shall employ controls approved by the Department.

Historical Note

New Section R9-7-455 recodified from R12-1-455, at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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Appendix A. Assigned Protection Factors for Respirators^a

| | Operating mode | Assigned Protection Factors |
|-------------------------------------------------------------------------------------|---------------------------------------------------------------------------|-----------------------------|
| I. Air Purifying Respirators [Particulate ^b only] ^c : | | |
| Filtering face piece disposable ^d | Negative | (^d) |
| Face piece, half ^e | Negative Pressure | 10 |
| Face piece, full | Negative Pressure | 100 |
| Face piece, half | Powered Air-purifying Respirators | 50 |
| Face piece, full | Powered Air-purifying Respirators | 1000 |
| Helmet/hood | Powered Air-purifying Respirators | 1000 |
| Face piece, loose-fitting | Powered Air-purifying Respirators | 25 |
| II. Atmosphere supplying respirators [particulate, gases and vapors ^f]: | | |
| 1. Air-line respirator: | | |
| Face piece, half | Demand | 10 |
| Face piece, half | Continuous Flow | 50 |
| Face piece, half | Pressure Demand | 50 |
| Face piece, full | Demand | 100 |
| Face piece, full | Continuous Flow | 1000 |
| Face piece, full | Pressure Demand | 1000 |
| Helmet/hood | Continuous Flow | 1000 |
| Face piece, loose-fitting | Continuous Flow | 25 |
| Suit | Continuous Flow | (^g) |
| 2. Self-contained breathing Apparatus (SCBA): | | |
| Face piece, full | Demand | ^h 100 |
| Face piece, full | Pressure Demand | ¹ 10,000 |
| Face piece, full | Demand, Recirculating | ^h 100 |
| Face piece, full | Positive Pressure Recirculating | ¹ 10,000 |
| III. Combination Respirators: | | |
| Any combination of air-purifying and atmosphere-supplying respirators | Assigned protection factor for type and mode of operation as listed above | |

^a These assigned protection factors apply only in a respiratory protection program that meets the requirements of this Article. They are applicable only to airborne radiological hazards and may not be appropriate if chemical or other respiratory hazards exist instead of, or in addition to, radioactive hazards. A licensee shall comply with Department of Labor regulations, regarding selection and use of respirators for those circumstances.

Radioactive contaminants for which the concentration values in Table 1, Column 3 of Appendix B are based on internal dose due to inhalation may, in addition, present external exposure hazards at higher concentrations. Under these circumstances, limitations on occupancy may have to be governed by external dose limits.

^b A licensee shall equip air purifying respirators of APF<100 with particulate filters that are at least 95 percent efficient. The licensee shall equip air purifying respirators of APF=100 with particulate filters that are at least 99 percent efficient. The licensee shall equip air purifying respirators of APF>100 with particulate filters that are at least 99.97 percent efficient.

^c A licensee may apply to the Commission for the use of an APF greater than 1 for sorbent cartridges as protection against airborne radioactive gases and vapors, similar to radioiodine.

^d A Licensee may permit an individual to use this type of respirator if the individual has not been medically screened or fit tested on the device, provided that no credit is taken for use of these respirators in estimation of intake or dose. It is also recognized that it is difficult to perform an effective positive or negative pressure pre-use user seal check on this type of device. All other respiratory protection program requirements listed in 10 CFR 20.1703, January 2000 Edition, and published January 1, 2000, apply and are incorporated by reference and available for review at the Department and Secretary of State. This incorporation by reference contains no future editions or amendments. There is no assigned protection factor for these devices. However, a licensee may use an APF equal to 10 if the licensee can demonstrate a fit factor of at least 100 by use of a validated or evaluated, qualitative or quantitative fit test.

^e Under-chin type only. No distinction is made in this appendix between elastomeric half-masks with replaceable cartridges and those designed with the filter medium as an integral part of the face piece (disposable or reusable disposable). Both types are acceptable as long as the seal area of the latter contains some substantial type of seal-enhancing material, such as rubber or plastic, two or more suspension straps are adjustable, the filter medium is at least 95 percent efficient, and all other requirements of this Article are met.

^f The assigned protection factors for gases and vapors are not applicable to radioactive contaminants that present an absorption or submersion hazard. For tritium oxide vapor, approximately one-third of the intake occurs by absorption through the skin so that an overall pro-

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tection factor of 3 is appropriate when atmosphere-supplying respirators are used to protect against tritium oxide. Exposure to radioactive noble gases is not considered a significant respiratory hazard and protective actions for these contaminants should be based on external (submersion) dose considerations.

^g No NIOSH approval schedule is currently available for atmosphere supplying suits. This equipment may be used in an acceptable respiratory protection program as long as all the other minimum program requirements, with the exception of fit testing, are met. The minimum program requirements are provided in 10 CFR 20.1703.

^h The licensee shall implement institutional controls to assure that these devices are not used in areas immediately dangerous to life or health (IDLH).

ⁱ This type of respirator may be used as an emergency device in unknown concentrations for protection against inhalation hazards. External radiation hazards and other limitations to permitted exposure such as skin absorption shall be taken into account in these circumstances. This device may not be used by any individual who experiences perceptible outward leakage of breathing gas while wearing the device.

Historical Note

New Appendix A recodified from 12 A.A.C. 1, Article 4, Appendix A, effective March 22, 2018 (Supp. 18-1).

Appendix B. Annual Limits on Intake (ALI) and Derived Air Concentrations (DAC) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sanitary Sewerage**Introduction**

For each radionuclide, Table I indicates the chemical form which is to be used for selecting the appropriate ALI or DAC value. The ALIs and DACs for inhalation are given for an aerosol with an activity median aerodynamic diameter (AMAD) of 1 μm , micron, and for three classes (D,W,Y) of radioactive material, which refer to their retention (approximately days, weeks, or years) in the pulmonary region of the lung. This classification applies to a range of clearance half-times for D if less than 10 days, for W from 10 to 100 days, and for Y greater than 100 days. Table II provides concentration limits for airborne and liquid effluents released to the general environment. Table III provides concentration limits for discharges to sanitary sewerage.

Note:

The values in Tables I, II, and III are presented in the computer "E" notation. In this notation a value of 6E-02 represents a value of 6×10^{-2} or 0.06, 6E+2 represents 6×10^2 or 600, and 6E+0 represents 6×10^0 or 6.

Table I "Occupational Values"

Note that the columns in Table I of this Appendix captioned "Oral Ingestion ALI," "Inhalation ALI," and "DAC" are applicable to occupational exposure to radioactive material.

The ALIs in this Appendix are the annual intakes of given radionuclide by "Reference Man" which would result in either (1) a committed effective dose equivalent of 0.05 Sv (5 rem), stochastic ALI, or (2) a committed dose equivalent of 0.5 Sv (50 rem) to an organ or tissue, nonstochastic ALI. The stochastic ALIs were derived to result in a risk, due to irradiation of organs and tissues, comparable to the risk associated with deep-dose equivalent to the whole body of 0.05 Sv (5 rem). The derivation includes multiplying the committed dose equivalent to an organ or tissue by a weighting factor, W_T . This weighting factor is the proportion of the risk of stochastic effects resulting from irradiation of the organ or tissue, T, to the total risk of stochastic effects when the whole body is irradiated uniformly. The values of W_T are listed under the definition of weighting factor in R9-7-403. The nonstochastic ALIs were derived to avoid nonstochastic effects, such as prompt damage to tissue or reduction in organ function.

A value of $W_T = 0.06$ is applicable to each of the five organs or tissues in the "remainder" category receiving the highest dose equivalents, and the dose equivalents of all other remaining tissues may be disregarded. The following portions of the GI tract -- stomach,

small intestine, upper large intestine, and lower large intestine -- are to be treated as four separate organs.

Note that the dose equivalents for an extremity, skin, and lens of the eye are not considered in computing the committed effective dose equivalent but are subject to limits that shall be met separately.

When an ALI is defined by the stochastic dose limit, this value alone is given. When an ALI is determined by the nonstochastic dose limit to an organ, the organ or tissue to which the limit applies is shown, and the ALI for the stochastic limit is shown in parentheses. Abbreviated organ or tissue designations are used:

| | | |
|-----------|---|-----------------------------|
| LLI wall | = | lower large intestine wall, |
| St. wall | = | stomach wall, |
| Blad wall | = | bladder wall, and |
| Bone surf | = | Bone surface. |

The use of the ALIs listed first, the more limiting of the stochastic and nonstochastic ALIs, will ensure that nonstochastic effects are avoided and that the risk of stochastic effects is limited to an acceptably low value. If, in a particular situation involving a radionuclide for which the nonstochastic ALI is limiting, use of that nonstochastic ALI is considered unduly conservative, the licensee may use the stochastic ALI to determine the committed effective dose equivalent. However, the licensee shall also ensure that the 0.5 Sv (50 rem) dose equivalent limit for any organ or tissue is not exceeded by the sum of the external deep-dose equivalent plus the internal committed dose equivalent to that organ, not the effective dose. For the case where there is no external dose contribution, this would be demonstrated if the sum of the fractions of the nonstochastic ALIs (ALI_{ns}) that contribute to the committed dose equivalent to the organ receiving the highest dose does not exceed unity, that is, $\sum (\text{intake (in } \mu\text{Ci) of each radionuclide} / ALI_{ns}) \leq 1.0$. If there is an external deep dose equivalent contribution of H_d , then this sum must be less than $1 - (H_d/50)$, instead of ≤ 1.0 .

Note that the dose equivalents for an extremity, skin, and lens of the eye are not considered in computing the committed effective dose equivalent but are subject to limits that must be met separately.

The derived air concentration (DAC) values are derived limits intended to control chronic occupational exposures. The relationship between the DAC and the ALI is given by:

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$$\text{DAC} = \text{ALI}(\text{in } \mu\text{Ci}) / (2000 \text{ hours per working year} \times 60 \text{ minutes/hour} \times 2 \times 10^4 \text{ ml per minute}) = [\text{ALI} / 2.4 \times 10^9] \mu\text{Ci/ml},$$

where 2×10^4 ml is the volume of air breathed per minute at work by Reference Man under working conditions of light work.

The DAC values relate to one of two modes of exposure: either external submersion or the internal committed dose equivalents resulting from inhalation of radioactive materials. DACs based upon submersion are for immersion in a semi-infinite cloud of uniform concentration and apply to each radionuclide separately.

The ALI and DAC values include contributions to exposure by the single radionuclide named and any in-growth of daughter radionuclides produced in the body by decay of the parent. However, intakes that include both the parent and daughter radionuclides shall be treated by the general method appropriate for mixtures.

The values of ALI and DAC do not apply directly when the individual both ingests and inhales a radionuclide, when the individual is exposed to a mixture of radionuclides by either inhalation or ingestion or both, or when the individual is exposed to both internal and external irradiation. See R9-7-407. When an individual is exposed to radioactive materials which fall under several of the translocation classifications of the same radionuclide, such as Class D, Class W, or Class Y, the exposure may be evaluated as if it were a mixture of different radionuclides.

It should be noted that the classification of a compound as Class D, W, or Y is based on the chemical form of the compound and does not take into account the radiological half-life of different radionuclides. For this reason, values are given for Class D, W, and Y compounds, even for very short-lived radionuclides.

Table II "Effluent Concentrations"

The columns in Table II of this Appendix captioned "Effluents," "Air," and "Water" are applicable to the assessment and control of dose to the public, particularly in the implementation of the provisions of R9-7-415. The concentration values given in Columns 1 and 2 of Table II are equivalent to the radionuclide concentrations which, if inhaled or ingested continuously over the course of a year, would produce a total effective dose equivalent of 0.5 mSv (0.05 rem).

Consideration of nonstochastic limits has not been included in deriving the air and water effluent concentration limits because nonstochastic effects are presumed not to occur at or below the dose levels established for individual members of the public. For radionuclides, where the nonstochastic limit was governing in deriving the occupational DAC, the stochastic ALI was used in deriving the corresponding airborne effluent limit in Table II. For this reason,

the DAC and airborne effluent limits are not always proportional as they were in earlier versions of Appendix A of Article 4.

The air concentration values listed in Table II, Column 1 were derived by one of two methods. For those radionuclides for which the stochastic limit is governing, the occupational stochastic inhalation ALI was divided by 2.4×10^9 , relating the inhalation ALI to the DAC, as explained above, and then divided by a factor of 300. The factor of 300 includes the following components: a factor of 50 to relate the 0.05 Sv (5 rem) annual occupational dose limit to the 0.1 rem limit for members of the public, a factor of 3 to adjust for the difference in exposure time and the inhalation rate for a worker and that for members of the public; and a factor of 2 to adjust the occupational values, derived for adults, so that they are applicable to other age groups.

For those radionuclides for which submersion, that is external dose, is limiting, the occupational DAC in Table I, Column 3 was divided by 219. The factor of 219 is composed of a factor of 50, as described above, and a factor of 4.38 relating occupational exposure for 2,000 hours per year to full-time exposure (8,760 hours per year). Note that an additional factor of 2 for age considerations is not warranted in the submersion case.

The water concentrations were derived by taking the most restrictive occupational stochastic oral ingestion ALI and dividing by 7.3×10^7 . The factor of 7.3×10^7 (ml) includes the following components: the factors of 50 and 2 described above and a factor of 7.3×10^5 (ml) which is the annual water intake of Reference Man.

Note 2 of this Appendix provides groupings of radionuclides which are applicable to unknown mixtures of radionuclides. These groupings, including occupational inhalation ALIs and DACs, air and water effluent concentrations, and releases to sewer, require demonstrating that the most limiting radionuclides in successive classes are absent. The limit for the unknown mixture is defined when the presence of one of the listed radionuclides cannot be definitely excluded as being present either from knowledge of the radionuclide composition of the source or from actual measurements.

Table III "Releases to Sewers"

The monthly average concentrations for release to sanitary sewerage are applicable to the provisions in R9-7-435. The concentration values were derived by taking the most restrictive occupational stochastic oral ingestion ALI and dividing by 7.3×10^6 (ml). The factor of 7.3×10^6 (ml) is composed of a factor of 7.3×10^5 (ml), the annual water intake by Reference Man, and a factor of 10, such that the concentrations, if the sewage released by the licensee were the only source of water ingested by a Reference Man during a year, would result in a committed effective dose equivalent of 0.5 rem.

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LIST OF ELEMENTS

| <u>Name</u> | <u>Symbol</u> | <u>Atomic Number</u> | <u>Name</u> | <u>Symbol</u> | <u>Atomic Number</u> |
|-------------|---------------|----------------------|--------------|---------------|----------------------|
| Actinium | Ac | 89 | Molybdenum | Mo | 42 |
| Aluminum | Al | 13 | Neodymium | Nd | 60 |
| Americium | Am | 95 | Neptunium | Np | 93 |
| Antimony | Sb | 51 | Nickel | Ni | 28 |
| Argon | Ar | 18 | Niobium | Nb | 41 |
| Arsenic | As | 33 | Nitrogen | N | 7 |
| Astatine | At | 85 | Osmium | Os | 76 |
| Barium | Ba | 56 | Oxygen | O | 8 |
| Berkelium | Bk | 97 | Palladium | Pd | 46 |
| Beryllium | Be | 4 | Phosphorus | P | 15 |
| Bismuth | Bi | 83 | Platinum | Pt | 78 |
| Bromine | Br | 35 | Plutonium | Pu | 94 |
| Cadmium | Cd | 48 | Polonium | Po | 84 |
| Calcium | Ca | 20 | Potassium | K | 19 |
| Californium | Cf | 98 | Praseodymium | Pr | 59 |
| Carbon | C | 6 | Promethium | Pm | 61 |
| Cerium | Ce | 58 | Protactinium | Pa | 91 |
| Cesium | Cs | 55 | Radium | Ra | 88 |
| Chlorine | Cl | 17 | Radon | Rn | 86 |
| Chromium | Cr | 24 | Rhenium | Re | 75 |
| Cobalt | Co | 27 | Rhodium | Rh | 45 |
| Copper | Cu | 29 | Rubidium | Rb | 37 |
| Curium | Cm | 96 | Ruthenium | Ru | 44 |
| Dysprosium | Dy | 66 | Samarium | Sm | 62 |
| Einsteinium | Es | 99 | Scandium | Sc | 21 |
| Erbium | Er | 68 | Selenium | Se | 34 |
| Europium | Eu | 63 | Silicon | Si | 14 |
| Fermium | Fm | 100 | Silver | Ag | 47 |
| Fluorine | F | 9 | Sodium | Na | 11 |
| Francium | Fr | 87 | Strontium | Sr | 38 |
| Gadolinium | Gd | 64 | Sulfur | S | 16 |
| Gallium | Ga | 31 | Tantalum | Ta | 73 |
| Germanium | Ge | 32 | Technetium | Tc | 43 |
| Gold | Au | 79 | Tellurium | Te | 52 |
| Hafnium | Hf | 72 | Terbium | Tb | 65 |
| Holmium | Ho | 67 | Thallium | Tl | 81 |
| Hydrogen | H | 1 | Thorium | Th | 90 |
| Indium | In | 49 | Thulium | Tm | 69 |
| Iodine | I | 53 | Tin | Sn | 50 |
| Iridium | Ir | 77 | Titanium | Ti | 22 |
| Iron | Fe | 26 | Tungsten | W | 74 |
| Krypton | Kr | 36 | Uranium | U | 92 |
| Lanthanum | La | 57 | Vanadium | V | 23 |
| Lead | Pb | 82 | Xenon | Xe | 54 |
| Lutetium | Lu | 71 | Ytterbium | Yb | 70 |
| Magnesium | Mg | 12 | Yttrium | Y | 39 |
| Manganese | Mn | 25 | Zinc | Zn | 30 |
| Mendelevium | Md | 101 | Zirconium | Zr | 40 |
| Mercury | Hg | 80 | | | |

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| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|--------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|---------------------------------------------------|----------------------------------------|----------------------------------------|------------------------------------------|-----------------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μCi) | Col. 2 Inhalation ALI (μCi) | Col. 3 DAC ($\mu\text{Ci/ml}$) | Col. 1 Air ($\mu\text{Ci/ml}$) | Col. 2 Water ($\mu\text{Ci/ml}$) | Monthly Average Concentration ($\mu\text{Ci/ml}$) |
| | | | | | | | | |
| 1 | Hydrogen-3 | Water, DAC includes skin absorption | 8E+4 | 8E+4 | 2E-5 | 1E-7 | 1E-3 | 1E-2 |
| | | Gas (HT or T ₂) Submersion ¹ : Use above values as HT and T ₂ oxidize in air and in the body to HTO. | | | | | | |
| 4 | Beryllium-7 | W, all compounds except those given for Y | 4E+4 | 2E+4 | 9E-6 | 3E-8 | 6E-4 | 6E-3 |
| | | Y, oxides, halides, and nitrates | - | 2E+4 | 8E-6 | 3E-8 | - | - |
| 4 | Beryllium-10 | W, see ⁷ Be | 1E+3 | 2E+2 | 6E-8 | 2E-10 | - | -- |
| | | LLI wall (1E+3) | - | - | - | - | 2E-5 | 2E-4 |
| | | Y, see ⁷ Be | - | 1E+1 | 6E-9 | 2E-11 | - | - |
| 6 | Carbon-11 ² | Monoxide | - | 1E+6 | 5E-4 | 2E-6 | - | - |
| | | Dioxide | - | 6E+5 | 3E-4 | 9E-7 | - | - |
| | | Compounds | 4E+5 | 4E+5 | 2E-4 | 6E-7 | 6E-3 | 6E-2 |
| 6 | Carbon-14 | Monoxide | - | 2E+6 | 7E-4 | 2E-6 | - | - |
| | | Dioxide | - | 2E+5 | 9E-5 | 3E-7 | - | - |
| | | Compounds | 2E+3 | 2E+3 | 1E-6 | 3E-9 | 3E-5 | 3E-4 |
| 7 | Nitrogen-13 ² | Submersion ¹ | - | - | 4E-6 | 2E-8 | - | - |
| 8 | Oxygen-15 ² | Submersion ¹ | - | - | 4E-6 | 2E-8 | - | - |
| 9 | Fluorine-18 ² | D, fluorides of H, Li, Na, K, Rb, Cs, and Fr | 5E+4 | 7E+4 | 3E-5 | 1E-7 | - | - |
| | | St wall (5E+4) | - | - | - | - | 7E-4 | 7E-3 |
| | | W, fluorides of Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, As, Sb, Bi, Fe, Ru, Os, Co, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, V, Nb, Ta, Mn, Tc, and Re | - | 9E+4 | 4E-5 | 1E-7 | - | - |
| | | Y, Lanthanum fluoride | - | 8E+4 | 3E-5 | 1E-7 | - | - |
| 11 | Sodium-22 | D, all compounds | 4E+2 | 6E+2 | 3E-7 | 9E-10 | 6E-6 | 6E-5 |
| 11 | Sodium-24 | D, all compounds | 4E+3 | 5E+3 | 2E-6 | 7E-9 | 5E-5 | 5E-4 |
| 12 | Magnesium-28 | D, all compounds except those given for W | 7E+2 | 2E+3 | 7E-7 | 2E-9 | 9E-6 | 9E-5 |
| | | W, oxides, hydroxides, carbides, halides, and nitrates | - | 1E+3 | 5E-7 | 2E-9 | - | - |
| 13 | Aluminum-26 | D, all compounds except those given for W | 4E+2 | 6E+1 | 3E-8 | 9E-11 | 6E-6 | 6E-5 |
| | | W, oxides, hydroxides, carbides, halides, and nitrates | - | 9E+1 | 4E-8 | 1E-10 | - | - |
| 14 | Silicon-31 | D, all compounds except those given for W and Y | 9E+3 | 3E+4 | 1E-5 | 4E-8 | 1E-4 | 1E-3 |
| | | W, oxides, hydroxides, carbides, and nitrates | - | 3E+4 | 1E-5 | 5E-8 | - | - |
| | | Y, aluminosilicate glass | - | 3E+4 | 1E-5 | 4E-8 | - | - |
| 14 | Silicon-32 | D, see ³¹ Si | 2E+3 | 2E+2 | 1E-7 | 3E-10 | - | - |
| | | LLI wall (3E+3) | - | - | - | - | 4E-5 | 4E-4 |
| | | W, see ³¹ Si | - | 1E+2 | 5E-8 | 2E-10 | - | - |
| | | Y, see ³¹ Si | - | 5E+0 | 2E-9 | 7E-12 | - | - |

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| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------|-----------------------|-------------------------------------|-----------------|---------------------------------|
| | | | Col. 1 Oral Ingestion | Col. 2 Inhalation | Col. 3 Inhalation | Col. 1 Air | Col. 2 Water | Monthly Average |
| | | | ALI (μ Ci) | ALI (μ Ci) | DAC (μ Ci/ml) | (μ Ci/ml) | (μ Ci/ml) | Concentration (μ Ci/ml) |
| 15 | Phosphorus-32 | D, all compounds except phosphates given for W | 6E+2 | 9E+2 | 4E-7 | 1E-9 | 9E-6 | 9E-5 |
| | | W, phosphates of Zn ²⁺ , S ³⁺ , Mg ²⁺ , Fe ³⁺ , Bi ³⁺ , and Lanthanides | - | 4E+2 | 2E-7 | 5E-10 | - | - |
| 15 | Phosphorus-33 | D, see ³² P | 6E+3 | 8E+3 | 4E-6 | 1E-8 | 8E-5 | 8E-4 |
| | | W, see ³² P | - | 3E+3 | 1E-6 | 4E-9 | - | - |
| 16 | Sulfur-35 | Vapor | 1E+4 | 6E-6 | 2E-8 | - | - | - |
| | | D, sulfides and sulfates except those given for W | 1E+4 | 2E+4 | 7E-6 | 2E-8 | - | - |
| | | LLI wall | (8E+3) | - | - | - | 1E-4 | 1E-3 |
| | | W, elemental sulfur, sulfides of Sr, Ba, Ge, Sn, Pb, As, Sb, Bi, Cu, Ag, Au, Zn, Cd, Hg, W, and Mo. Sulfates of Ca, Sr, Ba, Ra, As, Sb, and Bi | - | 2E+3 | 9E-7 | 3E-9 | - | - |
| 17 | Chlorine-36 | D, chlorides of H, Li, Na, K, Rb, Cs, and Fr | 2E+3 | 2E+3 | 1E-6 | 3E-9 | 2E-5 | 2E-4 |
| | | W, chlorides of Lanthanides, Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, Ge, Sn, Pb, As, Sb, Bi, Fe, Ru, Os, Co, Rh, Ir, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, Hf, V, Nb, Ta, Cr, Mo, W, Mn, Tc, and Re | - | 2E+2 | 1E-7 | 3E-10- | - | - |
| 17 | Chlorine-38 ² | D, see ³⁶ Cl | 2E+4 | 4E+4 | 2E-5 | 6E-8- | - | - |
| | | St wall | (3E+4) | - | - | -3E-4 | 3E-3 | - |
| | | W, see ³⁶ Cl | - | 5E+4 | 2E-5 | 6E-8- | - | - |
| 17 | Chlorine-39 ² | D, see ³⁶ Cl | 2E+4 | 5E+4 | 2E-5 | 7E-8- | - | - |
| | | St wall | (4E+4) | - | - | -5E-4 | 5E-3 | - |
| | | W, see ³⁶ Cl | - | 6E+4 | 2E-5 | 8E-8- | - | - |
| 18 | Argon-37 | Submersion ¹ | - | - | 1E+0 | 6E-3- | - | - |
| 18 | Argon-39 | Submersion ¹ | - | - | 2E-4 | 8E-7- | - | - |
| 18 | Argon-41 | Submersion ¹ | - | - | 3E-6 | 1E-8- | - | - |
| 19 | Potassium-40 | D, all compounds | 3E+2 | 4E+2 | 2E-7 | 6E-10 | 4E-6 | 4E-5 |
| 19 | Potassium-42 | D, all compounds | 5E+3 | 5E+3 | 2E-6 | 7E-9 | 6E-5 | 6E-4 |
| 19 | Potassium-43 | D, all compounds | 6E+3 | 9E+3 | 4E-6 | 1E-8 | 9E-5 | 9E-4 |
| 19 | Potassium-44 ² | D, all compounds | 2E+4 | 7E+4 | 3E-5 | 9E-8 | - | - |
| | | St wall | (4E+4) | - | - | - | 5E-4 | 5E-3 |
| 19 | Potassium-45 ² | D, all compounds | 3E+4 | 1E+5 | 5E-5 | 2E-7 | - | - |
| | | St wall | (5E+4) | - | - | - | 7E-4 | 7E-3 |

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| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|---------------------------|--------------------------------------------------------|-------------------------------------------------------|---------------------------------------------------|----------------------------------------|----------------------------------------|------------------------------------------|-----------------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μCi) | Col. 2 Inhalation ALI (μCi) | Col. 3 DAC ($\mu\text{Ci/ml}$) | Col. 1 Air ($\mu\text{Ci/ml}$) | Col. 2 Water ($\mu\text{Ci/ml}$) | Monthly Average Concentration ($\mu\text{Ci/ml}$) |
| 20 | Calcium-41 | W, all compounds | 3E+3 | 4E+3 | 2E-6 | - | - | - |
| | | | Bone surf (4E+3) | Bone surf (4E+3) | - | 5E-9 | 6E-5 | 6E-4 |
| 20 | Calcium-45 | W, all compounds | 2E+3 | 8E+2 | 4E-7 | 1E-9 | 2E-5 | 2E-4 |
| 20 | Calcium-47 | W, all compounds | 8E+2 | 9E+2 | 4E-7 | 1E-9 | 1E-5 | 1E-4 |
| 21 | Scandium-43 | Y, all compounds | 7E+3 | 2E+4 | 9E-6 | 3E-8 | 1E-4 | 1E-3 |
| 21 | Scandium-44m | Y, all compounds | 5E+2 | 7E+2 | 3E-7 | 1E-9 | 7E-6 | 7E-5 |
| 21 | Scandium-44 | Y, all compounds | 4E+3 | 1E+4 | 5E-6 | 2E-8 | 5E-5 | 5E-4 |
| 21 | Scandium-46 | Y, all compounds | 9E+2 | 2E+2 | 1E-7 | 3E-10 | 1E-5 | 1E-4 |
| 21 | Scandium-47 | Y, all compounds | 2E+3 | 3E+3 | 1E-6 | 4E-9 | - | - |
| | | | LLI wall (3E+3) | - | - | - | 4E-5 | 4E-4 |
| 21 | Scandium-48 | Y, all compounds | 8E+2 | 1E+3 | 6E-7 | 2E-9 | 1E-5 | 1E-4 |
| 21 | Scandium-49 ² | Y, all compounds | 2E+4 | 5E+4 | 2E-5 | 8E-8 | 3E-4 | 3E-3 |
| 22 | Titanium-44 | D, all compounds except those given for W and Y | 3E+2 | 1E+1 | 5E-9 | 2E-11 | 4E-6 | 4E-5 |
| | | W, oxides, hydroxides, carbides, halides, and nitrates | - | 3E+1 | 1E-8 | 4E-11 | - | - |
| | | Y, SrTiO | - | 6E+0 | 2E-9 | 8E-12 | - | - |
| 22 | Titanium-45 | D, see ⁴⁴ Ti | 9E+3 | 3E+4 | 1E-5 | 3E-8 | 1E-4 | 1E-3 |
| | | W, see ⁴⁴ Ti | - | 4E+4 | 1E-5 | 5E-8 | - | - |
| | | Y, see ⁴⁴ Ti | - | 3E+4 | 1E-5 | 4E-8 | - | - |
| 23 | Vanadium-47 ² | D, all compounds except those given for W | 3E+4 | 8E+4 | 3E-5 | 1E-7 | - | - |
| | | | St wall (3E+4) | - | - | - | 4E-4 | 4E-3 |
| | | W, oxides, hydroxides, carbides, and halides | - | 1E+5 | 4E-5 | 1E-7 | - | - |
| 23 | Vanadium-48 | D, see ⁴⁷ V | 6E+2 | 1E+3 | 5E-7 | 2E-9 | 9E-6 | 9E-5 |
| | | W, see ⁴⁷ V | - | 6E+2 | 3E-7 | 9E-10 | - | - |
| 23 | Vanadium-49 | D, see ⁴⁷ V | 7E+4 | 3E+4 | 1E-5 | - | - | - |
| | | | LLI wall (9E+4) | Bone surf (3E+4) | - | 5E-8 | 1E-3 | 1E-2 |
| | | W, see ⁴⁷ V | - | 2E+4 | 8E-6 | 2E-8 | - | - |
| 24 | Chromium-48 | D, all compounds except those given for W and Y | 6E+3 | 1E+4 | 5E-6 | 2E-8 | 8E-5 | 8E-4 |
| | | W, halides and nitrates | - | 7E+3 | 3E-6 | 1E-8 | - | - |
| | | Y, oxides and hydroxides | - | 7E+3 | 3E-6 | 1E-8 | - | - |
| 24 | Chromium-49 ² | D, see ⁴⁸ Cr | 3E+4 | 8E+4 | 4E-5 | 1E-7 | 4E-4 | 4E-3 |
| | | W, see ⁴⁸ Cr | - | 1E+5 | 4E-5 | 1E-7 | - | - |
| | | Y, see ⁴⁸ Cr | - | 9E+4 | 4E-5 | 1E-7 | - | - |
| 24 | Chromium-51 | D, see ⁴⁸ Cr | 4E+4 | 5E+4 | 2E-5 | 6E-8 | 5E-4 | 5E-3 |
| | | W, see ⁴⁸ Cr | - | 2E+4 | 1E-5 | 3E-8 | - | - |
| | | Y, see ⁴⁸ Cr | - | 2E+4 | 8E-6 | 3E-8 | - | - |
| 25 | Manganese-51 ² | D, all compounds except those given for W | 2E+4 | 5E+4 | 2E-5 | 7E-8 | 3E-4 | 3E-3 |
| | | W, oxides, hydroxides, halides, and nitrates | - | 6E+4 | 3E-5 | 8E-8 | - | - |

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| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|----------------------------|----------------------------------------------|-------------------------------------------------------|---------------------------------------------------|----------------------------------------|----------------------------------------|------------------------------------------|-----------------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μCi) | Col. 2 Inhalation ALI (μCi) | Col. 3 DAC ($\mu\text{Ci/ml}$) | Col. 1 Air ($\mu\text{Ci/ml}$) | Col. 2 Water ($\mu\text{Ci/ml}$) | Monthly Average Concentration ($\mu\text{Ci/ml}$) |
| 25 | Manganese-52m ² | D, see ⁵¹ Mn | 3E+4 St wall (4E+4) | 9E+4 - | 4E-5 - | 1E-7 - | - 5E-4 | - 5E-3 |
| | | W, see ⁵¹ Mn | - | 1E+5 | 4E-5 | 1E-7 | - | - |
| 25 | Manganese-52 | D, see ⁵¹ Mn | 7E+2 | 1E+3 | 5E-7 | 2E-9 | 1E-5 | 1E-4 |
| | | W, see ⁵¹ Mn | - | 9E+2 | 4E-7 | 1E-9 | - | - |
| 25 | Manganese-53 | D, see ⁵¹ Mn | 5E+4 | 1E+4 Bone surf (2E+4) | 5E-6 - | - 3E-8 | 7E-4 - | 7E-3 - |
| | | W, see ⁵¹ Mn | - | 1E+4 | 5E-6 | 2E-8 | - | - |
| 25 | Manganese-54 | D, see ⁵¹ Mn | 2E+3 | 9E+2 | 4E-7 | 1E-9 | 3E-5 | 3E-4 |
| | | W, see ⁵¹ Mn | - | 8E+2 | 3E-7 | 1E-9 | - | - |
| 25 | Manganese-56 | D, see ⁵¹ Mn | 5E+3 | 2E+4 | 6E-6 | 2E-8 | 7E-5 | 7E-4 |
| | | W, see ⁵¹ Mn | - | 2E+4 | 9E-6 | 3E-8 | - | - |
| 26 | Iron-52 | D, all compounds except those given for W | 9E+2 | 3E+3 | 1E-6 | 4E-9 | 1E-5 | 1E-4 |
| | | W, oxides, hydroxides, and halides | - | 2E+3 | 1E-6 | 3E-9 | - | - |
| 26 | Iron-55 | D, see ⁵² Fe | 9E+3 | 2E+3 | 8E-7 | 3E-9 | 1E-4 | 1E-3 |
| | | W, see ⁵² Fe | - | 4E+3 | 2E-6 | 6E-9 | - | - |
| 26 | Iron-59 | D, see ⁵² Fe | 8E+2 | 3E+2 | 1E-7 | 5E-10 | 1E-5 | 1E-4 |
| | | W, see ⁵² Fe | - | 5E+2 | 2E-7 | 7E-10 | - | - |
| 26 | Iron-60 | D, see ⁵² Fe | 3E+1 | 6E+0 | 3E-9 | 9E-12 | 4E-7 | 4E-6 |
| | | W, see ⁵² Fe | - | 2E+1 | 8E-9 | 3E-11 | - | - |
| 27 | Cobalt-55 | W, all compounds except those given for Y | 1E+3 | 3E+3 | 1E-6 | 4E-9 | 2E-5 | 2E-4 |
| | | Y, oxides, hydroxides, halides, and nitrates | - | 3E+3 | 1E-6 | 4E-9 | - | - |
| 27 | Cobalt-56 | W, see ⁵⁵ Co | 5E+2 | 3E+2 | 1E-7 | 4E-10 | 6E-6 | 6E-5 |
| | | Y, see ⁵⁵ Co | 4E+2 | 2E+2 | 8E-8 | 3E-10 | - | - |
| 27 | Cobalt-57 | W, see ⁵⁵ Co | 8E+3 | 3E+3 | 1E-6 | 4E-9 | 6E-5 | 6E-4 |
| | | Y, see ⁵⁵ Co | 4E+3 | 7E+2 | 3E-7 | 9E-10 | - | - |
| 27 | Cobalt-58m | W, see ⁵⁵ Co | 6E+4 | 9E+4 | 4E-5 | 1E-7 | 8E-4 | 8E-3 |
| | | Y, see ⁵⁵ Co | - | 6E+4 | 3E-5 | 9E-8 | - | - |
| 27 | Cobalt-58 | W, see ⁵⁵ Co | 2E+3 | 1E+3 | 5E-7 | 2E-9 | 2E-5 | 2E-4 |
| | | Y, see ⁵⁵ Co | 1E+3 | 7E+2 | 3E-7 | 1E-9 | - | - |
| 27 | Cobalt-60m ² | W, see ⁵⁵ Co | 1E+6 St wall (1E+6) | 4E+6 - | 2E-3 - | 6E-6 - | - 2E-2 | - 2E-1 |
| | | Y, see ⁵⁵ Co | - | 3E+6 | 1E-3 | 4E-6 | - | - |
| 27 | Cobalt-60 | W, see ⁵⁵ Co | 5E+2 | 2E+2 | 7E-8 | 2E-10 | 3E-6 | 3E-5 |
| | | Y, see ⁵⁵ Co | 2E+2 | 3E+1 | 1E-8 | 5E-11 | - | - |
| 27 | Cobalt-61 ² | W, see ⁵⁵ Co | 2E+4 | 6E+4 | 3E-5 | 9E-8 | 3E-4 | 3E-3 |
| | | Y, see ⁵⁵ Co | 2E+4 | 6E+4 | 2E-5 | 8E-8 | - | - |

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| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|-------------------------|----------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|---------------------------------------------------|----------------------------------------|----------------------------------------|------------------------------------------|-----------------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μCi) | Col. 2 Inhalation ALI (μCi) | Col. 3 DAC ($\mu\text{Ci/ml}$) | Col. 1 Air ($\mu\text{Ci/ml}$) | Col. 2 Water ($\mu\text{Ci/ml}$) | Monthly Average Concentration ($\mu\text{Ci/ml}$) |
| 27 | Cobalt-62m ² | W, see ⁵⁵ Co St wall | 4E+4 (5E+4) | 2E+5 - | 7E-5 - | 2E-7 - | - 7E-4 | - 7E-3 |
| 28 | Nickel-56 | Y, see ⁵⁵ Co D, all compounds except those given for W W, oxides, hydroxides, and carbides Vapor | - 1E+3 - - | 2E+5 2E+3 1E+3 1E+3 | 6E-5 8E-7 5E-7 5E-7 | 2E-7 3E-9 2E-9 2E-9 | - 2E-5 - - | - 2E-4 - - |
| 28 | Nickel-57 | D, see ⁵⁶ Ni W, see ⁵⁶ Ni Vapor | 2E+3 - - | 5E+3 3E+3 6E+3 | 2E-6 1E-6 3E-6 | 7E-9 4E-9 9E- | 2E-5 - - | 2E-4 - - |
| 28 | Nickel-59 | D, see ⁵⁶ Ni W, see ⁵⁶ Ni Vapor | 2E+4 - - | 4E+3 7E+3 2E+3 | 2E-6 3E-6 8E-7 | 5E-9 1E-8 3E-9 | 3E-4 - - | 3E-3 - - |
| 28 | Nickel-63 | D, see ⁵⁶ Ni W, see ⁵⁶ Ni Vapor | 9E+3 - - | 2E+3 3E+3 8E+2 | 7E-7 1E-6 3E-7 | 2E-9 4E-9 1E-9 | 1E-4 - - | 1E-3 - - |
| 28 | Nickel-65 | D, see ⁵⁶ Ni W, see ⁵⁶ Ni Vapor | 8E+3 - - | 2E+4 3E+4 2E+4 | 1E-5 1E-5 7E-6 | 3E-8 4E-8 2E-8 | 1E-4 - - | 1E-3 - - |
| 28 | Nickel-66 | D, see ⁵⁶ Ni LLI wall | 4E+2 (5E+2) | 2E+3 - | 7E-7 - | 2E-9 - | - 6E-6 | - 6E-5 |
| 29 | Copper-60 ² | W, see ⁵⁶ Ni Vapor D, all compounds except those given for W and Y St wall | - - 3E+4 (3E+4) | 6E+2 3E+3 9E+4 - | 3E-7 1E-6 4E-5 - | 9E-10 4E-9 1E-7 - | - - - 4E-4 | - - - 4E-3 |
| 29 | Copper-61 | W, sulfides, halides, and nitrates Y, oxides and hydroxides | - - | 1E+5 1E+5 | 5E-5 4E-5 | 2E-7 1E-7 | - - | - - |
| 29 | Copper-64 | D, see ⁶⁰ Cu W, see ⁶⁰ Cu Y, see ⁶⁰ Cu | 1E+4 - - | 3E+4 4E+4 4E+4 | 1E-5 2E-5 1E-5 | 4E-8 6E-8 5E-8 | 2E-4 - - | 2E-3 - - |
| 29 | Copper-67 | D, see ⁶⁰ Cu W, see ⁶⁰ Cu Y, see ⁶⁰ Cu | 1E+4 - - | 3E+4 2E+4 2E+4 | 1E-5 1E-5 9E-6 | 4E-8 3E-8 3E-8 | 2E-4 - - | 2E-3 - - |
| 29 | Copper-67 | D, see ⁶⁰ Cu W, see ⁶⁰ Cu Y, see ⁶⁰ Cu | 5E+3 - - | 8E+3 5E+3 5E+3 | 3E-6 2E-6 2E-6 | 1E-8 7E-9 6E-9 | 6E-5 - - | 6E-4 - - |
| 30 | Zinc-62 | Y, all compounds | 1E+3 | 3E+3 | 1E-6 | 4E-9 | 2E-5 | 2E-4 |
| 30 | Zinc-63 ² | Y, all compounds St wall | 2E+4 (3E+4) | 7E+4 - | 3E-5 - | 9E-8 - | - 3E-4 | - 3E-3 |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|---------------------------|--------------------------------------------------------|------------------------------------------------|--------------------------------------------|---------------------------------|-------------------------------------|-----------------------------------|----------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μ Ci) | Col. 2 Inhalation ALI (μ Ci) | Col. 3 DAC (μ Ci/ml) | Col. 1 Air (μ Ci/ml) | Col. 2 Water (μ Ci/ml) | Monthly Average Concentration (μ Ci/ml) |
| 30 | Zinc-65 | Y, all compounds | 4E+2 | 3E+2 | 1E-7 | 4E-10 | 5E-6 | 5E-5 |
| 30 | Zinc-69m | Y, all compounds | 4E+3 | 7E+3 | 3E-6 | 1E-8 | 6E-5 | 6E-4 |
| 30 | Zinc-69 ² | Y, all compounds | 6E+4 | 1E+5 | 6E-5 | 2E-7 | 8E-4 | 8E-3 |
| 30 | Zinc-71m | Y, all compounds | 6E+3 | 2E+4 | 7E-6 | 2E-8 | 8E-5 | 8E-4 |
| 30 | Zinc-72 | Y, all compounds | 1E+3 | 1E+3 | 5E-7 | 2E-9 | 1E-5 | 1E-4 |
| 31 | Gallium-65 ² | D, all compounds except those given for W | 5E+4 St wall (6E+4), | 2E+5 | 7E-5 | 2E-7 | - | - |
| | | W, oxides, hydroxides, carbides, halides, and nitrates | - | 2E+5 | 8E-5 | 3E-7 | - | - |
| 31 | Gallium-66 | D, see ⁶⁵ Ga | 1E+3 | 4E+3 | 1E-6 | 5E-9 | 1E-5 | 1E-4 |
| | | W, see ⁶⁵ Ga | - | 3E+3 | 1E-6 | 4E-9 | - | - |
| 31 | Gallium-67 | D, see ⁶⁵ Ga | 7E+3 | 1E+4 | 6E-6 | 2E-8 | 1E-4 | 1E-3 |
| | | W, see ⁶⁵ Ga | - | 1E+4 | 4E-6 | 1E-8 | - | - |
| 31 | Gallium-68 ² | D, see ⁶⁵ Ga | 2E+4 | 4E+4 | 2E-5 | 6E-8 | 2E-4 | 2E-3 |
| | | W, see ⁶⁵ Ga | - | 5E+4 | 2E-5 | 7E-8 | - | - |
| 31 | Gallium-70 ² | D, see ⁶⁵ Ga | 5E+4 St wall (7E+4) | 2E+5 | 7E-5 | 2E-7 | - | - |
| | | W, see ⁶⁵ Ga | - | 2E+5 | 8E-5 | 3E-7 | - | - |
| 31 | Gallium-72 | D, see ⁶⁵ Ga | 1E+3 | 4E+3 | 1E-6 | 5E-9 | 2E-5 | 2E-4 |
| | | W, see ⁶⁵ Ga | - | 3E+3 | 1E-6 | 4E-9 | - | - |
| 31 | Gallium-73 | D, see ⁶⁵ Ga | 5E+3 | 2E+4 | 6E-6 | 2E-8 | 7E-5 | 7E-4 |
| | | W, see ⁶⁵ Ga | - | 2E+4 | 6E-6 | 2E-8 | - | - |
| 32 | Germanium-66 | D, all compounds except those given for W | 2E+4 | 3E+4 | 1E-5 | 4E-8 | 3E-4 | 3E-3 |
| | | W, oxides, sulfides, and halides | - | 2E+4 | 8E-6 | 3E-8 | - | - |
| 32 | Germanium-67 ² | D, see ⁶⁶ Ge | 3E+4 St wait (4E+4) | 9E+4 | 4E-5 | 1E-7 | - | - |
| | | W, see ⁶⁶ Ge | - | 1E+5 | 4E-5 | 1E-7 | - | - |
| 32 | Germanium-68 | D, see ⁶⁶ Ge | 5E+3 | 4E+3 | 2E-6 | 5E-9 | 6E-5 | 6E-4 |
| | | W, see ⁶⁶ Ge | - | 1E+2 | 4E-8 | 1E-10 | - | - |
| 32 | Germanium-69 | D, see ⁶⁶ Ge | 1E+4 | 2E+4 | 6E-6 | 2E-8 | 2E-4 | 2E-3 |
| | | W, see ⁶⁶ Ge | - | 8E+3 | 3E-6 | 1E-8 | - | - |
| 32 | Germanium-71 | D, see ⁶⁶ Ge | 5E+5 | 4E+5 | 2E-4 | 6E-7 | 7E-3 | 7E-2 |
| | | W, see ⁶⁶ Ge | - | 4E+4 | 2E-5 | 6E-8 | - | - |
| 32 | Germanium-75 ² | D, see ⁶⁶ Ge | 4E+4 St wall (7E+4) | 8E+4 | 3E-5 | 1E-7 | - | - |
| | | W, see ⁶⁶ Ge | - | 8E+4 | 4E-5 | 1E-7 | - | - |
| 32 | Germanium-77 | D, see ⁶⁶ Ge | 9E+3 | 1E+4 | 4E-6 | 1E-8 | 1E-4 | 1E-3 |
| | | W, see ⁶⁶ Ge | - | 6E+3 | 2E-6 | 8E-9 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|---------------------------|---------------------------------------------------|------------------------------------------------|--------------------------------------------|---------------------------------|-------------------------------------|-----------------------------------|----------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μ Ci) | Col. 2 Inhalation ALI (μ Ci) | Col. 3 DAC (μ Ci/ml) | Col. 1 Air (μ Ci/ml) | Col. 2 Water (μ Ci/ml) | Monthly Average Concentration (μ Ci/ml) |
| 32 | Germanium-78 ² | D, see ⁶⁶ Ge | 2E+4 St wall (2E+4) | 2E+4 - | 9E-6 - | 3E-8 - | - 3E-4 | - 3E-3 |
| | | W, see ⁶⁶ Ge | - | 2E+4 | 9E-6 | 3E-8 | - | - |
| 33 | Arsenic-69 ² | W, all compounds | 3E+4 St wall (4E+4) | 1E+5 - | 5E-5 - | 2E-7 - | - 6E-4 | - 6E-3 |
| 33 | Arsenic-70 ² | W, all compounds | 1E+4 | 5E+4 | 2E-5 | 7E-8 | 2E-4 | 2E-3 |
| 33 | Arsenic-71 | W, all compounds | 4E+3 | 5E+3 | 2E-6 | 6E-9 | 5E-5 | 5E-4 |
| 33 | Arsenic-72 | W, all compounds | 9E+2 | 1E+3 | 6E-7 | 2E-9 | 1E-5 | 1E-4 |
| 33 | Arsenic-73 | W, all compounds | 8E+3 | 2E+3 | 7E-7 | 2E-9 | 1E-4 | 1E-3 |
| 33 | Arsenic-74 | W, all compounds | 1E+3 | 8E+2 | 3E-7 | 1E-9 | 2E-5 | 2E-4 |
| 33 | Arsenic-76 | W, all compounds | 1E+3 | 1E+3 | 6E-7 | 2E-9 | 1E-5 | 1E-4 |
| 33 | Arsenic-77 | W, all compounds | 4E+3 LLI wall (5E+3) | 5E+3 - | 2E-6 - | 7E-9 - | - 6E-5 | - 6E-4 |
| 33 | Arsenic-78 ² | W, all compounds | 8E+3 | 2E+4 | 9E-6 | 3E-8 | 1E-4 | 1E-3 |
| 34 | Selenium-70 ² | D, all compounds except those given for W | 2E+4 | 4E+4 | 2E-5 | 5E-8 | 1E-4 | 1E-3 |
| | | W, oxides, hydroxides, carbides, and elemental Se | 1E+4 | 4E+4 | 2E-5 | 6E-8 | - | - |
| 34 | Selenium-73m ² | D, see ⁷⁰ Se | 6E+4 | 2E+5 | 6E-5 | 2E-7 | 4E-4 | 4E-3 |
| | | W, see ⁷⁰ Se | 3E+4 | 1E+5 | 6E-5 | 2E-7 | - | - |
| 34 | Selenium-73 | D, see ⁷⁰ Se | 3E+3 | 1E+4 | 5E-6 | 2E-8 | 4E-5 | 4E-4 |
| | | W, see ⁷⁰ Se | - | 2E+4 | 7E-6 | 2E-8 | - | - |
| 34 | Selenium-75 | D, see ⁷⁰ Se | 5E+2 | 7E+2 | 3E-7 | 1E-9 | 7E-6 | 7E-5 |
| | | W, see ⁷⁰ Se | - | 6E+2 | 3E-7 | 8E-10 | - | - |
| 34 | Selenium-79 | D, see ⁷⁰ Se | 6E+2 | 8E+2 | 3E-7 | 1E-9 | 8E-6 | 8E-5 |
| | | W, see ⁷⁰ Se | - | 6E+2 | 2E-7 | 8E-10 | - | - |
| 34 | Selenium-81m ² | D, see ⁷⁰ Se | 4E+4 | 7E+4 | 3E-5 | 9E-8 | 3E-4 | 3E-3 |
| | | W, see ⁷⁰ Se | 2E+4 | 7E+4 | 3E-5 | 1E-7 | - | - |
| 34 | Selenium-81 ² | D, see ⁷⁰ Se | 6E+4 St wall (8E+4) | 2E+5 - | 9E-5 - | 3E-7 - | - 1E-3 | - 1E-2 |
| | | W, see ⁷⁰ Se | - | 2E+5 | 1E-4 | 3E-7 | - | - |
| 34 | Selenium-83 ² | D, see ⁷⁰ Se | 4E+4 | 1E+5 | 5E-5 | 2E-7 | 4E-4 | 4E-3 |
| | | W, see ⁷⁰ Se | 3E+4 | 1E+5 | 5E-5 | 2E-7 | - | - |
| 35 | Bromine-74m ² | D, bromides of H, Li, Na, K, Rb, Cs, and Fr | 1E+4 St wall (2E+4) | 4E+4 - | 2E-5 - | 5E-8 - | - 3E-4 | - 3E-3 |

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers Monthly Average Concentration ($\mu\text{Ci/ml}$) |
|------------|--------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|---------------------------------------------------|----------------------------------------|----------------------------------------|------------------------------------------|----------------------------------------------------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μCi) | Col. 2 Inhalation ALI (μCi) | Col. 3 DAC ($\mu\text{Ci/ml}$) | Col. 1 Air ($\mu\text{Ci/ml}$) | Col. 2 Water ($\mu\text{Ci/ml}$) | |
| | | | | | | | | |
| | | W, Bromides of lanthanides, Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, Ge, Sn, Pb, As, Sb, Bi, Fe, Ru, Os, Co, Rh, Ir, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, Hf, V, Nb, Ta, Mn, Tc, and Re | - | 4E+4 | 2E-5 | 6E-8 | - | - |
| 35 | Bromine-74 ² | D, see ^{74m} Br | 2E+4 | 7E+4 | 3E-5 | 1E-7 | - | - |
| | | St wall (4E+4) | - | - | - | - | 5E-4 | 5E-3 |
| | | W, see ^{74m} Br | - | 8E+4 | 4E-5 | 1E-7 | - | - |
| 35 | Bromine-75 ² | D, see ^{74m} Br | 3E+4 | 5E+4 | 2E-5 | 7E-8 | - | - |
| | | St wall (4E+4) | - | - | - | - | 5E-4 | 5E-3 |
| | | W, see ^{74m} Br | - | 5E+4 | 2E-5 | 7E-8 | - | - |
| 35 | Bromine-76 | D, see ^{74m} Br | 4E+3 | 5E+3 | 2E-6 | 7E-9 | 5E-5 | 5E-4 |
| | | W, see ^{74m} Br | - | 4E+3 | 2E-6 | 6E-9 | - | - |
| 35 | Bromine-77 | D, see ^{74m} Br | 2E+4 | 2E+4 | 1E-5 | 3E-8 | 2E-4 | 2E-3 |
| | | W, see ^{74m} Br | - | 2E+4 | 8E-6 | 3E-8 | - | - |
| 35 | Bromine-80m | D, see ^{74m} Br | 2E+4 | 2E+4 | 7E-6 | 2E-8 | 3E-4 | 3E-3 |
| | | W, see ^{74m} Br | - | 1E+4 | 6E-6 | 2E-8 | - | - |
| 35 | Bromine-80 ² | D, see ^{74m} Br | 5E+4 | 2E+5 | 8E-5 | 3E-7 | - | - |
| | | St wall (9E+4) | - | - | - | - | 1E-3 | 1E-2 |
| | | W, see ^{74m} Br | - | 2E+5 | 9E-5 | 3E-7 | - | - |
| 35 | Bromine-82 | D, see ^{74m} Br | 3E+3 | 4E+3 | 2E-6 | 6E-9 | 4E-5 | 4E-4 |
| | | W, see ^{74m} Br | - | 4E+3 | 2E-6 | 5E-9 | - | - |
| 35 | Bromine-83 | D, see ^{74m} Br | 5E+4 | 6E+4 | 3E-5 | 9E-8 | - | - |
| | | St wall (7E+4) | - | - | - | - | 9E-4 | 9E-3 |
| | | W, see ^{74m} Br | - | 6E+4 | 3E-5 | 9E-8 | - | - |
| 35 | Bromine-84 ² | D, see ^{74m} Br | 2E+4 | 6E+4 | 2E-5 | 8E-8 | - | - |
| | | St wall (3E+4) | - | - | - | - | 4E-4 | 4E-3 |
| | | W, see ^{74m} Br | - | 6E+4 | 3E-5 | 9E-8 | - | - |
| 36 | Krypton-74 ² | Submersion ¹ | - | - | 3E-6 | 1E-8 | - | - |
| 36 | Krypton-76 | Submersion ¹ | - | - | 9E-6 | 4E-8 | - | - |
| 36 | Krypton-77 ² | Submersion ¹ | - | - | 4E-6 | 2E-8 | - | - |
| 36 | Krypton-79 | Submersion ¹ | - | - | 2E-5 | 7E-8 | - | - |
| 36 | Krypton-81 | Submersion ¹ | - | - | 7E-4 | 3E-6 | - | - |
| 36 | Krypton-83m ² | Submersion ¹ | - | - | 1E-2 | 5E-5 | - | - |
| 36 | Krypton-85m | Submersion ¹ | - | - | 2E-5 | 1E-7 | - | - |
| 36 | Krypton-85 | Submersion ¹ | - | - | 1E-4 | 7E-7 | - | - |
| 36 | Krypton-87 ² | Submersion ¹ | - | - | 5E-6 | 2E-8 | - | - |
| 36 | Krypton-88 | Submersion ¹ | - | - | 2E-6 | 9E-9 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|----------------------------|-------------------------------------------------------------------------------------|-------------------------------------------------------|---------------------------------------------------|----------------------------------------|----------------------------------------|------------------------------------------|-----------------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μCi) | Col. 2 Inhalation ALI (μCi) | Col. 3 DAC ($\mu\text{Ci/ml}$) | Col. 1 Air ($\mu\text{Ci/ml}$) | Col. 2 Water ($\mu\text{Ci/ml}$) | Monthly Average Concentration ($\mu\text{Ci/ml}$) |
| 37 | Rubidium-79 ² | D, all compounds | 4E+4 St wall (6E+4) | 1E+5 - | 5E-5 - | 2E-7 - | - 8E-4 | - 8E-3 |
| 37 | Rubidium-81m ² | D, all compounds | 2E+5 St wall (3E+5) | 3E+5 - | 1E-4 - | 5E-7 - | - 4E-3 | - 4E-2 |
| 37 | Rubidium-81 | D, all compounds | 4E+4 | 5E+4 | 2E-5 | 7E-8 | 5E-4 | 5E-3 |
| 37 | Rubidium 82m | D, all compounds | 1E+4 | 2E+4 | 7E-6 | 2E-8 | 2E-4 | 2E-3 |
| 37 | Rubidium-83 | D, all compounds | 6E+2 | 1E+3 | 4E-7 | 1E-9 | 9E-6 | 9E-5 |
| 37 | Rubidium-84 | D, all compounds | 5E+2 | 8E+2 | 3E-7 | 1E-9 | 7E-6 | 7E-5 |
| 37 | Rubidium-86 | D, all compounds | 5E+2 | 8E+2 | 3E-7 | 1E-9 | 7E-6 | 7E-5 |
| 37 | Rubidium-87 | D, all compounds | 1E+3 | 2E+3 | 6E-7 | 2E-9 | 1E-5 | 1E-4 |
| 37 | Rubidium-88 ² | D, all compounds | 2E+4 St wall (3E+4) | 6E+4 - | 3E-5 - | 9E-8 - | - 4E-4 | - 4E-3 |
| 37 | Rubidium-89 ² | D, all compounds | 4E+4 St wall (6E+4) | 1E+5 - | 6E-5 - | 2E-7 - | - 9E-4 | - 9E-3 |
| 38 | Strontium-80 ² | D, all soluble compounds except SrTiO Y, all insoluble compounds and SrTiO | 4E+3 - | 1E+4 1E+4 | 5E-6 5E-6 | 2E-8 2E-8 | 6E-5 - | 6E-4 - |
| 38 | Strontium-81 ² | D, see ⁸⁰ Sr Y, see ⁸⁰ Sr | 3E+4 2E+4 | 8E+4 8E+4 | 3E-5 3E-5 | 1E-7 1E-7 | 3E-4 - | 3E-3 - |
| 38 | Strontium-82 | D, see ⁸⁰ Sr | 3E+2 LLI wall (2E+2) | 4E+2 - | 2E-7 - | 6E-10 - | - 3E-6 | - 3E-5 |
| 38 | Strontium-83 | Y, see ⁸⁰ Sr D, see ⁸⁰ Sr Y, see ⁸⁰ Sr | 2E+2 3E+3 2E+3 | 9E+1 7E+3 4E+3 | 4E-8 3E-6 1E-6 | 1E-10 1E-8 5E-9 | - 3E-5 - | - 3E-4 - |
| 38 | Strontium-85m ² | D, see ⁸⁰ Sr Y, see ⁸⁰ Sr | 2E+5 - | 6E+5 8E+5 | 3E-4 4E-4 | 9E-7 1E-6 | 3E-3 - | 3E-2 - |
| 38 | Strontium-85 | D, see ⁸⁰ Sr Y, see ⁸⁰ Sr | 3E+3 - | 3E+3 2E+3 | 1E-6 6E-7 | 4E-9 2E-9 | 4E-5 - | 4E-4 - |
| 38 | Strontium-87m | D, see ⁸⁰ Sr Y, see ⁸⁰ Sr | 5E+4 4E+4 | 1E+5 2E+5 | 5E-5 6E-5 | 2E-7 2E-7 | 6E-4 - | 6E-3 - |
| 38 | Strontium-89 | D, see ⁸⁰ Sr | 6E+2 LLI wall (6E+2) | 8E+2 - | 4E-7 - | 1E-9 - | - 8E-6 | - 8E-5 |
| 38 | Strontium-90 | Y, see ⁸⁰ Sr D, see ⁸⁰ Sr | 5E+2 3E+1 Bone surf (4E+1) | 1E+2 2E+1 Bone surf (2E+1) | 6E-8 8E-9 - | 2E-10 - | - - | - - |
| 38 | Strontium-91 | Y, see ⁸⁰ Sr D, see ⁸⁰ Sr Y, see ⁸⁰ Sr | - 2E+3 - | 4E+0 6E+3 4E+3 | 2E-9 2E-6 1E-6 | 6E-12 8E-9 5E-9 | - 2E-5 - | - 2E-4 - |

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|--------------------------|-------------------------------------------------|------------------------------------------------|--------------------------------------------|---------------------------------|-------------------------------------|-----------------------------------|----------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μ Ci) | Col. 2 Inhalation ALI (μ Ci) | Col. 3 DAC (μ Ci/ml) | Col. 1 Air (μ Ci/ml) | Col. 2 Water (μ Ci/ml) | Monthly Average Concentration (μ Ci/ml) |
| 38 | Strontium-92 | D, see ^{80}Sr | 3E+3 | 9E+3 | 4E-6 | 1E-8 | 4E-5 | 4E-4 |
| | | Y, see ^{80}Sr | - | 7E+3 | 3E-6 | 9E-9 | - | - |
| 39 | Yttrium-86m ² | W, all compounds except those given for Y | 2E+4 | 6E+4 | 2E-5 | 8E-8 | 3E-4 | 3E-3 |
| | | Y, oxides and hydroxides | - | 5E+4 | 2E-5 | 8E-8 | - | - |
| 39 | Yttrium-86 | W, see ^{86m}Y | 1E+3 | 3E+3 | 1E-6 | 5E-9 | 2E-5 | 2E-4 |
| | | Y, see ^{86m}Y | - | 3E+3 | 1E-6 | 5E-9 | - | - |
| 39 | Yttrium-87 | W, see ^{86m}Y | 2E+3 | 3E+3 | 1E-6 | 5E-9 | 3E-5 | 3E-4 |
| | | Y, see ^{86m}Y | - | 3E+3 | 1E-6 | 5E-9 | - | - |
| 39 | Yttrium-88 | W, see ^{86m}Y | 1E+3 | 3E+2 | 1E-7 | 3E-10 | 1E-5 | 1E-4 |
| | | Y, see ^{86m}Y | - | 2E+2 | 1E-7 | 3E-10 | - | - |
| 39 | Yttrium-90m | W, see ^{86m}Y | 8E+3 | 1E+4 | 5E-6 | 2E-8 | 1E-4 | 1E-3 |
| | | Y, see ^{86m}Y | - | 1E+4 | 5E-6 | 2E-8 | - | - |
| 39 | Yttrium-90 | W, see ^{86m}Y | 4E+2 | 7E+2 | 3E-7 | 9E-10 | - | - |
| | | LLI wall (5E+2) | - | - | - | - | 7E-6 | 7E-5 |
| 39 | Yttrium-91m ² | Y, see ^{86m}Y | - | 6E+2 | 3E-7 | 9E-10 | - | - |
| | | W, see ^{86m}Y | 1E+5 | 2E+5 | 1E-4 | 3E-7 | 2E-3 | 2E-2 |
| 39 | Yttrium-91 | Y, see ^{86m}Y | - | 2E+5 | 7E-5 | 2E-7 | - | - |
| | | W, see ^{86m}Y | 5E+2 | 2E+2 | 7E-8 | 2E-10 | - | - |
| 39 | Yttrium-92 | LLI wall (6E+2) | - | - | - | - | 8E-6 | 8E-5 |
| | | Y, see ^{86m}Y | - | 1E+2 | 5E-8 | 2E-10 | - | - |
| 39 | Yttrium-93 | W, see ^{86m}Y | 3E+3 | 9E+3 | 4E-6 | 1E-8 | 4E-5 | 4E-4 |
| | | Y, see ^{86m}Y | - | 8E+3 | 3E-6 | 1E-8 | - | - |
| 39 | Yttrium-94 ² | W, see ^{86m}Y | 1E+3 | 3E+3 | 1E-6 | 4E-9 | 2E-5 | 2E-4 |
| | | Y, see ^{86m}Y | - | 2E+3 | 1E-6 | 3E-9 | - | - |
| 39 | Yttrium-95 ² | W, see ^{86m}Y | 2E+4 | 8E+4 | 3E-5 | 1E-7 | - | - |
| | | St wall (3E+4) | - | - | - | - | 4E-4 | 4E-3 |
| 39 | Yttrium-95 ² | Y, see ^{86m}Y | - | 8E+4 | 3E-5 | 1E-7 | - | - |
| | | W, see ^{86m}Y | 4E+4 | 2E+5 | 6E-5 | 2E-7 | - | - |
| 40 | Zirconium-86 | St wall (5E+4) | - | - | - | - | 7E-4 | 7E-3 |
| | | Y, see ^{86m}Y | - | 1E+5 | 6E-5 | 2E-7 | - | - |
| 40 | Zirconium-86 | D, all compounds except those given for W and Y | 1E+3 | 4E+3 | 2E-6 | 6E-9 | 2E-5 | 2E-4 |
| | | W, oxides, hydroxides, halides, and nitrates | - | 3E+3 | 1E-6 | 4E-9 | - | - |
| 40 | Zirconium-88 | Y, carbide | - | 2E+3 | 1E-6 | 3E-9 | - | - |
| | | D, see ^{86}Zr | 4E+3 | 2E+2 | 9E-8 | 3E-10 | 5E-5 | 5E-4 |
| 40 | Zirconium-88 | W, see ^{86}Zr | - | 5E+2 | 2E-7 | 7E-10 | - | - |
| | | Y, see ^{86}Zr | - | 3E+2 | 1E-7 | 4E-10 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|-------------------------------------|----------------------------------------------|------------------------------------------------|--------------------------------------------|---------------------------------|-------------------------------------|-----------------------------------|----------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μ Ci) | Col. 2 Inhalation ALI (μ Ci) | Col. 3 DAC (μ Ci/ml) | Col. 1 Air (μ Ci/ml) | Col. 2 Water (μ Ci/ml) | Monthly Average Concentration (μ Ci/ml) |
| 40 | Zirconium-89 | D, see ^{86}Zr | 2E+3 | 4E+3 | 1E-6 | 5E-9 | 2E-5 | 2E-4 |
| | | W, see ^{86}Zr | - | 2E+3 | 1E-6 | 3E-9 | - | - |
| | | Y, see ^{86}Zr | - | 2E+3 | 1E-6 | 3E-9 | - | - |
| 40 | Zirconium-93 | D, see ^{86}Zr | 1E+3 | 6E+0 | 3E-9 | - | - | - |
| | | Bone surf | (3E+3) | (2E+1) | - | 2E-11 | 4E-5 | 4E-4 |
| | | W, see ^{86}Zr | - | 2E+1 | 1E-8 | - | - | - |
| | | Bone surf | - | (6E+1) | - | 9E-11 | - | - |
| | | Y, see ^{86}Zr | - | 6E+1 | 2E-8 | - | - | - |
| | | Bone surf | - | (7E+1) | - | 9E-11 | - | - |
| 40 | Zirconium-95 | D, see ^{86}Zr | 1E+3 | 1E+2 | 5E-8 | - | 2E-5 | 2E-4 |
| | | Bone surf | - | (3E+2) | - | 4E-10 | - | - |
| | | W, see ^{86}Zr | - | 4E+2 | 2E-7 | 5E-10 | - | - |
| | | Y, see ^{86}Zr | - | 3E+2 | 1E-7 | 4E-10 | - | - |
| | | Y, see ^{86}Zr | - | 1E+3 | 5E-7 | 2E-9 | - | - |
| 40 | Zirconium-97 | D, see ^{86}Zr | 6E+2 | 2E+3 | 8E-7 | 3E-9 | 9E-6 | 9E-5 |
| | | W, see ^{86}Zr | - | 1E+3 | 6E-7 | 2E-9 | - | - |
| | | Y, see ^{86}Zr | - | 1E+3 | 5E-7 | 2E-9 | - | - |
| 41 | Niobium-88 ² | W, all compounds except those given for Y | 5E+4 | 2E+5 | 9E-5 | 3E-7 | - | - |
| | | St wall | (7E+4) | - | - | - | 1E-3 | 1E-2 |
| | | Y, oxides and hydroxides | - | 2E+5 | 9E-5 | 3E-7 | - | - |
| 41 | Niobium-89 ² (66 min) | W, see ^{88}Nb | 1E+4 | 4E+4 | 2E-5 | 6E-8 | 1E-4 | 1E-3 |
| | | Y, see ^{88}Nb | - | 4E+4 | 2E-5 | 5E-8 | - | - |
| 41 | Niobium-89 (122 min) | W, see ^{88}Nb | 5E+3 | 2E+4 | 8E-6 | 3E-8 | 7E-5 | 7E-4 |
| | | Y, see ^{88}Nb | - | 2E+4 | 6E-6 | 2E-8 | - | - |
| 41 | Niobium-90 | W, see ^{88}Nb | 1E+3 | 3E+3 | 1E-6 | 4E-9 | 1E-5 | 1E-4 |
| | | Y, see ^{88}Nb | - | 2E+3 | 1E-6 | 3E-9 | - | - |
| 41 | Niobium-93m | W, see ^{88}Nb | 9E+3 | 2E+3 | 8E-7 | 3E-9 | - | - |
| | | LLI wall | (1E+4) | - | - | - | 2E-4 | 2E-3 |
| | | Y, see ^{88}Nb | - | 2E+2 | 7E-8 | 2E-10 | - | - |
| 41 | Niobium-94 | W, see ^{88}Nb | 9E+2 | 2E+2 | 8E-8 | 3E-10 | 1E-5 | 1E-4 |
| | | Y, see ^{88}Nb | - | 2E+1 | 6E-9 | 2E-11 | - | - |
| 41 | Niobium-95m | W, see ^{88}Nb | 2E+3 | 3E+3 | 1E-6 | 4E-9 | - | - |
| | | LLI wall | (2E+3) | - | - | - | 3E-5 | 3E-4 |
| | | Y, see ^{88}Nb | - | 2E+3 | 9E-7 | 3E-9 | - | - |
| 41 | Niobium-95 | W, see ^{88}Nb | 2E+3 | 1E+3 | 5E-7 | 2E-9 | 3E-5 | 3E-4 |
| | | Y, see ^{88}Nb | - | 1E+3 | 5E-7 | 2E-9 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers Monthly Average Concentration (µCi/ml) |
|------------|-----------------------------|----------------------------------------------|------------------------------------------|--------------------------------------|---------------------------|-------------------------------------|-----------------------------|---------------------------------------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (µCi) | Col. 2 Inhalation ALI (µCi) | Col. 3 DAC (µCi/ml) | Col. 1 Air (µCi/ml) | Col. 2 Water (µCi/ml) | |
| 41 | Niobium-96 | W, see ⁸⁸ Nb | 1E+3 | 3E+3 | 1E-6 | 4E-9 | 2E-5 | 2E-4 |
| | | Y, see ⁸⁸ Nb | - | 2E+3 | 1E-6 | 3E-9 | - | - |
| 41 | Niobium-97 ² | W, see ⁸⁸ Nb | 2E+4 | 8E+4 | 3E-5 | 1E-7 | 3E-4 | 3E-3 |
| | | Y, see ⁸⁸ Nb | - | 7E+4 | 3E-5 | 1E-7 | - | - |
| 41 | Niobium-98 ² | W, see ⁸⁸ Nb | 1E+4 | 5E+4 | 2E-5 | 8E-8 | 2E-4 | 2E-3 |
| | | Y, see ⁸⁸ Nb | - | 5E+4 | 2E-5 | 7E-8 | - | - |
| 42 | Molybdenum-90 | D, all compounds except those given for Y | 4E+3 | 7E+3 | 3E-6 | 1E-8 | 3E-5 | 3E-4 |
| | | Y, oxides, hydroxides, and MoS | 2E+3 | 5E+3 | 2E-6 | 6E-9 | - | - |
| 42 | Molybdenum-93m | D, see ⁹⁰ Mo | 9E+3 | 2E+4 | 7E-6 | 2E-8 | 6E-5 | 6E-4 |
| | | Y, see ⁹⁰ Mo | 4E+3 | 1E+4 | 6E-6 | 2E-8 | - | - |
| 42 | Molybdenum-93 | D, see ⁹⁰ Mo | 4E+3 | 5E+3 | 2E-6 | 8E-9 | 5E-5 | 5E-4 |
| | | Y, see ⁹⁰ Mo | 2E+4 | 2E+2 | 8E-8 | 2E-10 | - | - |
| 42 | Molybdenum-99 | D, see ⁹⁰ Mo | 2E+3 | 3E+3 | 1E-6 | 4E-9 | - | - |
| | | LLI wall (1E+3) | - | - | - | - | 2E-5 | 2E-4 |
| 42 | Molybdenum-101 ² | Y, see ⁹⁰ Mo | 1E+3 | 1E+3 | 6E-7 | 2E-9 | - | - |
| | | D, see ⁹⁰ Mo | 4E+4 | 1E+5 | 6E-5 | 2E-7 | - | - |
| 42 | | St wall (5E+4) | - | - | - | - | 7E-4 | 7E-3 |
| | | Y, see ⁹⁰ Mo | - | 1E+5 | 6E-5 | 2E-7 | - | - |
| 43 | Technetium-93m ² | D, All compounds except those given for W | 7E+4 | 2E+5 | 6E-5 | 2E-7 | 1E-3 | 1E-2 |
| | | W, oxides, hydroxides, halides, and nitrates | - | 3E+5 | 1E-4 | 4E-7 | - | - |
| 43 | Technetium-93 | D, see ^{93m} Tc | 3E+4 | 7E+4 | 3E-5 | 1E-7 | 4E-4 | 4E-3 |
| | | W, see ^{93m} Tc | - | 1E+5 | 4E-5 | 1E-7 | - | - |
| 43 | Technetium-94m ² | D, see ^{93m} Tc | 2E+4 | 4E+4 | 2E-5 | 6E-8 | 3E-4 | 3E-3 |
| | | W, see ^{93m} Tc | - | 6E+4 | 2E-5 | 8E-8 | - | - |
| 43 | Technetium-94 | D, see ^{93m} Tc | 9E+3 | 2E+4 | 8E-6 | 3E-8 | 1E-4 | 1E-3 |
| | | W, see ^{93m} Tc | - | 2E+4 | 1E-5 | 3E-8 | - | - |
| 43 | Technetium-95m | D, see ^{93m} Tc | 4E+3 | 5E+3 | 2E-6 | 8E-9 | 5E-5 | 5E-4 |
| | | W, see ^{93m} Tc | - | 2E+3 | 8E-7 | 3E-9 | - | - |
| 43 | Technetium-95 | D, see ^{93m} Tc | 1E+4 | 2E+4 | 9E-6 | 3E-8 | 1E-4 | 1E-3 |
| | | W, see ^{93m} Tc | - | 2E+4 | 8E-6 | 3E-8 | - | - |
| 43 | Technetium-96m ² | D, see ^{93m} Tc | 2E+5 | 3E+5 | 1E-4 | 4E-7 | 2E-3 | 2E-2 |
| | | W, see ^{93m} Tc | - | 2E+5 | 1E-4 | 3E-7 | - | - |
| 43 | Technetium-96 | D, see ^{93m} Tc | 2E+3 | 3E+3 | 1E-6 | 5E-9 | 3E-5 | 3E-4 |
| | | W, see ^{93m} Tc | - | 2E+3 | 9E-7 | 3E-9 | - | - |
| 43 | Technetium-97m | D, see ^{93m} Tc | 5E+3 | 7E+3 | 3E-6 | - | 6E-5 | 6E-4 |
| | | St wall (7E+3) | - | - | - | 1E-8 | - | - |
| | | W, see ^{93m} Tc | - | 1E+3 | 5E-7 | 2E-9 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|-----------------------------|-------------------------------------------------|------------------------------------------------|--------------------------------------------|---------------------------------|-------------------------------------|-----------------------------------|----------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μ Ci) | Col. 2 Inhalation ALI (μ Ci) | Col. 3 DAC (μ Ci/ml) | Col. 1 Air (μ Ci/ml) | Col. 2 Water (μ Ci/ml) | Monthly Average Concentration (μ Ci/ml) |
| 43 | Technetium-97 | D, see ^{93m}Tc | 4E+4 | 5E+4 | 2E-5 | 7E-8 | 5E-4 | 5E-3 |
| | | W, see ^{93m}Tc | - | 6E+3 | 2E-6 | 8E-9 | - | - |
| 43 | Technetium-98 | D, see ^{93m}Tc | 1E+3 | 2E+3 | 7E-7 | 2E-9 | 1E-5 | 1E-4 |
| | | W, see ^{93m}Tc | - | 3E+2 | 1E-7 | 4E-10 | - | - |
| 43 | Technetium-99m | D, see ^{93m}Tc | 8E+4 | 2E+5 | 6E-5 | 2E-7 | 1E-3 | 1E-2 |
| | | W, see ^{93m}Tc | - | 2E+5 | 1E-4 | 3E-7 | - | - |
| 43 | Technetium-99 | D, see ^{93m}Tc | 4E+3 | 5E+3 | 2E-6 | - | 6E-5 | 6E-4 |
| | | | - | St wall (6E+3) | - | 8E-9 | - | - |
| | | W, see ^{93m}Tc | - | 7E+2 | 3E-7 | 9E-10 | - | - |
| 43 | Technetium-101 ² | D, see ^{93m}Tc | 9E+4 | 3E+5 | 1E-4 | 5E-7 | - | - |
| | | | - | St wall (1E+5) | - | - | 2E-3 | 2E-2 |
| | | W, see ^{93m}Tc | - | 4E+5 | 2E-4 | 5E-7 | - | - |
| 43 | Technetium-104 ² | D, see ^{93m}Tc | 2E+4 | 7E+4 | 3E-5 | 1E-7 | - | - |
| | | | - | St wall (3E+4) | - | - | 4E-4 | 4E-3 |
| | | W, see ^{93m}Tc | - | 9E+4 | 4E-5 | 1E-7 | - | - |
| 44 | Ruthenium-94 ² | D, all compounds except those given for W and Y | 2E+4 | 4E+4 | 2E-5 | 6E-8 | 2E-4 | 2E-3 |
| | | W, halides | - | 6E+4 | 3E-5 | 9E-8 | - | - |
| | | Y, oxides and hydroxides | - | 6E+4 | 2E-5 | 8E-8 | - | - |
| 44 | Ruthenium-97 | D, see ^{94}Ru | 8E+3 | 2E+4 | 8E-6 | 3E-8 | 1E-4 | 1E-3 |
| | | W, see ^{94}Ru | - | 1E+4 | 5E-6 | 2E-8 | - | - |
| | | Y, see ^{94}Ru | - | 1E+4 | 5E-6 | 2E-8 | - | - |
| 44 | Ruthenium-103 | D, see ^{94}Ru | 2E+3 | 2E+3 | 7E-7 | 2E-9 | 3E-5 | 3E-4 |
| | | W, see ^{94}Ru | - | 1E+3 | 4E-7 | 1E-9 | - | - |
| | | Y, see ^{94}Ru | - | 6E+2 | 3E-7 | 9E-10 | - | - |
| 44 | Ruthenium-105 | D, see ^{94}Ru | 5E+3 | 1E+4 | 6E-6 | 2E-8 | 7E-5 | 7E-4 |
| | | W, see ^{94}Ru | - | 1E+4 | 6E-6 | 2E-8 | - | - |
| | | Y, see ^{94}Ru | - | 1E+4 | 5E-6 | 2E-8 | - | - |
| 44 | Ruthenium-106 | D, see ^{94}Ru | 2E+2 | 9E+1 | 4E-8 | 1E-10 | - | - |
| | | | - | LLI wall (2E+2) | - | - | 3E-6 | 3E-5 |
| | | W, see ^{94}Ru | - | 5E+1 | 2E-8 | 8E-11 | - | - |
| | | Y, see ^{94}Ru | - | 1E+1 | 5E-9 | 2E-11 | - | - |
| 45 | Rhodium-99m | D, all compounds except those given for W and Y | 2E+4 | 6E+4 | 2E-5 | 8E-8 | 2E-4 | 2E-3 |
| | | W, halides | - | 8E+4 | 3E-5 | 1E-7 | - | - |
| | | Y, oxides and hydroxides | - | 7E+4 | 3E-5 | 9E-8 | - | - |
| 45 | Rhodium-99 | D, see ^{99m}Rh | 2E+3 | 3E+3 | 1E-6 | 4E-9 | 3E-5 | 3E-4 |
| | | W, see ^{99m}Rh | - | 2E+3 | 9E-7 | 3E-9 | - | - |
| | | Y, see ^{99m}Rh | - | 2E+3 | 8E-7 | 3E-9 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|---------------|---------------------------|-------------------------------------------------------|--------------------------------|----------------------|----------------|-------------------------------------|-----------------|----------------------------------|
| | | | Col. 1 Oral Ingestion | Col. 2 Inhalation | Col. 3 DAC | Col. 1 Air | Col. 2 Water | Monthly Average Concentration |
| | | | ALI (μ Ci) | ALI (μ Ci) | (μ Ci/ml) | (μ Ci/ml) | (μ Ci/ml) | (μ Ci/ml) |
| 45 | Rhodium-100 | D, see ^{99m}Rh | 2E+3 | 5E+3 | 2E-6 | 7E-9 | 2E-5 | 2E-4 |
| | | W, see ^{99m}Rh | - | 4E+3 | 2E-6 | 6E-9 | - | - |
| | | Y, see ^{99m}Rh | - | 4E+3 | 2E-6 | 5E-9 | - | - |
| 45 | Rhodium-101m | D, see ^{99m}Rh | 6E+3 | 1E+4 | 5E-6 | 2E-8 | 8E-5 | 8E-4 |
| | | W, see ^{99m}Rh | - | 8E+3 | 4E-6 | 1E-8 | - | - |
| | | Y, see ^{99m}Rh | - | 8E+3 | 3E-6 | 1E-8 | - | - |
| 45 | Rhodium-101 | D, see ^{99m}Rh | 2E+3 | 5E+2 | 2E-7 | 7E-10 | 3E-5 | 3E-4 |
| | | W, see ^{99m}Rh | - | 8E+2 | 3E-7 | 1E-9 | - | - |
| | | Y, see ^{99m}Rh | - | 2E+2 | 6E-8 | 2E-10 | - | - |
| 45 | Rhodium-102m | D, see ^{99m}Rh | 1E+3 | 5E+2 | 2E-7 | 7E-10 | - | - |
| | | LLI wall (1E+3) | - | - | - | - | 2E-5 | 2E-4 |
| | | W, see ^{99m}Rh | - | 4E+2 | 2E-7 | 5E-10 | - | - |
| 45 | Rhodium-102 | Y, see ^{99m}Rh | - | 1E+2 | 5E-8 | 2E-10 | - | - |
| | | D, see ^{99m}Rh | 6E+2 | 9E+1 | 4E-8 | 1E-10 | 8E-6 | 8E-5 |
| | | W, see ^{99m}Rh | - | 2E+2 | 7E-8 | 2E-10 | - | - |
| 45 | Rhodium-103m ² | Y, see ^{99m}Rh | - | 6E+1 | 2E-8 | 8E-11 | - | - |
| | | D, see ^{99m}Rh | 4E+5 | 1E+6 | 5E-4 | 2E-6 | 6E-3 | 6E-2 |
| | | W, see ^{99m}Rh | - | 1E+6 | 5E-4 | 2E-6 | - | - |
| 45 | Rhodium-105 | Y, see ^{99m}Rh | - | 1E+6 | 5E-4 | 2E-6 | - | - |
| | | D, see ^{99m}Rh | 4E+3 | 1E+4 | 5E-6 | 2E-8 | - | - |
| | | LLI wall (4E+3) | - | - | - | - | 5E-5 | 5E-4 |
| 45 | Rhodium-106m | W, see ^{99m}Rh | - | 6E+3 | 3E-6 | 9E-9 | - | - |
| | | Y, see ^{99m}Rh | - | 6E+3 | 2E-6 | 8E-9 | - | - |
| | | D, see ^{99m}Rh | 8E+3 | 3E+4 | 1E-5 | 4E-8 | 1E-4 | 1E-3 |
| 45 | Rhodium-107 ² | W, see ^{99m}Rh | - | 4E+4 | 2E-5 | 5E-8 | - | - |
| | | Y, see ^{99m}Rh | - | 4E+4 | 1E-5 | 5E-8 | - | - |
| | | D, see ^{99m}Rh | 7E+4 | 2E+5 | 1E-4 | 3E-7 | - | - |
| 46 | Palladium-100 | St wall (9E+4) | - | - | - | - | 1E-3 | 1E-2 |
| | | W, see ^{99m}Rh | - | 3E+5 | 1E-4 | 4E-7 | - | - |
| | | Y, see ^{99m}Rh | - | 3E+5 | 1E-4 | 3E-7 | - | - |
| 46 | Palladium-101 | D, all compounds except those given for W and Y | 1E+3 | 1E+3 | 6E-7 | 2E-9 | 2E-5 | 2E-4 |
| | | W, nitrates | - | 1E+3 | 5E-7 | 2E-9 | - | - |
| | | Y, oxides and hydroxides | - | 1E+3 | 6E-7 | 2E-9 | - | - |
| 46 | Palladium-101 | D, see ^{100}Pd | 1E+4 | 3E+4 | 1E-5 | 5E-8 | 2E-4 | 2E-3 |
| | | W, see ^{100}Pd | - | 3E+4 | 1E-5 | 5E-8 | - | - |
| | | Y, see ^{100}Pd | - | 3E+4 | 1E-5 | 4E-8 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|--------------------------|-------------------------------------------------------|-------------------------------------------------------|---------------------------------------------------|----------------------------------------|----------------------------------------|------------------------------------------|-----------------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μCi) | Col. 2 Inhalation ALI (μCi) | Col. 3 DAC ($\mu\text{Ci/ml}$) | Col. 1 Air ($\mu\text{Ci/ml}$) | Col. 2 Water ($\mu\text{Ci/ml}$) | Monthly Average Concentration ($\mu\text{Ci/ml}$) |
| 46 | Palladium-103 | D, see ^{100}Pd | 6E+3 | 6E+3 | 3E-6 | 9E-9 | - | - |
| | | LLI wall (7E+3) | - | - | - | - | 1E-4 | 1E-3 |
| | | W, see ^{100}Pd | - | 4E+3 | 2E-6 | 6E-9 | - | - |
| | | Y, see ^{100}Pd | - | 4E+3 | 1E-6 | 5E-9 | - | - |
| 46 | Palladium-107 | D, see ^{100}Pd | 3E+4 | 2E+4 | 9E-6 | - | - | - |
| | | LLI wall (4E+4) | - | Kidneys (2E+4) | - | 3E-8 | 5E-4 | 5E-3 |
| | | W, see ^{100}Pd | - | 7E+3 | 3E-6 | 1E-8 | - | - |
| | | Y, see ^{100}Pd | - | 4E+2 | 2E-7 | 6E-10 | - | - |
| 46 | Palladium-109 | D, see ^{100}Pd | 2E+3 | 6E+3 | 3E-6 | 9E-9 | 3E-5 | 3E-4 |
| | | W, see ^{100}Pd | - | 5E+3 | 2E-6 | 8E-9 | - | - |
| | | Y, see ^{100}Pd | - | 5E+3 | 2E-6 | 6E-9 | - | - |
| 47 | Silver-102 ² | D, all compounds except those given for W and Y | 5E+4 | 2E+5 | 8E-5 | 2E-7 | - | - |
| | | St wall (6E+4) | - | - | - | - | 9E-4 | 9E-3 |
| | | W, nitrates and sulfides | - | 2E+5 | 9E-5 | 3E-7 | - | - |
| | | Y, oxides and hydroxides | - | 2E+5 | 8E-5 | 3E-7 | - | - |
| 47 | Silver-103 ² | D, see ^{102}Ag | 4E+4 | 1E+5 | 4E-5 | 1E-7 | 5E-4 | 5E-3 |
| | | W, see ^{102}Ag | - | 1E+5 | 5E-5 | 2E-7 | - | - |
| | | Y, see ^{102}Ag | - | 1E+5 | 5E-5 | 2E-7 | - | - |
| 47 | Silver-104m ² | D, see ^{102}Ag | 3E+4 | 9E+4 | 4E-5 | 1E-7 | 4E-4 | 4E-3 |
| | | W, see ^{102}Ag | - | 1E+5 | 5E-5 | 2E-7 | - | - |
| | | Y, see ^{102}Ag | - | 1E+5 | 5E-5 | 2E-7 | - | - |
| 47 | Silver-104 ² | D, see ^{102}Ag | 2E+4 | 7E+4 | 3E-5 | 1E-7 | 3E-4 | 3E-3 |
| | | W, see ^{102}Ag | - | 1E+5 | 6E-5 | 2E-7 | - | - |
| | | Y, see ^{102}Ag | - | 1E+5 | 6E-5 | 2E-7 | - | - |
| 47 | Silver-105 | D, see ^{102}Ag | 3E+3 | 1E+3 | 4E-7 | 1E-9 | 4E-5 | 4E-4 |
| | | W, see ^{102}Ag | - | 2E+3 | 7E-7 | 2E-9 | - | - |
| | | Y, see ^{102}Ag | - | 2E+3 | 7E-7 | 2E-9 | - | - |
| 47 | Silver-106m | D, see ^{102}Ag | 8E+2 | 7E+2 | 3E-7 | 1E-9 | 1E-5 | 1E-4 |
| | | W, see ^{102}Ag | - | 9E+2 | 4E-7 | 1E-9 | - | - |
| | | Y, see ^{102}Ag | - | 9E+2 | 4E-7 | 1E-9 | - | - |
| 47 | Silver-106 ² | D, see ^{102}Ag | 6E+4 | 2E+5 | 8E-5 | 3E-7 | - | - |
| | | St Wall (6E+4) | - | - | - | - | 9E-4 | 9E-3 |
| | | W, see ^{102}Ag | - | 2E+5 | 9E-5 | 3E-7 | - | - |
| | | Y, see ^{102}Ag | - | 2E+5 | 8E-5 | 3E-7 | - | - |
| 47 | Silver-108m | D, see ^{102}Ag | 6E+2 | 2E+2 | 8E-8 | 3E-10 | 9E-6 | 9E-5 |
| | | W, see ^{102}Ag | - | 3E+2 | 1E-7 | 4E-10 | - | - |
| | | Y, see ^{102}Ag | - | 2E+1 | 1E-8 | 3E-11 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|--------------------------|-------------------------------------------------|--------------------------------|----------------------|----------------|-------------------------------------|-----------------|----------------------------------|
| | | | Col. 1 Oral Ingestion | Col. 2 Inhalation | Col. 3 DAC | Col. 1 Air | Col. 2 Water | Monthly Average Concentration |
| | | | ALI (μ Ci) | ALI (μ Ci) | (μ Ci/ml) | (μ Ci/ml) | (μ Ci/ml) | (μ Ci/ml) |
| 47 | Silver-110m | D, see ^{102}Ag | 5E+2 | 1E+2 | 5E-8 | 2E-10 | 6E-6 | 6E-5 |
| | | W, see ^{102}Ag | - | 2E+2 | 8E-8 | 3E-10 | - | - |
| | | Y, see ^{102}Ag | - | 9E+1 | 4E-8 | 1E-10 | - | - |
| 47 | Silver-111 | D, see ^{102}Ag | 9E+2 | 2E+3 | 6E-7 | - | - | - |
| | | | LLI wall (1E+3) | Liver (2E+3) | - | 2E-9 | 2E-5 | 2E-4 |
| | | W, see ^{102}Ag | - | 9E+2 | 4E-7 | 1E-9 | - | - |
| | | Y, see ^{102}Ag | - | 9E+2 | 4E-7 | 1E-9 | - | - |
| 47 | Silver-112 | D, see ^{102}Ag | 3E+3 | 8E+3 | 3E-6 | 1E-8 | 4E-5 | 4E-4 |
| | | W, see ^{102}Ag | - | 1E+4 | 4E-6 | 1E-8 | - | - |
| | | Y, see ^{102}Ag | - | 9E+3 | 4E-6 | 1E-8 | - | - |
| 47 | Silver-115 ² | D, see ^{102}Ag | 3E+4 | 9E+4 | 4E-5 | 1E-7 | - | - |
| | | | St wall (3E+4) | - | - | - | 4E-4 | 4E-3 |
| | | W, see ^{102}Ag | - | 9E+4 | 4E-5 | 1E-7 | - | - |
| | | Y, see ^{102}Ag | - | 8E+4 | 3E-5 | 1E-7 | - | - |
| 48 | Cadmium-104 ² | D, all compounds except those given for W and Y | 2E+4 | 7E+4 | 3E-5 | 9E-8 | 3E-4 | 3E-3 |
| | | W, sulfides, halides, and nitrates | - | 1E+5 | 5E-5 | 2E-7 | - | - |
| | | Y, oxides and hydroxides | - | 1E+5 | 5E-5 | 2E-7 | - | - |
| | | | | | | | | |
| 48 | Cadmium-107 | D, see ^{104}Cd | 2E+4 | 5E+4 | 2E-5 | 8E-8 | 3E-4 | 3E-3 |
| | | W, see ^{104}Cd | - | 6E+4 | 2E-5 | 8E-8 | - | - |
| | | Y, see ^{104}Cd | - | 5E+4 | 2E-5 | 7E-8 | - | - |
| 48 | Cadmium-109 | D, see ^{104}Cd | 3E+2 | 4E+1 | 1E-8 | - | - | - |
| | | | Kidneys (4E+2) | Kidneys (5E+1) | - | 7E-11 | 6E-6 | 6E-5 |
| | | W, see ^{104}Cd | - | 1E+2 | 5E-8 | - | - | - |
| | | | | Kidneys (1E+2) | - | 2E-10 | - | - |
| 48 | Cadmium-113m | D, see ^{104}Cd | 2E+1 | 2E+0 | 1E-9 | - | - | - |
| | | | Kidneys (4E+1) | Kidneys (4E+0) | - | 5E-12 | 5E-7 | 5E-6 |
| | | W, see ^{104}Cd | - | 8E+0 | 4E-9 | - | - | - |
| | | | | Kidneys (1E+1) | - | 2E-11 | - | - |
| 48 | Cadmium-113 | Y, see ^{104}Cd | - | 1E+1 | 5E-9 | 2E-11 | - | - |
| | | D, see ^{104}Cd | 2E+1 | 2E+0 | 9E-10 | - | - | - |
| | | | Kidneys (3E+1) | Kidneys (3E+0) | - | 5E-12 | 4E-7 | 4E-6 |
| | | W, see ^{104}Cd | - | 8E+0 | 3E-9 | - | - | - |
| | | | | Kidneys (1E+1) | - | 2E-11 | - | - |
| | | Y, see ^{104}Cd | - | 1E+1 | 6E-9 | 2E-11 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|---------------------------------------|-------------------------------------------------------------------------------------------------|-------------------------------------------------------|---------------------------------------------------|----------------------------------------|----------------------------------------|------------------------------------------|-----------------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μCi) | Col. 2 Inhalation ALI (μCi) | Col. 3 DAC ($\mu\text{Ci/ml}$) | Col. 1 Air ($\mu\text{Ci/ml}$) | Col. 2 Water ($\mu\text{Ci/ml}$) | Monthly Average Concentration ($\mu\text{Ci/ml}$) |
| 48 | Cadmium-115m | D, see ^{104}Cd | 3E+2 | 5E+1 Kidneys | 2E-8 | - | 4E-6 | 4E-5 |
| | | | - | (8E+1) | - | 1E-10 | - | - |
| | | W, see ^{104}Cd | - | 1E+2 | 5E-8 | 2E-10 | - | - |
| | | Y, see ^{104}Cd | - | 1E+2 | 6E-8 | 2E-10 | - | - |
| 48 | Cadmium-115 | D, see ^{104}Cd | 9E+2 | 1E+3 | 6E-7 | 2E-9 | - | - |
| | | | LLI wall (1E+3) | - | - | - | 1E-5 | 1E-4 |
| | | W, see ^{104}Cd | - | 1E+3 | 5E-7 | 2E-9 | - | - |
| | | Y, see ^{104}Cd | - | 1E+3 | 6E-7 | 2E-9 | - | - |
| 48 | Cadmium-117m | D, see ^{104}Cd | 5E+3 | 1E+4 | 5E-6 | 2E-8 | 6E-5 | 6E-4 |
| | | W, see ^{104}Cd | - | 2E+4 | 7E-6 | 2E-8 | - | - |
| | | Y, see ^{104}Cd | - | 1E+4 | 6E-6 | 2E-8 | - | - |
| 48 | Cadmium-117 | D, see ^{104}Cd | 5E+3 | 1E+4 | 5E-6 | 2E-8 | 6E-5 | 6E-4 |
| | | W, see ^{104}Cd | - | 2E+4 | 7E-6 | 2E-8 | - | - |
| | | Y, see ^{104}Cd | - | 1E+4 | 6E-6 | 2E-8 | - | - |
| 49 | Indium-109 | D, all compounds except those given for W W, oxides, hydroxides, halides, and nitrates | 2E+4 | 4E+4 | 2E-5 | 6E-8 | 3E-4 | 3E-3 |
| | | | - | 6E+4 | 3E-5 | 9E-8 | - | - |
| 49 | Indium-110 ² (69.1 min) | D, see ^{109}In | 2E+4 | 4E+4 | 2E-5 | 6E-8 | 2E-4 | 2E-3 |
| | | W, see ^{109}In | - | 6E+4 | 2E-5 | 8E-8 | - | - |
| 49 | Indium-110 (4.9 h) | D, see ^{109}In | 5E+3 | 2E+4 | 7E-6 | 2E-8 | 7E-5 | 7E-4 |
| | | W, see ^{109}In | - | 2E+4 | 8E-6 | 3E-8 | - | - |
| 49 | Indium-111 | D, see ^{109}In | 4E+3 | 6E+3 | 3E-6 | 9E-9 | 6E-5 | 6E-4 |
| | | W, see ^{109}In | - | 6E+3 | 3E-6 | 9E-9 | - | - |
| 49 | Indium-112 ² | D, see ^{109}In | 2E+5 | 6E+5 | 3E-4 | 9E-7 | 2E-3 | 2E-2 |
| | - | W, see ^{109}In | - | 7E+5 | 3E-4 | 1E-6 | - | - |
| 49 | Indium-113m ² | D, see ^{109}In | 5E+4 | 1E+5 | 6E-5 | 2E-7 | 7E-4 | 7E-3 |
| | - | W, see ^{109}In | - | 2E+5 | 8E-5 | 3E-7 | - | - |
| 49 | Indium-114m | D, see ^{109}In | 3E+2 | 6E+1 | 3E-8 | 9E-11 | - | - |
| | | | LLI wall (4E+2) | - | - | - | 5E-6 | 5E-5 |
| | | W, see ^{109}In | - | 1E+2 | 4E-8 | 1E-10 | - | - |
| 49 | Indium-115m | D, see ^{109}In | 1E+4 | 4E+4 | 2E-5 | 6E-8 | 2E-4 | 2E-3 |
| | - | W, see ^{109}In | - | 5E+4 | 2E-5 | 7E-8 | - | - |
| 49 | Indium-115 | D, see ^{109}In | 4E+1 | 1E+0 | 6E-10 | 2E-12 | 5E-7 | 5E-6 |
| | - | W, see ^{109}In | - | 5E+0 | 2E-9 | 8E-12 | - | - |
| 49 | Indium-116m ² | D, see ^{109}In | 2E+4 | 8E+4 | 3E-5 | 1E-7 | 3E-4 | 3E-3 |
| | | W, see ^{109}In | - | 1E+5 | 5E-5 | 2E-7 | - | - |
| 49 | Indium-117m ² | D, see ^{109}In | 1E+4 | 3E+4 | 1E-5 | 5E-8 | 2E-4 | 2E-3 |
| | - | W, see ^{109}In | - | 4E+4 | 2E-5 | 6E-8 | - | - |
| 49 | Indium-117 ² | D, see ^{109}In | 6E+4 | 2E+5 | 7E-5 | 2E-7 | 8E-4 | 8E-3 |
| | | W, see ^{109}In | - | 2E+5 | 9E-5 | 3E-7 | - | - |

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|--------------------------|---------------------------------------------------------------------------|------------------------------------------------|--------------------------------------------|---------------------------------|-------------------------------------|-----------------------------------|----------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μ Ci) | Col. 2 Inhalation ALI (μ Ci) | Col. 3 DAC (μ Ci/ml) | Col. 1 Air (μ Ci/ml) | Col. 2 Water (μ Ci/ml) | Monthly Average Concentration (μ Ci/ml) |
| 49 | Indium-119m ² | D, see ¹⁰⁹ In | 4E+4 St wall (5E+4) | 1E+5 | 5E-5 | 2E-7 | - | - |
| | | W, see ¹⁰⁹ In | - | 1E+5 | 6E-5 | 2E-7 | - | - |
| 50 | Tin-110 | D, all compounds except those given for W | 4E+3 | 1E+4 | 5E-6 | 2E-8 | 5E-5 | 5E-4 |
| | | W, sulfides, oxides, hydroxides, halides, nitrates, and stannic phosphate | - | 1E+4 | 5E-6 | 2E-8 | - | - |
| 50 | Tin-111 ² | D, see ¹¹⁰ Sn | 7E+4 | 2E+5 | 9E-5 | 3E-7 | 1E-3 | 1E-2 |
| | | W, see ¹¹⁰ Sn | - | 3E+5 | 1E-4 | 4E-7 | - | - |
| 50 | Tin-113 | D, see ¹¹⁰ Sn | 2E+3 LLI wall (2E+3) | 1E+3 | 5E-7 | 2E-9 | - | - |
| | | W, see ¹¹⁰ Sn | - | 5E+2 | 2E-7 | 8E-10 | - | - |
| 50 | Tin-117m | D, see ¹¹⁰ Sn | 2E+3 LLI wall (2E+3) | 1E+3 Bone surf (2E+3) | 5E-7 | - | - | - |
| | | W, see ¹¹⁰ Sn | - | 1E+3 | 6E-7 | 2E-9 | - | - |
| 50 | Tin-119m | D, see ¹¹⁰ Sn | 3E+3 LLI wall (4E+3) | 2E+3 | 1E-6 | 3E-9 | - | - |
| | | W, see ¹¹⁰ Sn | - | 1E+3 | 4E-7 | 1E-9 | - | - |
| 50 | Tin-121m | D, see ¹¹⁰ Sn | 3E+3 LLI wall (4E+3) | 9E+2 | 4E-7 | 1E-9 | - | - |
| | | W, see ¹¹⁰ Sn | - | 5E+2 | 2E-7 | 8E-10 | - | - |
| 50 | Tin-121 | D, see ¹¹⁰ Sn | 6E+3 LLI wall (6E+3) | 2E+4 | 6E-6 | 2E-8 | - | - |
| | | W, see ¹¹⁰ Sn | - | 1E+4 | 5E-6 | 2E-8 | - | - |
| 50 | Tin-123m ² | D, see ¹¹⁰ Sn | 5E+4 | 1E+5 | 5E-5 | 2E-7 | 7E-4 | 7E-3 |
| | | W, see ¹¹⁰ Sn | - | 1E+5 | 6E-5 | 2E-7 | - | - |
| 50 | Tin-123 | D, see ¹¹⁰ Sn | 5E+2 LLI wall (6E+2) | 6E+2 | 3E-7 | 9E-10 | - | - |
| | | W, see ¹¹⁰ Sn | - | 2E+2 | 7E-8 | 2E-10 | - | - |
| 50 | Tin-125 | D, see ¹¹⁰ Sn | 4E+2 LLI wall (5E+2) | 9E+2 | 4E-7 | 1E-9 | - | - |
| | | W, see ¹¹⁰ Sn | - | 4E+2 | 1E-7 | 5E-10 | - | - |
| 50 | Tin-126 | D, see ¹¹⁰ Sn | 3E+2 | 6E+1 | 2E-8 | 8E-11 | 4E-6 | 4E-5 |
| | | W, see ¹¹⁰ Sn | - | 7E+1 | 3E-8 | 9E-11 | - | - |
| 50 | Tin-127 | D, see ¹¹⁰ Sn | 7E+3 | 2E+4 | 8E-6 | 3E-8 | 9E-5 | 9E-4 |
| | | W, see ¹¹⁰ Sn | - | 2E+4 | 8E-6 | 3E-8 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|---------------------------------------|------------------------------------------------------------------|------------------------------------------------|--------------------------------------------|---------------------------------|-------------------------------------|-----------------------------------|----------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μ Ci) | Col. 2 Inhalation ALI (μ Ci) | Col. 3 DAC (μ Ci/ml) | Col. 1 Air (μ Ci/ml) | Col. 2 Water (μ Ci/ml) | Monthly Average Concentration (μ Ci/ml) |
| 50 | Tin-128 ² | D, see ¹¹⁰ Sn | 9E+3 | 3E+4 | 1E-5 | 4E-8 | 1E-4 | 1E-3 |
| | | W, see ¹¹⁰ Sn | - | 4E+4 | 1E-5 | 5E-8 | - | - |
| 51 | Antimony-115 ² | D, all compounds except those given for W | 8E+4 | 2E+5 | 1E-4 | 3E-7 | 1E-3 | 1E-2 |
| | | W, oxides, hydroxides, halides, sulfides, sulfates, and nitrates | - | 3E+5 | 1E-4 | 4E-7 | - | - |
| 51 | Antimony-116m ² | D, see ¹¹⁵ Sb | 2E+4 | 7E+4 | 3E-5 | 1E-7 | 3E-4 | 3E-3 |
| | | W, see ¹¹⁵ Sb | - | 1E+5 | 6E-5 | 2E-7 | - | - |
| 51 | Antimony-116 ² | D, see ¹¹⁵ Sb | 7E+4 | 3E+5 | 1E-4 | 4E-7 | - | - |
| | | St wall (9E+4) | - | - | - | - | 1E-3 | 1E-2 |
| | | W, see ¹¹⁵ Sb | - | 3E+5 | 1E-4 | 5E-7 | - | - |
| 51 | Antimony-117 | D, see ¹¹⁵ Sb | 7E+4 | 2E+5 | 9E-5 | 3E-7 | 9E-4 | 9E-3 |
| | | W, see ¹¹⁵ Sb | - | 3E+5 | 1E-4 | 4E-7 | - | - |
| 51 | Antimony-118m | D, see ¹¹⁵ Sb | 6E+3 | 2E+4 | 8E-6 | 3E-8 | 7E-5 | 7E-4 |
| | | W, see ¹¹⁵ Sb | 5E+3 | 2E+4 | 9E-6 | 3E-8 | - | - |
| 51 | Antimony-119 | D, see ¹¹⁵ Sb | 2E+4 | 5E+4 | 2E-5 | 6E-8 | 2E-4 | 2E-3 |
| | | W, see ¹¹⁵ Sb | 2E+4 | 3E+4 | 1E-5 | 4E-8 | - | - |
| 51 | Antimony-120 ² (16 min) | D, see ¹¹⁵ Sb | 1E+5 | 4E+5 | 2E-4 | 6E-7 | - | - |
| | | St wall (2E+5) | - | - | - | - | 2E-3 | 2E-2 |
| | | W, see ¹¹⁵ Sb | - | 5E+5 | 2E-4 | 7E-7 | - | - |
| 51 | Antimony-120 (5.76 d) | D, see ¹¹⁵ Sb | 1E+3 | 2E+3 | 9E-7 | 3E-9 | 1E-5 | 1E-4 |
| | | W, see ¹¹⁵ Sb | 9E+2 | 1E+3 | 5E-7 | 2E-9 | - | - |
| 51 | Antimony-122 | D, see ¹¹⁵ Sb | 8E+2 | 2E+3 | 1E-6 | 3E-9 | - | - |
| | | LLI wall (8E+2) | - | - | - | - | 1E-5 | 1E-4 |
| | | W, see ¹¹⁵ Sb | 7E+2 | 1E+3 | 4E-7 | 2E-9 | - | - |
| 51 | Antimony-124m ² | D, see ¹¹⁵ Sb | 3E+5 | 8E+5 | 4E-4 | 1E-6 | 3E-3 | 3E-2 |
| | | W, see ¹¹⁵ Sb | 2E+5 | 6E+5 | 2E-4 | 8E-7 | - | - |
| 51 | Antimony-124 | D, see ¹¹⁵ Sb | 6E+2 | 9E+2 | 4E-7 | 1E-9 | 7E-6 | 7E-5 |
| | | W, see ¹¹⁵ Sb | 5E+2 | 2E+2 | 1E-7 | 3E-10 | - | - |
| 51 | Antimony-125 | D, see ¹¹⁵ Sb | 2E+3 | 2E+3 | 1E-6 | 3E-9 | 3E-5 | 3E-4 |
| | | W, see ¹¹⁵ Sb | - | 5E+2 | 2E-7 | 7E-10 | - | - |
| 51 | Antimony-126m ² | D, see ¹¹⁵ Sb | 5E+4 | 2E+5 | 8E-5 | 3E-7 | - | - |
| | | St wall (7E+4) | - | - | - | - | 9E-4 | 9E-3 |
| | | W, see ¹¹⁵ Sb | - | 2E+5 | 8E-5 | 3E-7 | - | - |
| 51 | Antimony-126 | D, see ¹¹⁵ Sb | 6E+2 | 1E+3 | 5E-7 | 2E-9 | 7E-6 | 7E-5 |
| | | W, see ¹¹⁵ Sb | 5E+2 | 5E+2 | 2E-7 | 7E-10 | - | - |
| 51 | Antimony-127 | D, see ¹¹⁵ Sb | 8E+2 | 2E+3 | 9E-7 | 3E-9 | - | - |
| | | LLI wall (8E+2) | - | - | - | - | 1E-5 | 1E-4 |
| | | W, see ¹¹⁵ Sb | 7E+2 | 9E+2 | 4E-7 | 1E-9 | - | - |

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| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|-----------------------------------------|----------------------------------------------------------------------------------------|------------------------------------------------|--------------------------------------------|---------------------------------|-------------------------------------|-----------------------------------|----------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μ Ci) | Col. 2 Inhalation ALI (μ Ci) | Col. 3 DAC (μ Ci/ml) | Col. 1 Air (μ Ci/ml) | Col. 2 Water (μ Ci/ml) | Monthly Average Concentration (μ Ci/ml) |
| 51 | Antimony-128 ² (10.4 min) | D, see ¹¹⁵ Sb | 8E+4 St wall (1E+5) | 4E+5 - | 2E-4 - | 5E-7 - | - 1E-3 | - 1E-2 |
| | | W, see ¹¹⁵ Sb | - | 4E+5 | 2E-4 | 6E-7 | - | - |
| 51 | Antimony-128 (9.01 h) | D, see ¹¹⁵ Sb | 1E+3 | 4E+3 | 2E-6 | 6E-9 | 2E-5 | 2E-4 |
| | | W, see ¹¹⁵ Sb | - | 3E+3 | 1E-6 | 5E-9 | - | - |
| 51 | Antimony-129 | D, see ¹¹⁵ Sb | 3E+3 | 9E+3 | 4E-6 | 1E-8 | 4E-5 | 4E-4 |
| | | W, see ¹¹⁵ Sb | - | 9E+3 | 4E-6 | 1E-8 | - | - |
| 51 | Antimony-130 ² | D, see ¹¹⁵ Sb | 2E+4 | 6E+4 | 3E-5 | 9E-8 | 3E-4 | 3E-3 |
| | | W, see ¹¹⁵ Sb | - | 8E+4 | 3E-5 | 1E-7 | - | - |
| 51 | Antimony-131 ² | D, see ¹¹⁵ Sb | 1E+4 Thyroid (2E+4) | 2E+4 Thyroid (4E+4) | 1E-5 - | - 6E-8 | - 2E-4 | - 2E-3 |
| | | W, see ¹¹⁵ Sb | - - | 2E+4 Thyroid (4E+4) | 1E-5 - | - 6E-8 | - - | - - |
| 52 | Tellurium-116 | D, all compounds except those given for W W, oxides, hydroxides, and nitrates | 8E+3 - | 2E+4 3E+4 | 9E-6 1E-5 | 3E-8 4E-8 | 1E-4 - | 1E-3 - |
| 52 | Tellurium-121m | D, see ¹¹⁶ Te | 5E+2 Bone surf (7E+2) | 2E+2 Bone surf (4E+2) | 8E-8 - | - 5E-10 | - 1E-5 | - 1E-4 |
| | | W, see ¹¹⁶ Te | - | 4E+2 | 2E-7 | 6E-10 | - | - |
| 52 | Tellurium-121 | D, see ¹¹⁶ Te | 3E+3 | 4E+3 | 2E-6 | 6E-9 | 4E-5 | 4E-4 |
| | | W, see ¹¹⁶ Te | - | 3E+3 | 1E-6 | 4E-9 | - | - |
| 52 | Tellurium-123m | D, see ¹¹⁶ Te | 6E+2 Bone surf (1E+3) | 2E+2 Bone surf (5E+2) | 9E-8 - | - 8E-10 | - 1E-5 | - 1E-4 |
| | | W, see ¹¹⁶ Te | - | 5E+2 | 2E-7 | 8E-10 | - | - |
| 52 | Tellurium-123 | D, see ¹¹⁶ Te | 5E+2 Bone surf (1E+3) | 2E+2 Bone surf (5E+2) | 8E-8 - | - 7E-10 | - 2E-5 | - 2E-4 |
| | | W, see ¹¹⁶ Te | - - | 4E+2 Bone surf (1E+3) | 2E-7 - | - 2E-9 | - - | - - |
| 52 | Tellurium-125m | D, see ¹¹⁶ Te | 1E+3 Bone surf (1E+3) | 4E+2 Bone surf (1E+3) | 2E-7 - | - 1E-9 | - 2E-5 | - 2E-4 |
| | | W, see ¹¹⁶ Te | - | 7E+2 | 3E-7 | 1E-9 | - | - |
| 52 | Tellurium-127m | D, see ¹¹⁶ Te | 6E+2 - | 3E+2 Bone surf (4E+2) | 1E-7 - | - 6E-10 | 9E-6 - | 9E-5 - |
| | | W, see ¹¹⁶ Te | - | 3E+2 | 1E-7 | 4E-10 | - | - |
| 52 | Tellurium-127 | D, see ¹¹⁶ Te | 7E+3 | 2E+4 | 9E-6 | 3E-8 | 1E-4 | 1E-3 |
| | | W, see ¹¹⁶ Te | - | 2E+4 | 7E-6 | 2E-8 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|-----------------------------|--------------------------|------------------------------------------------|--------------------------------------------|---------------------------------|-------------------------------------|-----------------------------------|----------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μ Ci) | Col. 2 Inhalation ALI (μ Ci) | Col. 3 DAC (μ Ci/ml) | Col. 1 Air (μ Ci/ml) | Col. 2 Water (μ Ci/ml) | Monthly Average Concentration (μ Ci/ml) |
| 52 | Tellurium-129m | D, see ^{116}Te | 5E+2 | 6E+2 | 3E-7 | 9E-10 | 7E-6 | 7E-5 |
| | | W, see ^{116}Te | - | 2E+2 | 1E-7 | 3E-10 | - | - |
| 52 | Tellurium-129 ² | D, see ^{116}Te | 3E+4 | 6E+4 | 3E-5 | 9E-8 | 4E-4 | 4E-3 |
| | | W, see ^{116}Te | - | 7E+4 | 3E-5 | 1E-7 | - | - |
| 52 | Tellurium-131m | D, see ^{116}Te | 3E+2 | 4E+2 | 2E-7 | - | - | - |
| | | Thyroid | Thyroid (6E+2) | Thyroid (1E+3) | - | 2E-9 | 8E-6 | 8E-5 |
| | | W, see ^{116}Te | - | 4E+2 | 2E-7 | - | - | - |
| | | Thyroid | - | Thyroid (9E+2) | - | 1E-9 | - | - |
| 52 | Tellurium-131 ² | D, see ^{116}Te | 3E+3 | 5E+3 | 2E-6 | - | - | - |
| | | Thyroid | Thyroid (6E+3) | Thyroid (1E+4) | - | 2E-8 | 8E-5 | 8E-4 |
| | | W, see ^{116}Te | - | 5E+3 | 2E-6 | - | - | - |
| | | Thyroid | - | Thyroid (1E+4) | - | 2E-8 | - | - |
| 52 | Tellurium-132 | D, see ^{116}Te | 2E+2 | 2E+2 | 9E-8 | - | - | - |
| | | Thyroid | Thyroid (7E+2) | Thyroid (8E+2) | - | 1E-9 | 9E-6 | 9E-5 |
| | | W, see ^{116}Te | - | 2E+2 | 9E-8 | - | - | - |
| | | Thyroid | - | Thyroid (6E+2) | - | 9E-10 | - | - |
| 52 | Tellurium-133m ² | D, see ^{116}Te | 3E+3 | 5E+3 | 2E-6 | - | - | - |
| | | Thyroid | Thyroid (6E+3) | Thyroid (1E+4) | - | 2E-8 | 9E-5 | 9E-4 |
| | | W, see ^{116}Te | - | 5E+3 | 2E-6 | - | - | - |
| | | Thyroid | - | Thyroid (1E+4) | - | 2E-8 | - | - |
| 52 | Tellurium-133 ² | D, see ^{116}Te | 1E+4 | 2E+4 | 9E-6 | - | - | - |
| | | Thyroid | Thyroid (3E+4) | Thyroid (6E+4) | - | 8E-8 | 4E-4 | 4E-3 |
| | | W, see ^{116}Te | - | 2E+4 | 9E-6 | - | - | - |
| | | Thyroid | - | Thyroid (6E+4) | - | 8E-8 | - | - |
| 52 | Tellurium-134 ² | D, see ^{116}Te | 2E+4 | 2E+4 | 1E-5 | - | - | - |
| | | Thyroid | Thyroid (2E+4) | Thyroid (5E+4) | - | 7E-8 | 3E-4 | 3E-3 |
| | | W, see ^{116}Te | - | 2E+4 | 1E-5 | - | - | - |
| | | Thyroid | - | Thyroid (5E+4) | - | 7E-8 | - | - |
| 53 | Iodine-120m ² | D, all compounds | 1E+4 | 2E+4 | 9E-6 | 3E-8 | - | - |
| | | Thyroid | Thyroid (1E+4) | - | - | - | 2E-4 | 2E-3 |
| 53 | Iodine-120 ² | D, all compounds | 4E+3 | 9E+3 | 4E-6 | - | - | - |
| | | Thyroid | Thyroid (8E+3) | Thyroid (1E+4) | - | 2E-8 | 1E-4 | 1E-3 |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|--------------------------|-------------------------|-------------------------------------------------------|---------------------------------------------------|----------------------------------------|----------------------------------------|------------------------------------------|-----------------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μCi) | Col. 2 Inhalation ALI (μCi) | Col. 3 DAC ($\mu\text{Ci/ml}$) | Col. 1 Air ($\mu\text{Ci/ml}$) | Col. 2 Water ($\mu\text{Ci/ml}$) | Monthly Average Concentration ($\mu\text{Ci/ml}$) |
| 53 | Iodine-121 | D, all compounds | 1E+4 | 2E+4 | 8E-6 | - | - | - |
| | | Thyroid | Thyroid | | | | | |
| | | (3E+4) | (5E+4) | - | 7E-8 | 4E-4 | 4E-3 | |
| 53 | Iodine-123 | D, all compounds | 3E+3 | 6E+3 | 3E-6 | - | - | - |
| | | Thyroid | Thyroid | | | | | |
| | | (1E+4) | (2E+4) | - | 2E-8 | 1E-4 | 1E-3 | |
| 53 | Iodine-124 | D, all compounds | 5E+1 | 8E+1 | 3E-8 | - | - | - |
| | | Thyroid | Thyroid | | | | | |
| | | (2E+2) | (3E+2) | - | 4E-10 | 2E-6 | 2E-5 | |
| 53 | Iodine-125 | D, all compounds | 4E+1 | 6E+1 | 3E-8 | - | - | - |
| | | Thyroid | Thyroid | | | | | |
| | | (1E+2) | (2E+2) | - | 3E-10 | 2E-6 | 2E-5 | |
| 53 | Iodine-126 | D, all compounds | 2E+1 | 4E+1 | 1E-8 | - | - | - |
| | | Thyroid | Thyroid | | | | | |
| | | (7E+1) | (1E+2) | - | 2E-10 | 1E-6 | 1E-5 | |
| 53 | Iodine-128 ² | D, all compounds | 4E+4 | 1E+5 | 5E-5 | 2E-7 | - | - |
| | | St wall | | | | | | |
| | | (6E+4) | - | - | - | 8E-4 | 8E-3 | |
| 53 | Iodine-129 | D, all compounds | 5E+0 | 9E+0 | 4E-9 | - | - | - |
| | | Thyroid | Thyroid | | | | | |
| | | (2E+1) | (3E+1) | - | 4E-11 | 2E-7 | 2E-6 | |
| 53 | Iodine-130 | D, all compounds | 4E+2 | 7E+2 | 3E-7 | - | - | - |
| | | Thyroid | Thyroid | | | | | |
| | | (1E+3) | (2E+3) | - | 3E-9 | 2E-5 | 2E-4 | |
| 53 | Iodine-131 | D, all compounds | 3E+1 | 5E+1 | 2E-8 | - | - | - |
| | | Thyroid | Thyroid | | | | | |
| | | (9E+1) | (2E+2) | - | 2E-10 | 1E-6 | 1E-5 | |
| 53 | Iodine-132m ² | D, all compounds | 4E+3 | 8E+3 | 4E-6 | - | - | - |
| | | Thyroid | Thyroid | | | | | |
| | | (1E+4) | (2E+4) | - | 3E-8 | 1E-4 | 1E-3 | |
| 53 | Iodine-132 | D, all compounds | 4E+3 | 8E+3 | 3E-6 | - | - | - |
| | | Thyroid | Thyroid | | | | | |
| | | (9E+3) | (1E+4) | - | 2E-8 | 1E-4 | 1E-3 | |
| 53 | Iodine-133 | D, all compounds | 1E+2 | 3E+2 | 1E-7 | - | - | - |
| | | Thyroid | Thyroid | | | | | |
| | | (5E+2) | (9E+2) | - | 1E-9 | 7E-6 | 7E-5 | |
| 53 | Iodine-134 ² | D, all compounds | 2E+4 | 5E+4 | 2E-5 | 6E-8 | - | - |
| | | Thyroid | | | | | | |
| | | (3E+4) | - | - | - | 4E-4 | 4E-3 | |
| 53 | Iodine-135 | D, all compounds | 8E+2 | 2E+3 | 7E-7 | - | - | - |
| | | Thyroid | Thyroid | | | | | |
| | | (3E+3) | (4E+3) | - | 6E-9 | 3E-5 | 3E-4 | |
| 54 | Xenon-120 ² | Submersion ¹ | - | - | 1E-5 | 4E-8 | - | - |
| 54 | Xenon-121 ² | Submersion ¹ | - | - | 2E-6 | 1E-8 | - | - |
| 54 | Xenon-122 | Submersion ¹ | - | - | 7E-5 | 3E-7 | - | - |
| 54 | Xenon-123 | Submersion ¹ | - | - | 6E-6 | 3E-8 | - | - |
| 54 | Xenon-125 | Submersion ¹ | - | - | 2E-5 | 7E-8 | - | - |
| 54 | Xenon-127 | Submersion ¹ | - | - | 1E-5 | 6E-8 | - | - |
| 54 | Xenon-129m | Submersion ¹ | - | - | 2E-4 | 9E-7 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|----------------------------|------------------------------------------------------------------|-------------------------------------------------------|---------------------------------------------------|----------------------------------------|----------------------------------------|------------------------------------------|-----------------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μCi) | Col. 2 Inhalation ALI (μCi) | Col. 3 DAC ($\mu\text{Ci/ml}$) | Col. 1 Air ($\mu\text{Ci/ml}$) | Col. 2 Water ($\mu\text{Ci/ml}$) | Monthly Average Concentration ($\mu\text{Ci/ml}$) |
| 54 | Xenon-131m | Submersion ¹ | - | - | 4E-4 | 2E-6 | - | - |
| 54 | Xenon-133m | Submersion ¹ | - | - | 1E-4 | 6E-7 | - | - |
| 54 | Xenon-133 | Submersion ¹ | - | - | 1E-4 | 5E-7 | - | - |
| 54 | Xenon-135m ² | Submersion ¹ | - | - | 9E-6 | 4E-8 | - | - |
| 54 | Xenon-135 | Submersion ¹ | - | - | 1E-5 | 7E-8 | - | - |
| 54 | Xenon-138 ² | Submersion ¹ | - | - | 4E-6 | 2E-8 | - | - |
| 55 | Cesium-125 ² | D, all compounds | 5E+4 | 1E+5 | 6E-5 | 2E-7 | - | - |
| | | St wall | (9E+4) | - | - | - | 1E-3 | 1E-2 |
| 55 | Cesium-127 | D, all compounds | 6E+4 | 9E+4 | 4E-5 | 1E-7 | 9E-4 | 9E-3 |
| 55 | Cesium-129 | D, all compounds | 2E+4 | 3E+4 | 1E-5 | 5E-8 | 3E-4 | 3E-3 |
| 55 | Cesium-130 ² | D, all compounds | 6E+4 | 2E+5 | 8E-5 | 3E-7 | - | - |
| | | St wall | (1E+5) | - | - | - | 1E-3 | 1E-2 |
| 55 | Cesium-131 | D, all compounds | 2E+4 | 3E+4 | 1E-5 | 4E-8 | 3E-4 | 3E-3 |
| 55 | Cesium-132 | D, all compounds | 3E+3 | 4E+3 | 2E-6 | 6E-9 | 4E-5 | 4E-4 |
| 55 | Cesium-134m | D, all compounds | 1E+5 | 1E+5 | 6E-5 | 2E-7 | - | - |
| | | St wall | (1E+5) | - | - | - | 2E-3 | 2E-2 |
| 55 | Cesium-134 | D, all compounds | 7E+1 | 1E+2 | 4E-8 | 2E-10 | 9E-7 | 9E-6 |
| 55 | Cesium-135m ² | D, all compounds | 1E+5 | 2E+5 | 8E-5 | 3E-7 | 1E-3 | 1E-2 |
| 55 | Cesium-135 | D, all compounds | 7E+2 | 1E+3 | 5E-7 | 2E-9 | 1E-5 | 1E-4 |
| 55 | Cesium-136 | D, all compounds | 4E+2 | 7E+2 | 3E-7 | 9E-10 | 6E-6 | 6E-5 |
| 55 | Cesium-137 | D, all compounds | 1E+2 | 2E+2 | 6E-8 | 2E-10 | 1E-6 | 1E-5 |
| 55 | Cesium-138 ² | D, all compounds | 2E+4 | 6E+4 | 2E-5 | 8E-8 | - | - |
| | | St wall | (3E+4) | - | - | - | 4E-4 | 4E-3 |
| 56 | Barium-126 ² | D, all compounds | 6E+3 | 2E+4 | 6E-6 | 2E-8 | 8E-5 | 8E-4 |
| 56 | Barium-128 | D, all compounds | 5E+2 | 2E+3 | 7E-7 | 2E-9 | 7E-6 | 7E-5 |
| 56 | Barium-131m ² | D, all compounds | 4E+5 | 1E+6 | 6E-4 | 2E-6 | - | - |
| | | St wall | (5E+5) | - | - | - | 7E-3 | 7E-2 |
| 56 | Barium-131 | D, all compounds | 3E+3 | 8E+3 | 3E-6 | 1E-8 | 4E-5 | 4E-4 |
| 56 | Barium-133m | D, all compounds | 2E+3 | 9E+3 | 4E-6 | 1E-8 | - | - |
| | | LLI wall | (3E+3) | - | - | - | 4E-5 | 4E-4 |
| 56 | Barium-133 | D, all compounds | 2E+3 | 7E+2 | 3E-7 | 9E-10 | 2E-5 | 2E-4 |
| 56 | Barium-135m | D, all compounds | 3E+3 | 1E+4 | 5E-6 | 2E-8 | 4E-5 | 4E-4 |
| 56 | Barium-139 ² | D, all compounds | 1E+4 | 3E+4 | 1E-5 | 4E-8 | 2E-4 | 2E-3 |
| 56 | Barium-140 | D, all compounds | 5E+2 | 1E+3 | 6E-7 | 2E-9 | - | - |
| | | LLI wall | (6E+2) | - | - | - | 8E-6 | 8E-5 |
| 56 | Barium-141 ² | D, all compounds | 2E+4 | 7E+4 | 3E-5 | 1E-7 | 3E-4 | 3E-3 |
| 56 | Barium-142 ² | D, all compounds | 5E+4 | 1E+5 | 6E-5 | 2E-7 | 7E-4 | 7E-3 |
| 57 | Lanthanum-131 ² | D, all compounds except those given for W, oxides and hydroxides | 5E+4 | 1E+5 | 5E-5 | 2E-7 | 6E-4 | 6E-3 |
| | | | - | 2E+5 | 7E-5 | 2E-7 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|---------------|----------------------------|----------------------------------------------|------------------------------------------------|--------------------------------------------|---------------------------------|-------------------------------------|-----------------------------------|----------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μ Ci) | Col. 2 Inhalation ALI (μ Ci) | Col. 3 DAC (μ Ci/ml) | Col. 1 Air (μ Ci/ml) | Col. 2 Water (μ Ci/ml) | Monthly Average Concentration (μ Ci/ml) |
| 57 | Lanthanum-132 | D, see ^{131}La | 3E+3 | 1E+4 | 4E-6 | 1E-8 | 4E-5 | 4E-4 |
| | | W, see ^{131}La | - | 1E+4 | 5E-6 | 2E-8 | - | - |
| 57 | Lanthanum-135 | D, see ^{131}La | 4E+4 | 1E+5 | 4E-5 | 1E-7 | 5E-4 | 5E-3 |
| | | W, see ^{131}La | - | 9E+4 | 4E-5 | 1E-7 | - | - |
| 57 | Lanthanum-137 | D, see ^{131}La | 1E+4 | 6E+1 | 3E-8 | - | 2E-4 | 2E-3 |
| | | | | Liver | | | | |
| | | | - | (7E+1) | - | 1E-10 | - | - |
| | | W, see ^{131}La | - | 3E+2 | 1E-7 | - | - | - |
| 57 | Lanthanum-138 | D, see ^{131}La | 9E+2 | 4E+0 | 1E-9 | 5E-12 | 1E-5 | 1E-4 |
| | | W, see ^{131}La | - | 1E+1 | 6E-9 | 2E-11 | - | - |
| 57 | Lanthanum-140 | D, see ^{131}La | 6E+2 | 1E+3 | 6E-7 | 2E-9 | 9E-6 | 9E-5 |
| | | W, see ^{131}La | - | 1E+3 | 5E-7 | 2E-9 | - | - |
| 57 | Lanthanum-141 | D, see ^{131}La | 4E+3 | 9E+3 | 4E-6 | 1E-8 | 5E-5 | 5E-4 |
| | | W, see ^{131}La | - | 1E+4 | 5E-6 | 2E-8 | - | - |
| 57 | Lanthanum-142 ² | D, see ^{131}La | 8E+3 | 2E+4 | 9E-6 | 3E-8 | 1E-4 | 1E-3 |
| | | W, see ^{131}La | - | 3E+4 | 1E-5 | 5E-8 | - | - |
| 57 | Lanthanum-143 ² | D, see ^{131}La | 4E+4 | 1E+5 | 4E-5 | 1E-7 | - | - |
| | | | St wall | | | | | |
| | | | (4E+4) | - | - | - | 5E-4 | 5E-3 |
| | | W, see ^{131}La | - | 9E+4 | 4E-5 | 1E-7 | - | - |
| 58 | Cerium-134 | W, all compounds except those given for Y | 5E+2 | 7E+2 | 3E-7 | 1E-9 | - | - |
| | | | LLI wall | | | | | |
| | | | (6E+2) | - | - | - | 8E-6 | 8E-5 |
| 58 | Cerium-135 | Y, oxides, hydroxides, and fluorides | - | 7E+2 | 3E-7 | 9E-10 | - | - |
| | | W, see ^{134}Ce | 2E+3 | 4E+3 | 2E-6 | 5E-9 | 2E-5 | 2E-4 |
| 58 | Cerium-137m | Y, see ^{134}Ce | - | 4E+3 | 1E-6 | 5E-9 | - | - |
| | | W, see ^{134}Ce | 2E+3 | 4E+3 | 2E-6 | 6E-9 | - | - |
| 58 | Cerium-137 | LLI wall | (2E+3) | - | - | - | 3E-5 | 3E-4 |
| | | Y, see ^{134}Ce | - | 4E+3 | 2E-6 | 5E-9 | - | - |
| 58 | Cerium-139 | W, see ^{134}Ce | 5E+4 | 1E+5 | 6E-5 | 2E-7 | 7E-4 | 7E-3 |
| | | Y, see ^{134}Ce | - | 1E+5 | 5E-5 | 2E-7 | - | - |
| 58 | Cerium-141 | W, see ^{134}Ce | 5E+3 | 8E+2 | 3E-7 | 1E-9 | 7E-5 | 7E-4 |
| | | Y, see ^{134}Ce | - | 7E+2 | 3E-7 | 9E-10 | - | - |
| 58 | Cerium-143 | W, see ^{134}Ce | 2E+3 | 7E+2 | 3E-7 | 1E-9 | - | - |
| | | | LLI wall | | | | | |
| | | | (2E+3) | - | - | - | 3E-5 | 3E-4 |
| | | Y, see ^{134}Ce | - | 6E+2 | 2E-7 | 8E-10 | - | - |
| 58 | | W, see ^{134}Ce | 1E+3 | 2E+3 | 8E-7 | 3E-9 | - | - |
| | | | LLI wall | | | | | |
| 58 | | | (1E+3) | - | - | - | 2E-5 | 2E-4 |
| | | Y, see ^{134}Ce | - | 2E+3 | 7E-7 | 2E-9 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|--------------------------------|------------------------------------------------|-------------------------------------------------------|---------------------------------------------------|----------------------------------------|----------------------------------------|------------------------------------------|-----------------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μCi) | Col. 2 Inhalation ALI (μCi) | Col. 3 DAC ($\mu\text{Ci/ml}$) | Col. 1 Air ($\mu\text{Ci/ml}$) | Col. 2 Water ($\mu\text{Ci/ml}$) | Monthly Average Concentration ($\mu\text{Ci/ml}$) |
| 58 | Cerium-144 | W, see ^{134}Ce | 2E+2 LLI wall (3E+2) | 3E+1 - | 1E-8 - | 4E-11 - | - 3E-6 | - 3E-5 |
| | | Y, see ^{134}Ce | - | 1E+1 | 6E-9 | 2E-11 | - | - |
| 59 | Praseodymium-136 ² | W, all compounds except those given for Y | 5E+4 St wall (7E+4) | 2E+5 - | 1E-4 - | 3E-7 - | - 1E-3 | - 1E-2 |
| | | Y, oxides, hydroxides, carbides, and fluorides | - | 2E+5 | 9E-5 | 3E-7 | - | - |
| 59 | Praseodymium-137 ² | W, see ^{136}Pr | 4E+4 | 2E+5 | 6E-5 | 2E-7 | 5E-4 | 5E-3 |
| | | Y, see ^{136}Pr | - | 1E+5 | 6E-5 | 2E-7 | - | - |
| 59 | Praseodymium-138m | W, see ^{136}Pr | 1E+4 | 5E+4 | 2E-5 | 8E-8 | 1E-4 | 1E-3 |
| | | Y, see ^{136}Pr | - | 4E+4 | 2E-5 | 6E-8 | - | - |
| 59 | Praseodymium-139 | W, see ^{136}Pr | 4E+4 | 1E+5 | 5E-5 | 2E-7 | 6E-4 | 6E-3 |
| | | Y, see ^{136}Pr | - | 1E+5 | 5E-5 | 2E-7 | - | - |
| 59 | Praseodymium-142m ² | W, see ^{136}Pr | 8E+4 | 2E+5 | 7E-5 | 2E-7 | 1E-3 | 1E-2 |
| | | Y, see ^{136}Pr | - | 1E+5 | 6E-5 | 2E-7 | - | - |
| 59 | Praseodymium-142 | W, see ^{136}Pr | 1E+3 | 2E+3 | 9E-7 | 3E-9 | 1E-5 | 1E-4 |
| | | Y, see ^{136}Pr | - | 2E+3 | 8E-7 | 3E-9 | - | - |
| 59 | Praseodymium-143 | W, see ^{136}Pr | 9E+2 LLI wall (1E+3) | 8E+2 - | 3E-7 - | 1E-9 - | - 2E-5 | - 2E-4 |
| | | Y, see ^{136}Pr | - | 7E+2 | 3E-7 | 9E-10 | - | - |
| 59 | Praseodymium-144 ² | W, see ^{136}Pr | 3E+4 St wall (4E+4) | 1E+5 - | 5E-5 - | 2E-7 - | - 6E-4 | - 6E-3 |
| | | Y, see ^{136}Pr | - | 1E+5 | 5E-5 | 2E-7 | - | - |
| 59 | Praseodymium-145 | W, see ^{136}Pr | 3E+3 | 9E+3 | 4E-6 | 1E-8 | 4E-5 | 4E-4 |
| | | Y, see ^{136}Pr | - | 8E+3 | 3E-6 | 1E-8 | - | - |
| 59 | Praseodymium-147 ² | W, see ^{136}Pr | 5E+4 St wall (8E+4) | 2E+5 - | 8E-5 - | 3E-7 - | - 1E-3 | - 1E-2 |
| | | Y, see ^{136}Pr | - | 2E+5 | 8E-5 | 3E-7 | - | - |
| 60 | Neodymium-136 ² | W, all compounds except those given for Y | 1E+4 | 6E+4 | 2E-5 | 8E-8 | 2E-4 | 2E-3 |
| | | Y, oxides, hydroxides, carbides, and fluorides | - | 5E+4 | 2E-5 | 8E-8 | - | - |
| 60 | Neodymium-138 | W, see ^{136}Nd | 2E+3 | 6E+3 | 3E-6 | 9E-9 | 3E-5 | 3E-4 |
| | | Y, see ^{136}Nd | - | 5E+3 | 2E-6 | 7E-9 | - | - |
| 60 | Neodymium-139m | W, see ^{136}Nd | 5E+3 | 2E+4 | 7E-6 | 2E-8 | 7E-5 | 7E-4 |
| | | Y, see ^{136}Nd | - | 1E+4 | 6E-6 | 2E-8 | - | - |
| 60 | Neodymium-139 ² | W, see ^{136}Nd | 9E+4 | 3E+5 | 1E-4 | 5E-7 | 1E-3 | 1E-2 |
| | | Y, see ^{136}Nd | - | 3E+5 | 1E-4 | 4E-7 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|-----------------------------|---------------------------------------------------|------------------------------------------------|--------------------------------------------|---------------------------------|-------------------------------------|-----------------------------------|----------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μ Ci) | Col. 2 Inhalation ALI (μ Ci) | Col. 3 DAC (μ Ci/ml) | Col. 1 Air (μ Ci/ml) | Col. 2 Water (μ Ci/ml) | Monthly Average Concentration (μ Ci/ml) |
| 60 | Neodymium-141 | W, see ^{136}Nd | 2E+5 | 7E+5 | 3E-4 | 1E-6 | 2E-3 | 2E-2 |
| | | Y, see ^{136}Nd | - | 6E+5 | 3E-4 | 9E-7 | - | - |
| 60 | Neodymium-147 | W, see ^{136}Nd | 1E+3 | 9E+2 | 4E-7 | 1E-9 | - | - |
| | | LLI wall (1E+3) | - | - | - | - | 2E-5 | 2E-4 |
| 60 | Neodymium-149 ² | Y, see ^{136}Nd | - | 8E+2 | 4E-7 | 1E-9 | - | - |
| | | W, see ^{136}Nd | 1E+4 | 3E+4 | 1E-5 | 4E-8 | 1E-4 | 1E-3 |
| 60 | Neodymium-151 ² | Y, see ^{136}Nd | - | 2E+4 | 1E-5 | 3E-8 | - | - |
| | | W, see ^{136}Nd | 7E+4 | 2E+5 | 8E-5 | 3E-7 | 9E-4 | 9E-3 |
| 60 | Neodymium-151 ² | Y, see ^{136}Nd | - | 2E+5 | 8E-5 | 3E-7 | - | - |
| 61 | Promethium-141 ² | W, all compounds except those given for Y | 5E+4 | 2E+5 | 8E-5 | 3E-7 | - | - |
| | | St wall (6E+4) | - | - | - | - | 8E-4 | 8E-3 |
| 61 | Promethium-143 | Y, oxides, hydroxides, carbides, and fluorides | - | 2E+5 | 7E-5 | 2E-7 | - | - |
| | | W, see ^{141}Pm | 5E+3 | 6E+2 | 2E-7 | 8E-10 | 7E-5 | 7E-4 |
| 61 | Promethium-143 | Y, see ^{141}Pm | - | 7E+2 | 3E-7 | 1E-9 | - | - |
| 61 | Promethium-144 | W, see ^{141}Pm | 1E+3 | 1E+2 | 5E-8 | 2E-10 | 2E-5 | 2E-4 |
| | | Y, see ^{141}Pm | - | 1E+2 | 5E-8 | 2E-10 | - | - |
| 61 | Promethium-145 | W, see ^{141}Pm | 1E+4 | 2E+2 | 7E-8 | - | 1E-4 | 1E-3 |
| | | Bone surf (2E+2) | - | - | - | 3E-10 | - | - |
| 61 | Promethium-146 | Y, see ^{141}Pm | - | 2E+2 | 8E-8 | 3E-10 | - | - |
| | | W, see ^{141}Pm | 2E+3 | 5E+1 | 2E-8 | 7E-11 | 2E-5 | 2E-4 |
| 61 | Promethium-147 | Y see ^{141}Pm | - | 4E+1 | 2E-8 | 6E-11 | - | - |
| | | W see ^{141}Pm | 4E+3 | 1E+2 | 5E-8 | - | - | - |
| 61 | Promethium-148m | LLI wall (5E+3) | - | 1E+2 | 6E-8 | 2E-10 | - | - |
| | | Bone surf (2E+2) | - | - | - | 3E-10 | 7E-5 | 7E-4 |
| 61 | Promethium-148m | Y, see ^{141}Pm | - | 1E+2 | 6E-8 | 2E-10 | - | - |
| | | W, see ^{141}Pm | 7E+2 | 3E+2 | 1E-7 | 4E-10 | 1E-5 | 1E-4 |
| 61 | Promethium-148 | Y, see ^{141}Pm | - | 3E+2 | 1E-7 | 5E-10 | - | - |
| | | W, see ^{141}Pm | 4E+2 | 5E+2 | 2E-7 | 8E-10 | - | - |
| 61 | Promethium-148 | LLI wall (5E+2) | - | - | - | - | 7E-6 | 7E-5 |
| | | Y, see ^{141}Pm | - | 5E+2 | 2E-7 | 7E-10 | - | - |
| 0 | | LLI wall (1E+3) | - | - | - | - | 2E-5 | 2E-4 |
| | | Y, see ^{141}Pm | - | 2E+3 | 8E-7 | 2E-9 | - | - |
| 61 | Promethium-150 | W, see ^{141}Pm | 5E+3 | 2E+4 | 8E-6 | 3E-8 | 7E-5 | 7E-4 |
| | | Y, see ^{141}Pm | - | 2E+4 | 7E-6 | 2E-8 | - | - |
| 61 | Promethium-151 | W, see ^{141}Pm | 2E+3 | 4E+3 | 1E-6 | 5E-9 | 2E-5 | 2E-4 |
| | | Y, see ^{141}Pm | - | 3E+3 | 1E-6 | 4E-9 | - | - |
| 62 | Samarium-141m ² | W, all compounds | 3E+4 | 1E+5 | 4E-5 | 1E-7 | 4E-4 | 4E-3 |

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|-----------------------------|----------------------------------------------|-------------------------------------------------------|---------------------------------------------------|----------------------------------------|----------------------------------------|------------------------------------------|-----------------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μCi) | Col. 2 Inhalation ALI (μCi) | Col. 3 DAC ($\mu\text{Ci/ml}$) | Col. 1 Air ($\mu\text{Ci/ml}$) | Col. 2 Water ($\mu\text{Ci/ml}$) | Monthly Average Concentration ($\mu\text{Ci/ml}$) |
| 62 | Samarium-141 ² | W, all compounds | 5E+4 St wall (6E+4) | 2E+5 - - | 8E-5 - - | 2E-7 - - | - 8E-4 | - 8E-3 |
| 62 | Samarium-142 ² | W, all compounds | 8E+3 | 3E+4 | 1E-5 | 4E-8 | 1E-4 | 1E-3 |
| 62 | Samarium-145 | W, all compounds | 6E+3 | 5E+2 | 2E-7 | 7E-10 | 8E-5 | 8E-4 |
| 62 | Samarium-146 | W, all compounds | 1E+1 | 4E2 | 1E-11 | - | - | - |
| 62 | Samarium-147 | W, all compounds | Bone surf (3E+1) | Bone surf (6E-2) | - | 9E-14 | 3E-7 | 3E-6 |
| | | | 2E+1 | 4E2 | 2E-11 | - | - | - |
| 62 | Samarium-151 | W, all compounds | Bone surf (3E+1) | Bone surf (7E-2) | - | 1E-13 | 4E-7 | 4E-6 |
| | | | 1E+4 | 1E+2 | 4E-8 | - | - | - |
| 62 | Samarium-153 | W, all compounds | LLI wall (1E+4) | Bone surf (2E+2) | - | 2E-10 | 2E-4 | 2E-3 |
| | | | 2E+3 | 3E+3 | 1E-6 | 4E-9 | - | - |
| 62 | Samarium-155 ² | W, all compounds | LLI wall (2E+3) | - | - | - | 3E-5 | 3E-4 |
| | | | 6E+4 St wall (8E+4) | 2E+5 - - | 9E-5 - - | 3E-7 - - | - 1E-3 | - 1E-2 |
| 62 | Samarium-156 | W, all compounds | 5E+3 | 9E+3 | 4E-6 | 1E-8 | 7E-5 | 7E-4 |
| 63 | Europium-145 | W, all compounds | 2E+3 | 2E+3 | 8E-7 | 3E-9 | 2E-5 | 2E-4 |
| 63 | Europium-146 | W, all compounds | 1E+3 | 1E+3 | 5E-7 | 2E-9 | 1E-5 | 1E-4 |
| 63 | Europium-147 | W, all compounds | 3E+3 | 2E+3 | 7E-7 | 2E-9 | 4E-5 | 4E-4 |
| 63 | Europium-148 | W, all compounds | 1E+3 | 4E+2 | 1E-7 | 5E-10 | 1E-5 | 1E-4 |
| 63 | Europium-149 | W, all compounds | 1E+4 | 3E+3 | 1E-6 | 4E-9 | 2E-4 | 2E-3 |
| 63 | Europium-150 (12.62 h) | W, all compounds | 3E+3 | 8E+3 | 4E-6 | 1E-8 | 4E-5 | 4E-4 |
| 63 | Europium-150 (34.2 y) | W, all compounds | 8E+2 | 2E+1 | 8E-9 | 3E-11 | 1E-5 | 1E-4 |
| 63 | Europium-152m | W, all compounds | 3E+3 | 6E+3 | 3E-6 | 9E-9 | 4E-5 | 4E-4 |
| 63 | Europium-152 | W, all compounds | 8E+2 | 2E+1 | 1E-8 | 3E-11 | 1E-5 | 1E-4 |
| 63 | Europium-154 | W, all compounds | 5E+2 | 2E+1 | 8E-9 | 3E-11 | 7E-6 | 7E-5 |
| 63 | Europium-155 | W, all compounds | 4E+3 | 9E+1 | 4E-8 | - | 5E-5 | 5E-4 |
| 63 | Europium-156 | W, all compounds | Bone surf (1E+2) | - | - | 2E-10 | - | - |
| | | | 6E+2 | 5E+2 | 2E-7 | 6E-10 | 8E-6 | 8E-5 |
| 63 | Europium-157 | W, all compounds | 2E+3 | 5E+3 | 2E-6 | 7E-9 | 3E-5 | 3E-4 |
| 63 | Europium-158 ² | W, all compounds | 2E+4 | 6E+4 | 2E-5 | 8E-8 | 3E-4 | 3E-3 |
| 64 | Gadolinium-145 ² | D, all compounds except those given for W | 5E+4 St wall (5E+4) | 2E+5 - - | 6E-5 - - | 2E-7 - - | - 6E-4 | - 6E-3 |
| | | | - | 2E+5 | 7E-5 | 2E-7 | - | - |
| 64 | Gadolinium-146 | D, see ¹⁴⁵ Gd | 1E+3 | 1E+2 | 5E-8 | 2E-10 | 2E-5 | 2E-4 |
| | | W, see ¹⁴⁵ Gd | - | 3E+2 | 1E-7 | 4E-10 | - | - |
| 64 | Gadolinium-147 | D, see ¹⁴⁵ Gd | 2E+3 | 4E+3 | 2E-6 | 6E-9 | 3E-5 | 3E-4 |
| | | W, see ¹⁴⁵ Gd | - | 4E+3 | 1E-6 | 5E-9 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|--------------------------|--------------------------|------------------------------------------|--------------------------------------|---------------------------|-------------------------------------|-----------------------------|----------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μCi) | Col. 2 Inhalation ALI (μCi) | Col. 3 DAC (μCi/ml) | Col. 1 Air (μCi/ml) | Col. 2 Water (μCi/ml) | Monthly Average Concentration (μCi/ml) |
| | | | | | | | | |
| 64 | Gadolinium-148 | D, see ¹⁴⁵ Gd | 1E+1 | 8E+3 | 3E-12 | - | - | - |
| | | | Bone surf (2E+1) | Bone surf (2E+2) | - | 2E-14 | 3E-7 | 3E-6 |
| | | W, see ¹⁴⁵ Gd | - | 3E-2 | 1E-11 | - | - | - |
| | | | - | Bone surf (6E-2) | - | 8E-14 | - | - |
| 64 | Gadolinium-149 | D, see ¹⁴⁵ Gd | 3E+3 | 2E+3 | 9E-7 | 3E-9 | 4E-5 | 4E-4 |
| | | W, see ¹⁴⁵ Gd | - | 2E+3 | 1E-6 | 3E-9 | - | - |
| 64 | Gadolinium-151 | D, see ¹⁴⁵ Gd | 6E+3 | 4E+2 | 2E-7 | - | 9E-5 | 9E-4 |
| | | | - | Bone surf (6E+2) | - | 9E-10 | - | - |
| | | W, see ¹⁴⁵ Gd | - | 1E+3 | 5E-7 | 2E-9 | - | - |
| | | | - | - | - | - | - | - |
| 64 | Gadolinium-152 | D, see ¹⁴⁵ Gd | 2E+1 | 1E-2 | 4E-12 | - | - | - |
| | | | Bone surf (3E+1) | Bone surf (2E-2) | - | 3E-14 | 4E-7 | 4E-6 |
| | | W, see ¹⁴⁵ Gd | - | 4E-2 | 2E-11 | - | - | - |
| | | | - | Bone surf (8E-2) | - | 1E-13 | - | - |
| 64 | Gadolinium-153 | D, see ¹⁴⁵ Gd | 5E+3 | 1E+2 | 6E-8 | - | 6E-5 | 6E-4 |
| | | | - | Bone surf (2E+2) | - | 3E-10 | - | - |
| | | W, see ¹⁴⁵ Gd | - | 6E+2 | 2E-7 | 8E-10 | - | - |
| | | | - | - | - | - | - | - |
| 64 | Gadolinium-159 | D, see ¹⁴⁵ Gd | 3E+3 | 8E+3 | 3E-6 | 1E-8 | 4E-5 | 4E-4 |
| | | W, see ¹⁴⁵ Gd | - | 6E+3 | 2E-6 | 8E-9 | - | - |
| 65 | Terbium-147 ² | W, all compounds | 9E+3 | 3E+4 | 1E-5 | 5E-8 | 1E-4 | 1E-3 |
| 65 | Terbium-149 | W, all compounds | 5E+3 | 7E+2 | 3E-7 | 1E-9 | 7E-5 | 7E-4 |
| 65 | Terbium-150 | W, all compounds | 5E+3 | 2E+4 | 9E-6 | 3E-8 | 7E-5 | 7E-4 |
| 65 | Terbium-151 | W, all compounds | 4E+3 | 9E+3 | 4E-6 | 1E-8 | 5E-5 | 5E-4 |
| 65 | Terbium-153 | W, all compounds | 5E+3 | 7E+3 | 3E-6 | 1E-8 | 7E-5 | 7E-4 |
| 65 | Terbium-154 | W, all compounds | 2E+3 | 4E+3 | 2E-6 | 6E-9 | 2E-5 | 2E-4 |
| 65 | Terbium-155 | W, all compounds | 6E+3 | 8E+3 | 3E-6 | 1E-8 | 8E-5 | 8E-4 |
| 65 | Terbium-156m (5.0 h) | W, all compounds | 2E+4 | 3E+4 | 1E-5 | 4E-8 | 2E-4 | 2E-3 |
| 65 | Terbium-156m (24.4 h) | W, all compounds | 7E+3 | 8E+3 | 3E-6 | 1E-8 | 1E-4 | 1E-3 |
| 65 | Terbium-156 | W, all compounds | 1E+3 | 1E+3 | 6E-7 | 2E-9 | 1E-5 | 1E-4 |
| 65 | Terbium-157 | W, all compounds | 5E+4 | 3E+2 | 1E-7 | - | - | - |
| 65 | Terbium-158 | W, all compounds | LLI wall (5E+4) | Bone surf (6E+2) | - | 8E-10 | 7E-4 | 7E-3 |
| | | | 1E+3 | 2E+1 | 8E-9 | 3E-11 | 2E-5 | 2E-4 |
| | | | 8E+2 | 2E+2 | 9E-8 | 3E-10 | 1E-5 | 1E-4 |
| | | | 2E+3 | 2E+3 | 7E-7 | 2E-9 | - | - |
| 65 | Terbium-160 | W, all compounds | LLI wall (2E+3) | - | - | - | 3E-5 | 3E-4 |
| | | | 9E+3 | 3E+4 | 1E-5 | 4E-8 | 1E-4 | 1E-3 |
| | | | 2E+4 | 6E+4 | 3E-5 | 9E-8 | 3E-4 | 3E-3 |
| | | | 1E+4 | 2E+3 | 1E-6 | 3E-9 | 2E-4 | 2E-3 |
| 66 | Dysprosium-165 | W, all compounds | 1E+4 | 5E+4 | 2E-5 | 6E-8 | 2E-4 | 2E-3 |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|---------------------------|------------------|-------------------------------------------------------|---------------------------------------------------|----------------------------------------|----------------------------------------|------------------------------------------|-----------------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μCi) | Col. 2 Inhalation ALI (μCi) | Col. 3 DAC ($\mu\text{Ci/ml}$) | Col. 1 Air ($\mu\text{Ci/ml}$) | Col. 2 Water ($\mu\text{Ci/ml}$) | Monthly Average Concentration ($\mu\text{Ci/ml}$) |
| 66 | Dysprosium-166 | W, all compounds | 6E+2 | 7E+2 | 3E-7 | 1E-9 | - | - |
| | | | LLI wall (8E+2) | - | - | - | 1E-5 | 1E-4 |
| 67 | Holmium-155 ² | W, all compounds | 4E+4 | 2E+5 | 6E-5 | 2E-7 | 6E-4 | 6E-3 |
| 67 | Holmium-157 ² | W, all compounds | 3E+5 | 1E+6 | 6E-4 | 2E-6 | 4E-3 | 4E-2 |
| 67 | Holmium-159 ² | W, all compounds | 2E+5 | 1E+6 | 4E-4 | 1E-6 | 3E-3 | 3E-2 |
| 67 | Holmium-161 | W, all compounds | 1E+5 | 4E+5 | 2E-4 | 6E-7 | 1E-3 | 1E-2 |
| 67 | Holmium-162m ² | W, all compounds | 5E+4 | 3E+5 | 1E-4 | 4E-7 | 7E-4 | 7E-3 |
| 67 | Holmium-162 ² | W, all compounds | 5E+5 | 2E+6 | 1E-3 | 3E-6 | - | - |
| | | | St wall (8E+5) | - | - | - | 1E-2 | 1E-1 |
| 67 | Holmium-164m ² | W, all compounds | 1E+5 | 3E+5 | 1E-4 | 4E-7 | 1E-3 | 1E-2 |
| 67 | Holmium-164 ² | W, all compounds | 2E+5 | 6E+5 | 3E-4 | 9E-7 | - | - |
| | | | St wall (2E+5) | - | - | - | 3E-3 | 3E-2 |
| 67 | Holmium-166m | W, all compounds | 6E+2 | 7E+0 | 3E-9 | 9E-12 | 9E-6 | 9E-5 |
| 67 | Holmium-166 | W, all compounds | 9E+2 | 2E+3 | 7E-7 | 2E-9 | - | - |
| | | | LLI wall (9E+2) | - | - | - | 1E-5 | 1E-4 |
| 67 | Holmium-167 | W, all compounds | 2E+4 | 6E+4 | 2E-5 | 8E-8 | 2E-4 | 2E-3 |
| 68 | Erbium-161 | W, all compounds | 2E+4 | 6E+4 | 3E-5 | 9E-8 | 2E-4 | 2E-3 |
| 68 | Erbium-165 | W, all compounds | 6E+4 | 2E+5 | 8E-5 | 3E-7 | 9E-4 | 9E-3 |
| 68 | Erbium-169 | W, all compounds | 3E+3 | 3E+3 | 1E-6 | 4E-9 | - | - |
| | | | LLI wall (4E+3) | - | - | - | 5E-5 | 5E-4 |
| 68 | Erbium-171 | W, all compounds | 4E+3 | 1E+4 | 4E-6 | 1E-8 | 5E-5 | 5E-4 |
| 68 | Erbium-172 | W, all compounds | 1E+3 | 1E+3 | 6E-7 | 2E-9 | - | - |
| | | | LLI wall (E+3) | - | - | - | 2E-5 | 2E-4 |
| 69 | Thulium-162 ² | W, all compounds | 7E+4 | 3E+5 | 1E-4 | 4E-7 | - | - |
| | | | St wall (7E+4) | - | - | - | 1E-3 | 1E-2 |
| 69 | Thulium-166 | W, all compounds | 4E+3 | 1E+4 | 6E-6 | 2E-8 | 6E-5 | 6E-4 |
| 69 | Thulium-167 | W, all compounds | 2E+3 | 2E+3 | 8E-7 | 3E-9 | - | - |
| | | | LLI wall (2E+3) | - | - | - | 3E-5 | 3E-4 |
| 69 | Thulium-170 | W, all compounds | 8E+2 | 2E+2 | 9E-8 | 3E-10 | - | - |
| | | | LLI wall (1E+3) | - | - | - | 1E-5 | 1E-4 |
| 69 | Thulium-171 | W, all compounds | 1E+4 | 3E+2 | 1E-7 | - | - | - |
| | | | LLI wall Bone surf (1E+4) | (6E+2) | - | 8E-10 | 2E-4 | 2E-3 |
| 69 | Thulium-172 | W, all compounds | 7E+2 | 1E+3 | 5E-7 | 2E-9 | - | - |
| | | | LLI wall (8E+2) | - | - | - | 1E-5 | 1E-4 |
| 69 | Thulium-173 | W, all compounds | 4E+3 | 1E+4 | 5E-6 | 2E-8 | 6E-5 | 6E-4 |
| 69 | Thulium-175 ² | W, all compounds | 7E+4 | 3E+5 | 1E-4 | 4E-7 | - | - |
| | | | St wall (9E+4) | - | - | - | 1E-3 | 1E-2 |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers Monthly Average Concentration (µCi/ml) |
|------------|----------------------------|-------------------------------------------|------------------------------------------|--------------------------------------|---------------------------|-------------------------------------|-----------------------------|---------------------------------------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (µCi) | Col. 2 Inhalation ALI (µCi) | Col. 3 DAC (µCi/ml) | Col. 1 Air (µCi/ml) | Col. 2 Water (µCi/ml) | |
| 70 | Ytterbium-162 ² | W, all compounds except those given for Y | 7E+4 | 3E+5 | 1E-4 | 4E-7 | 1E-3 | 1E-2 |
| | | Y, oxides, hydroxides, and fluorides | - | 3E+5 | 1E-4 | 4E-7 | - | - |
| 70 | Ytterbium-166 | W, see ¹⁶² Yb | 1E+3 | 2E+3 | 8E-7 | 3E-9 | 2E-5 | 2E-4 |
| | | Y, see ¹⁶² Yb | - | 2E+3 | 8E-7 | 3E-9 | - | - |
| 70 | Ytterbium-167 ² | W, see ¹⁶² Yb | 3E+5 | 8E+5 | 3E-4 | 1E-6 | 4E-3 | 4E-2 |
| | | Y, see ¹⁶² Yb | - | 7E+5 | 3E-4 | 1E-6 | - | - |
| 70 | Ytterbium-169 | W, see ¹⁶² Yb | 2E+3 | 8E+2 | 4E-7 | 1E-9 | 2E-5 | 2E-4 |
| | | Y, see ¹⁶² Yb | - | 7E+2 | 3E-7 | 1E-9 | - | - |
| 70 | Ytterbium-175 | W, see ¹⁶² Yb | 3E+3 | 4E+3 | 1E-6 | 5E-9 | - | - |
| | | LLI wall (3E+3) | - | - | - | - | 4E-5 | 4E-4 |
| | | Y, see ¹⁶² Yb | - | 3E+3 | 1E-6 | 5E-9 | - | - |
| 70 | Ytterbium-177 ² | W, see ¹⁶² Yb | 2E+4 | 5E+4 | 2E-5 | 7E-8 | 2E-4 | 2E-3 |
| | | Y, see ¹⁶² Yb | - | 5E+4 | 2E-5 | 6E-8 | - | - |
| 70 | Ytterbium-178 ² | W, see ¹⁶² Yb | 1E+4 | 4E+4 | 2E-5 | 6E-8 | 2E-4 | 2E-3 |
| | | Y, see ¹⁶² Yb | - | 4E+4 | 2E-5 | 5E-8 | - | - |
| 71 | Lutetium-169 | W, all compounds except those given for Y | 3E+3 | 4E+3 | 2E-6 | 6E-9 | 3E-5 | 3E-4 |
| | | Y, oxides, hydroxides, and fluorides | - | 4E+3 | 2E-6 | 6E-9 | - | - |
| 71 | Lutetium-170 | W, see ¹⁶⁹ Lu | 1E+3 | 2E+3 | 9E-7 | 3E-9 | 2E-5 | 2E-4 |
| | | Y, see ¹⁶⁹ Lu | - | 2E+3 | 8E-7 | 3E-9 | - | - |
| 71 | Lutetium-171 | W, see ¹⁶⁹ Lu | 2E+3 | 2E+3 | 8E-7 | 3E-9 | 3E-5 | 3E-4 |
| | | Y, see ¹⁶⁹ Lu | - | 2E+3 | 8E-7 | 3E-9 | - | - |
| 71 | Lutetium-172 | W, see ¹⁶⁹ Lu | 1E+3 | 1E+3 | 5E-7 | 2E-9 | 1E-5 | 1E-4 |
| | | Y, see ¹⁶⁹ Lu | - | 1E+3 | 5E-7 | 2E-9 | - | - |
| 71 | Lutetium-173 | W, see ¹⁶⁹ Lu | 5E+3 | 3E+2 | 1E-7 | - | 7E-5 | 7E-4 |
| | | Bone surf (5E+2) | - | - | - | 6E-10 | - | - |
| | | Y, see ¹⁶⁹ Lu | - | 3E+2 | 1E-7 | 4E-10 | - | - |
| 71 | Lutetium-174m | W, see ¹⁶⁹ Lu | 2E+3 | 2E+2 | 1E-7 | - | - | - |
| | | LLI wall (3E+3) | - | Bone surf (3E+2) | - | 5E-10 | 4E-5 | 4E-4 |
| | | Y, see ¹⁶⁹ Lu | - | 2E+2 | 9E-8 | 3E-10 | - | - |
| 71 | Lutetium-174 | W, see ¹⁶⁹ Lu | 5E+3 | 1E+2 | 5E-8 | - | 7E-5 | 7E-4 |
| | | Bone surf (2E+2) | - | - | - | 3E-10 | - | - |
| | | Y, see ¹⁶⁹ Lu | - | 2E+2 | 6E-8 | 2E-10 | - | - |
| 71 | Lutetium-176m | W, see ¹⁶⁹ Lu | 8E+3 | 3E+4 | 1E-5 | 3E-8 | 1E-4 | 1E-3 |
| | | Y, see ¹⁶⁹ Lu | - | 2E+4 | 9E-6 | 3E-8 | - | - |
| 71 | Lutetium-176 | W, see ¹⁶⁹ Lu | 7E+2 | 5E+0 | 2E-9 | - | 1E-5 | 1E-4 |
| | | Bone surf (1E+1) | - | - | - | 2E-11 | - | - |
| | | Y, see ¹⁶⁹ Lu | - | 8E+0 | 3E-9 | 1E-1 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|----------------------------|-----------------------------------------------|------------------------------------------------|--------------------------------------------|---------------------------------|-------------------------------------|-----------------------------------|----------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μ Ci) | Col. 2 Inhalation ALI (μ Ci) | Col. 3 DAC (μ Ci/ml) | Col. 1 Air (μ Ci/ml) | Col. 2 Water (μ Ci/ml) | Monthly Average Concentration (μ Ci/ml) |
| 71 | Lutetium-177m | W, see ^{169}Lu | 7E+2 | 1E+2 | 5E-8 | - | 1E-5 | 1E-4 |
| | | | | Bone surf | | | | |
| | | | - | (1E+2) | - | 2E-10 | - | - |
| | | Y, see ^{169}Lu | - | 8E+1 | 3E-8 | 1E-10 | - | - |
| 71 | Lutetium-177 | W, see ^{169}Lu | 2E+3 | 2E+3 | 9E-7 | 3E-9 | - | - |
| | | | LLI wall | | | | | |
| | | | (3E+3) | - | - | - | 4E-5 | 4E-4 |
| | | Y, see ^{169}Lu | - | 2E+3 | 9E-7 | 3E-9 | - | - |
| 71 | Lutetium-178m ² | W, see ^{169}Lu | 5E+4 | 2E+5 | 8E-5 | 3E-7 | - | - |
| | | | St. wall | | | | | |
| | | | (6E+4) | - | - | - | 8E-4 | 8E-3 |
| | | Y, see ^{169}Lu | - | 2E+5 | 7E-5 | 2E-7 | - | - |
| 71 | Lutetium-178 ² | W, see ^{169}Lu | 4E+4 | 1E+5 | 5E-5 | 2E-7 | - | - |
| | | | St wall | | | | | |
| | | | (4E+4) | - | - | - | 6E-4 | 6E-3 |
| | | Y, see ^{169}Lu | - | 1E+5 | 5E-5 | 2E-7 | - | - |
| 71 | Lutetium-179 | W, see ^{169}Lu | 6E+3 | 2E+4 | 8E-6 | 3E-8 | 9E-5 | 9E-4 |
| | | Y, see ^{169}Lu | - | 2E+4 | 6E-6 | 3E-8 | - | - |
| 72 | Hafnium-170 | D, all compounds except those given for W | 3E+3 | 6E+3 | 2E-6 | 8E-9 | 4E-5 | 4E-4 |
| | | W, oxides, hydroxides, carbides, and nitrates | - | 5E+3 | 2E-6 | 6E-9 | - | - |
| 72 | Hafnium-172 | D, see ^{170}Hf | 1E+3 | 9E+0 | 4E-9 | - | 2E-5 | 2E-4 |
| | | | | Bone surf | | | | |
| | | | - | (2E+1) | - | 3E-11 | - | - |
| | | W, see ^{170}Hf | - | 4E+1 | 2E-8 | - | - | - |
| | | | | Bone surf | | | | |
| | | | - | (6E+1) | - | 8E-11 | - | - |
| 72 | Hafnium-173 | D, see ^{170}Hf | 5E+3 | 1E+4 | 5E-6 | 2E-8 | 7E-5 | 7E-4 |
| | | W, see ^{170}Hf | - | 1E+4 | 5E-6 | 2E-8 | - | - |
| 72 | Hafnium-175 | D, see ^{170}Hf | 3E+3 | 9E+2 | 4E-7 | - | 4E-5 | 4E-4 |
| | | | | Bone surf | | | | |
| | | | - | (1E+3) | - | 1E-9 | - | - |
| | | W, see ^{170}Hf | - | 1E+3 | 5E-7 | 2E-9 | - | - |
| 72 | Hafnium-177m ² | D, see ^{170}Hf | 2E+4 | 6E+4 | 2E-5 | 8E-8 | 3E-4 | 3E-3 |
| | | W, see ^{170}Hf | - | 9E+4 | 4E-5 | 1E-7 | - | - |
| 72 | Hafnium-178m | D, see ^{170}Hf | 3E+2 | 1E+0 | 5E-10 | - | 3E-6 | 3E-5 |
| | | | | Bone surf | | | | |
| | | | - | (2E+0) | - | 3E-12 | - | - |
| | | W, see ^{170}Hf | - | 5E+0 | 2E-9 | - | - | - |
| | | | | Bone surf | | | | |
| | | | - | (9E+0) | - | 1E-11 | - | - |
| 72 | Hafnium-179m | D, see ^{170}Hf | 1E+3 | 3E+2 | 1E-7 | - | 1E-5 | 1E-4 |
| | | | | Bone surf | | | | |
| | | | - | (6E+2) | - | 8E-10 | - | - |
| | | W, see ^{170}Hf | - | 6E+2 | 3E-7 | 8E-10 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|---------------------------|--------------------------------------------------------------------------------|------------------------------------------------|--------------------------------------------|---------------------------------|-------------------------------------|-----------------------------------|----------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μ Ci) | Col. 2 Inhalation ALI (μ Ci) | Col. 3 DAC (μ Ci/ml) | Col. 1 Air (μ Ci/ml) | Col. 2 Water (μ Ci/ml) | Monthly Average Concentration (μ Ci/ml) |
| 72 | Hafnium-180m | D, see ^{170}Hf | 7E+3 | 2E+4 | 9E-6 | 3E-8 | 1E-4 | 1E-3 |
| | | W, see ^{170}Hf | - | 3E+4 | 1E-5 | 4E-8 | - | - |
| 72 | Hafnium-181 | D, see ^{170}Hf | 1E+3 | 2E+2 | 7E-8 | - | 2E-5 | 2E-4 |
| | | | Bone surf | | | | | |
| | | | - | (4E+2) | - | 6E-10 | - | - |
| | | W, see ^{170}Hf | - | 4E+2 | 2E-7 | 6E-10 | - | - |
| 72 | Hafnium-182m ² | D, see ^{170}Hf | 4E+4 | 9E+4 | 4E-5 | 1E-7 | 5E-4 | 5E-3 |
| | | W, see ^{170}Hf | - | 1E+5 | 6E-5 | 2E-7 | - | - |
| 72 | Hafnium-182 | D, see ^{170}Hf | 2E+2 | 8E-1 | 3E-10 | - | - | - |
| | | | Bone surf | | | | | |
| | | | (4E+2) | (2E+0) | - | 2E-12 | 5E-6 | 5E-5 |
| | | W, see ^{170}Hf | - | 3E+0 | 1E-9 | - | - | - |
| | | | Bone surf | | | | | |
| | | | - | (7E+0) | - | 1E-11 | - | - |
| 72 | Hafnium-183 ² | D, see ^{170}Hf | 2E+4 | 5E+4 | 2E-5 | 6E-8 | 3E-4 | 3E-3 |
| | | W, see ^{170}Hf | - | 6E+4 | 2E-5 | 8E-8 | - | - |
| 72 | Hafnium-184 | D, see ^{170}Hf | 2E+3 | 8E+3 | 3E-6 | 1E-8 | 3E-5 | 3E-4 |
| | | W, see ^{170}Hf | - | 6E+3 | 3E-6 | 9E-9 | - | - |
| 73 | Tantalum-172 ² | W, all compounds except those given for Y | 4E+4 | 1E+5 | 5E-5 | 2E-7 | 5E-4 | 5E-3 |
| | | Y, elemental Ta, oxides, hydroxides, halides, carbides, nitrates, and nitrides | - | 1E+5 | 4E-5 | 1E-7 | - | - |
| 73 | Tantalum-173 | W, see ^{172}Ta | 7E+3 | 2E+4 | 8E-6 | 3E-8 | 9E-5 | 9E-4 |
| | | Y, see ^{172}Ta | - | 2E+4 | 7E-6 | 2E-8 | - | - |
| 73 | Tantalum-174 ² | W, see ^{172}Ta | 3E+4 | 1E+5 | 4E-5 | 1E-7 | 4E-4 | 4E-3 |
| | | Y, see ^{172}Ta | - | 9E+4 | 4E-5 | 1E-7 | - | - |
| 73 | Tantalum-175 | W, see ^{172}Ta | 6E+3 | 2E+4 | 7E-6 | 2E-8 | 8E-5 | 8E-4 |
| | | Y, see ^{172}Ta | - | 1E+4 | 6E-6 | 2E-8 | - | - |
| 73 | Tantalum-176 | W, see ^{172}Ta | 4E+3 | 1E+4 | 5E-6 | 2E-8 | 5E-5 | 5E-4 |
| | | Y, see ^{172}Ta | - | 1E+4 | 5E-6 | 2E-8 | - | - |
| 73 | Tantalum-177 | W, see ^{172}Ta | 1E+4 | 2E+4 | 8E-6 | 3E-8 | 2E-4 | 2E-3 |
| | | Y, see ^{172}Ta | - | 2E+4 | 7E-6 | 2E-8 | - | - |
| 73 | Tantalum-178 | W, see ^{172}Ta | 2E+4 | 9E+4 | 4E-5 | 1E-7 | 2E-4 | 2E-3 |
| | | Y, see ^{172}Ta | - | 7E+4 | 3E-5 | 1E-7 | - | - |
| 73 | Tantalum-179 | W, see ^{172}Ta | 2E+4 | 5E+3 | 2E-6 | 8E-9 | 3E-4 | 3E-3 |
| | | Y, see ^{172}Ta | - | 9E+2 | 4E-7 | 1E-9 | - | - |
| 73 | Tantalum-180m | W, see ^{172}Ta | 2E+4 | 7E+4 | 3E-5 | 9E-8 | 3E-4 | 3E-3 |
| | | Y, see ^{172}Ta | - | 6E+4 | 2E-5 | 8E-8 | - | - |
| 73 | Tantalum-180 | W, see ^{172}Ta | 1E+3 | 4E+2 | 2E-7 | 6E-10 | 2E-5 | 2E-4 |
| | | Y, see ^{172}Ta | - | 2E+1 | 1E-8 | 3E-11 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|----------------------------|-------------------------------------------|------------------------------------------------|--------------------------------------------|---------------------------------|-------------------------------------|-----------------------------------|----------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μ Ci) | Col. 2 Inhalation ALI (μ Ci) | Col. 3 DAC (μ Ci/ml) | Col. 1 Air (μ Ci/ml) | Col. 2 Water (μ Ci/ml) | Monthly Average Concentration (μ Ci/ml) |
| 73 | Tantalum-182m ² | W, see ¹⁷² Ta | 2E+5 St wall (2E+5) | 5E+5 - | 2E-4 - | 8E-7 - | - 3E-3 | - 3E-2 |
| | | Y, see ¹⁷² Ta | - | 4E+5 | 2E-4 | 6E-7 | - | - |
| 73 | Tantalum-182 | W, see ¹⁷² Ta | 8E+2 | 3E+2 | 1E-7 | 5E-10 | 1E-5 | 1E-4 |
| | | Y, see ¹⁷² Ta | - | 1E+2 | 6E-8 | 2E-10 | - | - |
| 73 | Tantalum-183 | W, see ¹⁷² Ta | 9E+2 LLI wall (1E+3) | 1E+3 - | 5E-7 - | 2E-9 - | - 2E-5 | - 2E-4 |
| | | Y, see ¹⁷² Ta | - | 1E+3 | 4E-7 | 1E-9 | - | - |
| 73 | Tantalum-184 | W, see ¹⁷² Ta | 2E+3 | 5E+3 | 2E-6 | 8E-9 | 3E-5 | 3E-4 |
| | | Y, see ¹⁷² Ta | - | 5E+3 | 2E-6 | 7E-9 | - | - |
| 73 | Tantalum-185 ² | W, see ¹⁷² Ta | 3E+4 | 7E+4 | 3E-5 | 1E-7 | 4E-4 | 4E-3 |
| | | Y, see ¹⁷² Ta | - | 6E+4 | 3E-5 | 9E-8 | - | - |
| 73 | Tantalum-186 ² | W, see ¹⁷² Ta | 5E+4 St wall (7E+4) | 2E+5 - | 1E-4 - | 3E-7 - | - 1E-3 | - 1E-2 |
| | | Y, see ¹⁷² Ta | - | 2E+5 | 9E-5 | 3E-7 | - | - |
| 74 | Tungsten-176 | D, all compounds | 1E+4 | 5E+4 | 2E-5 | 7E-8 | 1E-4 | 1E-3 |
| 74 | Tungsten-177 | D, all compounds | 2E+4 | 9E+4 | 4E-5 | 1E-7 | 3E-4 | 3E-3 |
| 74 | Tungsten-178 | D, all compounds | 5E+3 | 2E+4 | 8E-6 | 3E-8 | 7E-5 | 7E-4 |
| 74 | Tungsten-179 ² | D, all compounds | 5E+5 | 2E+6 | 7E-4 | 2E-6 | 7E-3 | 7E-2 |
| 74 | Tungsten-181 | D, all compounds | 2E+4 | 3E+4 | 1E-5 | 5E-8 | 2E-4 | 2E-3 |
| 74 | Tungsten-185 | D, all compounds | 2E+3 LLI wall (3E+3) | 7E+3 - | 3E-6 - | 9E-9 - | - 4E-5 | - 4E-4 |
| 74 | Tungsten-187 | D, all compounds | 2E+3 | 9E+3 | 4E-6 | 1E-8 | 3E-5 | 3E-4 |
| 74 | Tungsten-188 | D, all compounds | 4E+2 LLI wall (5E+2) | 1E+3 - | 5E-7 - | 2E-9 - | - 7E-6 | - 7E-5 |
| 75 | Rhenium-177 ² | D, all compounds except those given for W | 9E+4 St wall (1E+5) | 3E+5 - | 1E-4 - | 4E-7 - | - 2E-3 | - 2E-2 |
| | | W, oxides, hydroxides, and nitrates | - | 4E+5 | 1E-4 | 5E-7 | - | - |
| 75 | Rhenium-178 ² | D, see ¹⁷⁷ Re | 7E+4 St wall (1E+5) | 3E+5 - | 1E-4 - | 4E-7 - | - 1E-3 | - 1E-2 |
| | | W, see ¹⁷⁷ Re | - | 3E+5 | 1E-4 | 4E-7 | - | - |
| 75 | Rhenium-181 | D, see ¹⁷⁷ Re | 5E+3 | 9E+3 | 4E-6 | 1E-8 | 7E-5 | 7E-4 |
| | | W, see ¹⁷⁷ Re | - | 9E+3 | 4E-6 | 1E-8 | - | - |
| 75 | Rhenium-182 (12.7 h) | D, see ¹⁷⁷ Re | 7E+3 | 1E+4 | 5E-6 | 2E-8 | 9E-5 | 9E-4 |
| | | W, see ¹⁷⁷ Re | - | 2E+4 | 6E-6 | 2E-8 | - | - |
| 75 | Rhenium-182 (64.0 h) | D, see ¹⁷⁷ Re | 1E+3 | 2E+3 | 1E-6 | 3E-9 | 2E-5 | 2E-4 |
| | | W, see ¹⁷⁷ Re | - | 2E+3 | 9E-7 | 3E-9 | - | - |

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|---------------------------|-------------------------------------------------|-------------------------------------------------------|---------------------------------------------------|----------------------------------------|----------------------------------------|------------------------------------------|-----------------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μCi) | Col. 2 Inhalation ALI (μCi) | Col. 3 DAC ($\mu\text{Ci/ml}$) | Col. 1 Air ($\mu\text{Ci/ml}$) | Col. 2 Water ($\mu\text{Ci/ml}$) | Monthly Average Concentration ($\mu\text{Ci/ml}$) |
| 75 | Rhenium-184m | D, see ^{177}Re | 2E+3 | 3E+3 | 1E-6 | 4E-9 | 3E-5 | 3E-4 |
| | | W, see ^{177}Re | - | 4E+2 | 2E-7 | 6E-10 | - | - |
| 75 | Rhenium-184 | D, see ^{177}Re | 2E+3 | 4E+3 | 1E-6 | 5E-9 | 3E-5 | 3E-4 |
| | | W, see ^{177}Re | - | 1E+3 | 6E-7 | 2E-9 | - | - |
| 75 | Rhenium-186m | D, see ^{177}Re | 1E+3 | 2E+3 | 7E-7 | - | - | - |
| | | St wall | (2E+3) | (2E+3) | - | 3E-9 | 2E-5 | 2E-4 |
| | | W, see ^{177}Re | - | 2E+2 | 6E-8 | 2E-10 | - | - |
| 75 | Rhenium-186 | D, see ^{177}Re | 2E+3 | 3E+3 | 1E-6 | 4E-9 | 3E-5 | 3E-4 |
| | | W, see ^{177}Re | - | 2E+3 | 7E-7 | 2E-9 | - | - |
| 75 | Rhenium-187 | D, see ^{177}Re | 6E+5 | 8E+5 | 4E-4 | - | 8E-3 | 8E-2 |
| | | St wall | - | (9E+5) | - | 1E-6 | - | - |
| | | W, see ^{177}Re | - | 1E+5 | 4E-5 | 1E-7 | - | - |
| 75 | Rhenium-188m ² | D, see ^{177}Re | 8E+4 | 1E+5 | 6E-5 | 2E-7 | 1E-3 | 1E-2 |
| | | W, see ^{177}Re | - | 1E+5 | 6E-5 | 2E-7 | - | - |
| 75 | Rhenium-188 | D, see ^{177}Re | 2E+3 | 3E+3 | 1E-6 | 4E-9 | 2E-5 | 2E-4 |
| | | W, see ^{177}Re | - | 3E+3 | 1E-6 | 4E-9 | - | - |
| 75 | Rhenium-189 | D, see ^{177}Re | 3E+3 | 5E+3 | 2E-6 | 7E-9 | 4E-5 | 4E-4 |
| | | W, see ^{177}Re | - | 4E+3 | 2E-6 | 6E-9 | - | - |
| 76 | Osmium-180 ² | D, all compounds except those given for W and Y | 1E+5 | 4E+5 | 2E-4 | 5E-7 | 1E-3 | 1E-2 |
| | | W, halides and nitrates | - | 5E+5 | 2E-4 | 7E-7 | - | - |
| | | Y, oxides and hydroxides | - | 5E+5 | 2E-4 | 6E-7 | - | - |
| 76 | Osmium-181 ² | D, see ^{180}Os | 1E+4 | 4E+4 | 2E-5 | 6E-8 | 2E-4 | 2E-3 |
| | | W, see ^{180}Os | - | 5E+4 | 2E-5 | 6E-8 | - | - |
| | | Y, see ^{180}Os | - | 4E+4 | 2E-5 | 6E-8 | - | - |
| 76 | Osmium-182 | D, see ^{180}Os | 2E+3 | 6E+3 | 2E-6 | 8E-9 | 3E-5 | 3E-4 |
| | | W, see ^{180}Os | - | 4E+3 | 2E-6 | 6E-9 | - | - |
| | | Y, see ^{180}Os | - | 4E+3 | 2E-6 | 6E-9 | - | - |
| 76 | Osmium-185 | D, see ^{180}Os | 2E+3 | 5E+2 | 2E-7 | 7E-10 | 3E-5 | 3E-4 |
| | | W, see ^{180}Os | - | 8E+2 | 3E-7 | 1E-9 | - | - |
| | | Y, see ^{180}Os | - | 8E+2 | 3E-7 | 1E-9 | - | - |
| 76 | Osmium-189m | D, see ^{180}Os | 8E+4 | 2E+5 | 1E-4 | 3E-7 | 1E-3 | 1E-2 |
| | | W, see ^{180}Os | - | 2E+5 | 9E-5 | 3E-7 | - | - |
| | | Y, see ^{180}Os | - | 2E+5 | 7E-5 | 2E-7 | - | - |
| 76 | Osmium-191m | D, see ^{180}Os | 1E+4 | 3E+4 | 1E-5 | 4E-8 | 2E-4 | 2E-3 |
| | | W, see ^{180}Os | - | 2E+4 | 8E-6 | 3E-8 | - | - |
| | | Y, see ^{180}Os | - | 2E+4 | 7E-6 | 2E-8 | - | - |
| 76 | Osmium-191 | D, see ^{180}Os | 2E+3 | 2E+3 | 9E-7 | 3E-9 | - | - |
| | | LLI wall | (3E+3) | - | - | - | 3E-5 | 3E-4 |
| | | W, see ^{180}Os | - | 2E+3 | 7E-7 | 2E-9 | - | - |
| | | Y, see ^{180}Os | - | 1E+3 | 6E-7 | 2E-9 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|---------------------------|----------------------------------------------------|-------------------------------------------------------|---------------------------------------------------|----------------------------------------|----------------------------------------|------------------------------------------|-----------------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μCi) | Col. 2 Inhalation ALI (μCi) | Col. 3 DAC ($\mu\text{Ci/ml}$) | Col. 1 Air ($\mu\text{Ci/ml}$) | Col. 2 Water ($\mu\text{Ci/ml}$) | Monthly Average Concentration ($\mu\text{Ci/ml}$) |
| 76 | Osmium-193 | D, see ^{180}Os | 2E+3 | 5E+3 | 2E-6 | 6E-9 | - | - |
| | | | LLI wall (2E+3) | - | - | - | 2E-5 | 2E-4 |
| | | W, see ^{180}Os | - | 3E+3 | 1E-6 | 4E-9 | - | - |
| | | Y, see ^{180}Os | - | 3E+3 | 1E-6 | 4E-9 | - | - |
| 76 | Osmium-194 | D, see ^{180}Os | 4E+2 | 4E+1 | 2E-8 | 6E-11 | - | - |
| | | | LLI wall (6E+2) | - | - | - | 8E-6 | 8E-5 |
| | | W, see ^{180}Os | - | 6E+1 | 2E-8 | 8E-11 | - | - |
| | | Y, see ^{180}Os | - | 8E+0 | 3E-9 | 1E-11 | - | - |
| 77 | Iridium-182 ² | D, all compounds except those given for W and Y | 4E+4 | 1E+5 | 6E-5 | 2E-7 | - | - |
| | | | St wall (4E+4) | - | - | - | 6E-4 | 6E-3 |
| | | W, halides, nitrates, and metallic iridium | - | 2E+5 | 6E-5 | 2E-7 | - | - |
| | | Y, oxides and hydroxides | - | 1E+5 | 5E-5 | 2E-7 | - | - |
| 77 | Iridium-184 | D, see ^{182}Ir | 8E+3 | 2E+4 | 1E-5 | 3E-8 | 1E-4 | 1E-3 |
| | | W, see ^{182}Ir | - | 3E+4 | 1E-5 | 5E-8 | - | - |
| | | Y, see ^{182}Ir | - | 3E+4 | 1E-5 | 4E-8 | - | - |
| 77 | Iridium-185 | D, see ^{182}Ir | 5E+3 | 1E+4 | 5E-6 | 2E-8 | 7E-5 | 7E-4 |
| | | W, see ^{182}Ir | - | 1E+4 | 5E-6 | 2E-8 | - | - |
| | | Y, see ^{182}Ir | - | 1E+4 | 4E-6 | 1E-8 | - | - |
| 77 | Iridium-186 | D, see ^{182}Ir | 2E+3 | 8E+3 | 3E-6 | 1E-8 | 3E-5 | 3E-4 |
| | | W, see ^{182}Ir | - | 6E+3 | 3E-6 | 9E-9 | - | - |
| | | Y, see ^{182}Ir | - | 6E+3 | 2E-6 | 8E-9 | - | - |
| 77 | Iridium-187 | D, see ^{182}Ir | 1E+4 | 3E+4 | 1E-5 | 5E-8 | 1E-4 | 1E-3 |
| | | W, see ^{182}Ir | - | 3E+4 | 1E-5 | 4E-8 | - | - |
| | | Y, see ^{182}Ir | - | 3E+4 | 1E-5 | 4E-8 | - | - |
| 77 | Iridium-188 | D, see ^{182}Ir | 2E+3 | 5E+3 | 2E-6 | 6E-9 | 3E-5 | 3E-4 |
| | | W, see ^{182}Ir | - | 4E+3 | 1E-6 | 5E-9 | - | - |
| | | Y, see ^{182}Ir | - | 3E+3 | 1E-6 | 5E-9 | - | - |
| 77 | Iridium-189 | D, see ^{182}Ir | 5E+3 | 5E+3 | 2E-6 | 7E-9 | - | - |
| | | | LLI wall (5E+3) | - | - | - | 7E-5 | 7E-4 |
| | | W, see ^{182}Ir | - | 4E+3 | 2E-6 | 5E-9 | - | - |
| | | Y, see ^{182}Ir | - | 4E+3 | 1E-6 | 5E-9 | - | - |
| 77 | Iridium-190m ² | D, see ^{182}Ir | 2E+5 | 2E+5 | 8E-5 | 3E-7 | 2E-3 | 2E-2 |
| | | W, see ^{182}Ir | - | 2E+5 | 9E-5 | 3E-7 | - | - |
| | | Y, see ^{182}Ir | - | 2E+5 | 8E-5 | 3E-7 | - | - |
| 77 | Iridium-190 | D, see ^{182}Ir | 1E+3 | 9E+2 | 4E-7 | 1E-9 | 1E-5 | 1E-4 |
| | | W, see ^{182}Ir | - | 1E+3 | 4E-7 | 1E-9 | - | - |
| | | Y, see ^{182}Ir | - | 9E+2 | 4E-7 | 1E-9 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|----------------------------|----------------------------------------------------|------------------------------------------------|--------------------------------------------|---------------------------------|-------------------------------------|-----------------------------------|----------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μ Ci) | Col. 2 Inhalation ALI (μ Ci) | Col. 3 DAC (μ Ci/ml) | Col. 1 Air (μ Ci/ml) | Col. 2 Water (μ Ci/ml) | Monthly Average Concentration (μ Ci/ml) |
| 77 | Iridium-192m | D, see ^{182}Ir | 3E+3 | 9E+1 | 4E-8 | 1E-10 | 4E-5 | 4E-4 |
| | | W, see ^{182}Ir | - | 2E+2 | 9E-8 | 3E-10 | - | - |
| | | Y, see ^{182}Ir | - | 2E+1 | 6E-9 | 2E-11 | - | - |
| 77 | Iridium-192 | D, see ^{182}Ir | 9E+2 | 3E+2 | 1E-7 | 4E-10 | 1E-5 | 1E-4 |
| | | W, see ^{182}Ir | - | 4E+2 | 2E-7 | 6E-10 | - | - |
| | | Y, see ^{182}Ir | - | 2E+2 | 9E-8 | 3E-10 | - | - |
| 77 | Iridium-194m | D, see ^{182}Ir | 6E+2 | 9E+1 | 4E-8 | 1E-10 | 9E-6 | 9E-5 |
| | | W, see ^{182}Ir | - | 2E+2 | 7E-8 | 2E-10 | - | - |
| | | Y, see ^{182}Ir | - | 1E+2 | 4E-8 | 1E-10 | - | - |
| 77 | Iridium-194 | D, see ^{182}Ir | 1E+3 | 3E+3 | 1E-6 | 4E-9 | 1E-5 | 1E-4 |
| | | W, see ^{182}Ir | - | 2E+3 | 9E-7 | 3E-9 | - | - |
| | | Y, see ^{182}Ir | - | 2E+3 | 8E-7 | 3E-9 | - | - |
| 77 | Iridium-195m | D, see ^{182}Ir | 8E+3 | 2E+4 | 1E-5 | 3E-8 | 1E-4 | 1E-3 |
| | | W, see ^{182}Ir | - | 3E+4 | 1E-5 | 4E-8 | - | - |
| | | Y, see ^{182}Ir | - | 2E+4 | 9E-6 | 3E-8 | - | - |
| 77 | Iridium-195 | D, see ^{182}Ir | 1E+4 | 4E+4 | 2E-5 | 6E-8 | 2E-4 | 2E-3 |
| | | W, see ^{182}Ir | - | 5E+4 | 2E-5 | 7E-8 | - | - |
| | | Y, see ^{182}Ir | - | 4E+4 | 2E-5 | 6E-8 | - | - |
| 78 | Platinum-186 | D, all compounds | 1E+4 | 4E+4 | 2E-5 | 5E-8 | 2E-4 | 2E-3 |
| 78 | Platinum-188 | D, all compounds | 2E+3 | 2E+3 | 7E-7 | 2E-9 | 2E-5 | 2E-4 |
| 78 | Platinum-189 | D, all compounds | 1E+4 | 3E+4 | 1E-5 | 4E-8 | 1E-4 | 1E-3 |
| 78 | Platinum-191 | D, all compounds | 4E+3 | 8E+3 | 4E-6 | 1E-8 | 5E-5 | 5E-4 |
| 78 | Platinum-193m | D, all compounds | 3E+3 | 6E+3 | 3E-6 | 8E-9 | - | - |
| 78 | Platinum-193 | D, all compounds | LLI wall (3E+4) | - | - | - | 4E-5 | 4E-4 |
| | | | 4E+4 | 2E+4 | 1E-5 | 3E-8 | - | - |
| | | | LLI wall (5E+4) | - | - | - | 6E-4 | 6E-3 |
| 78 | Platinum-195m | D, all compounds | 2E+3 | 4E+3 | 2E-6 | 6E-9 | - | - |
| | | | LLI wall (2E+3) | - | - | - | 3E-5 | 3E-4 |
| 78 | Platinum-197m ² | D, all compounds | 2E+4 | 4E+4 | 2E-5 | 6E-8 | 2E-4 | 2E-3 |
| 78 | Platinum-197 | D, all compounds | 3E+3 | 1E+4 | 4E-6 | 1E-8 | 4E-5 | 4E-4 |
| 78 | Platinum-199 ² | D, all compounds | 5E+4 | 1E+5 | 6E-5 | 2E-7 | 7E-4 | 7E-3 |
| 78 | Platinum-200 | D, all compounds | 1E+3 | 3E+3 | 1E-6 | 5E-9 | 2E-5 | 2E-4 |
| 79 | Gold-193 | D, all compounds except those given for W and Y | 9E+3 | 3E+4 | 1E-5 | 4E-8 | 1E-4 | 1E-3 |
| | | W, halides and nitrates | - | 2E+4 | 9E-6 | 3E-8 | - | - |
| | | Y, oxides and hydroxides | - | 2E+4 | 8E-6 | 3E-8 | - | - |
| 79 | Gold-194 | D, see ^{193}Au | 3E+3 | 8E+3 | 3E-6 | 1E-8 | 4E-5 | 4E-4 |
| | | W, see ^{193}Au | - | 5E+3 | 2E-6 | 8E-9 | - | - |
| | | Y, see ^{193}Au | - | 5E+3 | 2E-6 | 7E-9 | - | - |
| 79 | Gold-195 | D see ^{193}Au | 5E+3 | 1E+4 | 5E-6 | 2E-8 | 7E-5 | 7E-4 |
| | | W see ^{193}Au | - | 1E+3 | 6E-7 | 2E-9 | - | - |
| | | Y see ^{193}Au | - | 4E+2 | 2E-7 | 6E-10 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|-----------------------|--------------------------------------------------------------|--------------------------------|----------------------|----------------|-------------------------------------|-----------------|----------------------------------|
| | | | Col. 1 Oral Ingestion | Col. 2 Inhalation | Col. 3 DAC | Col. 1 Air | Col. 2 Water | Monthly Average Concentration |
| | | | ALI (μ Ci) | ALI (μ Ci) | (μ Ci/ml) | (μ Ci/ml) | (μ Ci/ml) | (μ Ci/ml) |
| 79 | Gold-198m | D see ^{193}Au | 1E+3 | 3E+3 | 1E-6 | 4E-9 | 1E-5 | 1E-4 |
| | | W see ^{193}Au | - | 1E+3 | 5E-7 | 2E-9 | - | - |
| | | Y see ^{193}Au | - | 1E+3 | 5E-7 | 2E-9 | - | - |
| 79 | Gold-198 | D see ^{193}Au | 1E+3 | 4E+3 | 2E-6 | 5E-9 | 2E-5 | 2E-4 |
| | | W see ^{193}Au | - | 2E+3 | 8E-7 | 3E-9 | - | - |
| | | Y see ^{193}Au | - | 2E+3 | 7E-7 | 2E-9 | - | - |
| 79 | Gold-199 | D see ^{193}Au | 3E+3 | 9E+3 | 4E-6 | 1E-8 | - | - |
| | | LLI wall (3E+3) | - | - | - | - | 4E-5 | 4E-4 |
| | | W, see ^{193}Au | - | 4E+3 | 2E-6 | 6E-9 | - | - |
| 79 | Gold-200m | Y, see ^{193}Au | - | 4E+3 | 2E-6 | 5E-9 | - | - |
| | | D, see ^{193}Au | 1E+3 | 4E+3 | 1E-6 | 5E-9 | 2E-5 | 2E-4 |
| | | W, see ^{193}Au | - | 3E+3 | 1E-6 | 4E-9 | - | - |
| 79 | Gold-200 ² | Y, see ^{193}Au | - | 2E+4 | 1E-6 | 3E-9 | - | - |
| | | D, see ^{193}Au | 3E+4 | 6E+4 | 3E-5 | 9E-8 | 4E-4 | 4E-3 |
| | | W, see ^{193}Au | - | 8E+4 | 3E-5 | 1E-7 | - | - |
| 79 | Gold-201 ² | Y, see ^{193}Au | - | 7E+4 | 3E-5 | 1E-7 | - | - |
| | | D, see ^{193}Au | 7E+4 | 2E+5 | 9E-5 | 3E-7 | - | - |
| | | St wall (9E+4) | - | - | - | - | 1E-3 | 1E-2 |
| 80 | Mercury-193m | W, see ^{193}Au | - | 2E+5 | 1E-4 | 3E-7 | - | - |
| | | Y, see ^{193}Au | - | 2E+5 | 9E-5 | 3E-7 | - | - |
| | | Vapor | - | 8E+3 | 4E-6 | 1E-8 | - | - |
| 80 | Mercury-193 | Organic D | 4E+3 | 1E+4 | 5E-6 | 2E-8 | 6E-5 | 6E-4 |
| | | D, sulfates | 3E+3 | 9E+3 | 4E-6 | 1E-8 | 4E-5 | 4E-4 |
| | | W, oxides, hydroxides, halides, nitrates, and sulfides | - | 8E+3 | 3E-6 | 1E-8 | - | - |
| 80 | Mercury-193 | Vapor | - | 3E+4 | 1E-5 | 4E-8 | - | - |
| | | Organic D | 2E+4 | 6E+4 | 3E-5 | 9E-8 | 3E-4 | 3E-3 |
| | | D, see ^{193}mHg | 2E+4 | 4E+4 | 2E-5 | 6E-8 | 2E-4 | 2E-3 |
| 80 | Mercury-194 | W, see ^{193}mHg | - | 4E+4 | 2E-5 | 6E-8 | - | - |
| | | Vapor | - | 3E+1 | 1E-8 | 4E-11 | - | - |
| | | Organic D | 2E+1 | 3E+1 | 1E-8 | 4E-11 | 2E-7 | 2E-6 |
| 80 | Mercury-195m | D, see ^{193}mHg | 8E+2 | 4E+1 | 2E-8 | 6E-11 | 1E-5 | 1E-4 |
| | | W, see ^{193}mHg | - | 1E+2 | 5E-8 | 2E-10 | - | - |
| | | Vapor | - | 4E+3 | 2E-6 | 6E-9 | - | - |
| 80 | Mercury-195 | Organic D | 3E+3 | 6E+3 | 3E-6 | 8E-9 | 4E-5 | 4E-4 |
| | | D, see ^{193}mHg | 2E+3 | 5E+3 | 2E-6 | 7E-9 | 3E-5 | 3E-4 |
| | | W, see ^{193}mHg | - | 4E+3 | 2E-6 | 5E-9 | - | - |
| 80 | Mercury-195 | Vapor | - | 3E+4 | 1E-5 | 4E-8 | - | - |
| | | Organic D | 2E+4 | 5E+4 | 2E-5 | 6E-8 | 2E-4 | 2E-3 |
| | | D, see ^{193}mHg | 1E+4 | 4E+4 | 1E-5 | 5E-8 | 2E-4 | 2E-3 |
| 80 | Mercury-195 | W, see ^{193}mHg | - | 3E+4 | 1E-5 | 5E-8 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|----------------------------|---------------------------|------------------------------------------|--------------------------------------|---------------------------|-------------------------------------|-----------------------------|----------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μCi) | Col. 2 Inhalation ALI (μCi) | Col. 3 DAC (μCi/ml) | Col. 1 Air (μCi/ml) | Col. 2 Water (μCi/ml) | Monthly Average Concentration (μCi/ml) |
| 80 | Mercury-197m | Vapor | - | 5E+3 | 2E-6 | 7E-9 | - | - |
| | | Organic D | 4E+3 | 9E+3 | 4E-6 | 1E-8 | 5E-5 | 5E-4 |
| | | D, see ^{193m} Hg | 3E+3 | 7E+3 | 3E-6 | 1E-8 | 4E-5 | 4E-4 |
| | | W, see ^{193m} Hg | - | 5E+3 | 2E-6 | 7E-9 | - | - |
| 80 | Mercury-197 | Vapor | - | 8E+3 | 4E-6 | 1E-8 | - | - |
| | | Organic D | 7E+3 | 1E+4 | 6E-6 | 2E-8 | 9E-5 | 9E-4 |
| | | D, see ^{193m} Hg | 6E+3 | 1E+4 | 5E-6 | 2E-8 | 8E-5 | 8E-4 |
| | | W, see ^{193m} Hg | - | 9E+3 | 4E-6 | 1E-8 | - | - |
| 80 | Mercury-199m ² | Vapor | - | 8E+4 | 3E-5 | 1E-7 | - | - |
| | | Organic D | 6E+4 | 2E+5 | 7E-5 | 2E-7 | - | - |
| | | St wall (1E+5) | - | - | - | - | 1E-3 | 1E-2 |
| | | D, see ^{193m} Hg | 6E+4 | 1E+5 | 6E-5 | 2E-7 | 8E-4 | 8E-3 |
| | | W, see ^{193m} Hg | - | 2E+5 | 7E-5 | 2E-7 | - | - |
| 80 | Mercury-203 | Vapor | - | 8E+2 | 4E-7 | 1E-9 | - | - |
| | | Organic D | 5E+2 | 8E+2 | 3E-7 | 1E-9 | 7E-6 | 7E-5 |
| | | D, see ^{193m} Hg | 2E+3 | 1E+3 | 5E-7 | 2E-9 | 3E-5 | 3E-4 |
| | | W, see ^{193m} Hg | - | 1E+3 | 5E-7 | 2E-9 | - | - |
| 81 | Thallium-194m ² | D, all compounds | 5E+4 | 2E+5 | 6E-5 | 2E-7 | - | - |
| | | St wall (7E+4) | - | - | - | - | 1E-3 | 1E-2 |
| 81 | Thallium-194 ² | D, all compounds | 3E+5 | 6E+5 | 2E-4 | 8E-7 | - | - |
| | | St wall (3E+5) | - | - | - | - | 4E-3 | 4E-2 |
| 81 | Thallium-195 ² | D, all compounds | 6E+4 | 1E+5 | 5E-5 | 2E-7 | 9E-4 | 9E-3 |
| 81 | Thallium-197 | D, all compounds | 7E+4 | 1E+5 | 5E-5 | 2E-7 | 1E-3 | 1E-2 |
| 81 | Thallium-198m ² | D, all compounds | 3E+4 | 5E+4 | 2E-5 | 8E-8 | 4E-4 | 4E-3 |
| 81 | Thallium-198 | D, all compounds | 2E+4 | 3E+4 | 1E-5 | 5E-8 | 3E-4 | 3E-3 |
| 81 | Thallium-199 | D, all compounds | 6E+4 | 8E+4 | 4E-5 | 1E-7 | 9E-4 | 9E-3 |
| 81 | Thallium-200 | D, all compounds | 8E+3 | 1E+4 | 5E-6 | 2E-8 | 1E-4 | 1E-3 |
| 81 | Thallium-201 | D, all compounds | 2E+4 | 2E+4 | 9E-6 | 3E-8 | 2E-4 | 2E-3 |
| 81 | Thallium-202 | D, all compounds | 4E+3 | 5E+3 | 2E-6 | 7E-9 | 5E-5 | 5E-4 |
| 81 | Thallium-204 | D, all compounds | 2E+3 | 2E+3 | 9E-7 | 3E-9 | 2E-5 | 2E-4 |
| 82 | Lead-195m ² | D, all compounds | 6E+4 | 2E+5 | 8E-5 | 3E-7 | 8E-4 | 8E-3 |
| 82 | Lead-198 | D, all compounds | 3E+4 | 6E+4 | 3E-5 | 9E-8 | 4E-4 | 4E-3 |
| 82 | Lead-199 ² | D, all compounds | 2E+4 | 7E+4 | 3E-5 | 1E-7 | 3E-4 | 3E-3 |
| 82 | Lead-200 | D, all compounds | 3E+3 | 6E+3 | 3E-6 | 9E-9 | 4E-5 | 4E-4 |
| 82 | Lead-201 | D, all compounds | 7E+3 | 2E+4 | 8E-6 | 3E-8 | 1E-4 | 1E-3 |
| 82 | Lead-202m | D, all compounds | 9E+3 | 3E+4 | 1E-5 | 4E-8 | 1E-4 | 1E-3 |
| 82 | Lead-202 | D, all compounds | 1E+2 | 5E+1 | 2E-8 | 7E-11 | 2E-6 | 2E-5 |
| 82 | Lead-203 | D, all compounds | 5E+3 | 9E+3 | 4E-6 | 1E-8 | 7E-5 | 7E-4 |
| 82 | Lead-205 | D, all compounds | 4E+3 | 1E+3 | 6E-7 | 2E-9 | 5E-5 | 5E-4 |
| 82 | Lead-209 | D, all compounds | 2E+4 | 6E+4 | 2E-5 | 8E-8 | 3E-4 | 3E-3 |
| 82 | Lead-210 | D, all compounds | 6E1 | 2E1 | 1E-10 | - | - | - |
| | | Bone surf (1E+0) | Bone surf (4E-1) | - | - | 6E-13 | 1E-8 | 1E-7 |
| 82 | Lead-211 ² | D, all compounds | 1E+4 | 6E+2 | 3E-7 | 9E-10 | 2E-4 | 2E+3 |

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|---------------------------|----------------------------------------------|------------------------------------------------|--------------------------------------------|---------------------------------|-------------------------------------|-----------------------------------|----------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μ Ci) | Col. 2 Inhalation ALI (μ Ci) | Col. 3 DAC (μ Ci/ml) | Col. 1 Air (μ Ci/ml) | Col. 2 Water (μ Ci/ml) | Monthly Average Concentration (μ Ci/ml) |
| 82 | Lead-212 | D, all compounds | 8E+1 | 3E+1 | 1E-8 | 5E-11 | - | - |
| | | Bone surf (1E+2) | | - | - | - | 2E-6 | 2E-5 |
| 82 | Lead-214 ² | D, all compounds | 9E+3 | 8E+2 | 3E-7 | 1E-9 | 1E-4 | 1E-3 |
| 83 | Bismuth-200 ² | D, nitrates | 3E+4 | 8E+4 | 4E-5 | 1E-7 | 4E-4 | 4E-3 |
| | | W, all other compounds | - | 1E+5 | 4E-5 | 1E-7 | - | - |
| 83 | Bismuth-201 ² | D, see ²⁰⁰ Bi | 1E+4 | 3E+4 | 1E-5 | 4E-8 | 2E-4 | 2E-3 |
| | | W, see ²⁰⁰ Bi | - | 4E+4 | 2E-5 | 5E-8 | - | - |
| 83 | Bismuth-202 ² | D, see ²⁰⁰ Bi | 1E+4 | 4E+4 | 2E-5 | 6E-8 | 2E-4 | 2E-3 |
| | | W, see ²⁰⁰ Bi | - | 8E+4 | 3E-5 | 1E-7 | - | - |
| 83 | Bismuth-203 | D, see ²⁰⁰ Bi | 2E+3 | 7E+3 | 3E-6 | 9E-9 | 3E-5 | 3E-4 |
| | | W, see ²⁰⁰ Bi | - | 6E+3 | 3E-6 | 9E-9 | - | - |
| 83 | Bismuth-205 | D, see ²⁰⁰ Bi | 1E+3 | 3E+3 | 1E-6 | 3E-9 | 2E-5 | 2E-4 |
| | | W, see ²⁰⁰ Bi | - | 1E+3 | 5E-7 | 2E-9 | - | - |
| 83 | Bismuth-206 | D, see ²⁰⁰ Bi | 6E+2 | 1E+3 | 6E-7 | 2E-9 | 9E-6 | 9E-5 |
| | | W, see ²⁰⁰ Bi | - | 9E+2 | 4E-7 | 1E-9 | - | - |
| 83 | Bismuth-207 | D, see ²⁰⁰ Bi | 1E+3 | 2E+3 | 7E-7 | 2E-9 | 1E-5 | 1E-4 |
| | | W, see ²⁰⁰ Bi | - | 4E+2 | 1E-7 | 5E-10 | - | - |
| 83 | Bismuth-210m | D, see ²⁰⁰ Bi | 4E+1 | 5E+0 | 2E-9 | - | - | - |
| | | Kidneys (6E+1) | | Kidneys (6E+0) | - | 9E-12 | 8E-7 | 8E-6 |
| | | W, see ²⁰⁰ Bi | - | 7E-1 | 3E-10 | 9E-13 | | |
| 83 | Bismuth-210 | D, see ²⁰⁰ Bi | 8E+2 | 2E+2 | 1E-7 | - | 1E-5 | 1E-4 |
| | | Kidneys (4E+2) | | | - | 5E-10 | - | - |
| | | W, see ²⁰⁰ Bi | - | 3E+1 | 1E-8 | 4E-11 | - | - |
| 83 | Bismuth-212 ² | D, see ²⁰⁰ Bi | 5E+3 | 2E+2 | 1E-7 | 3E-10 | 7E-5 | 7E-4 |
| | | W, see ²⁰⁰ Bi | - | 3E+2 | 1E-7 | 4E-10 | - | - |
| 83 | Bismuth-213 ² | D, see ²⁰⁰ Bi | 7E+3 | 3E+2 | 1E-7 | 4E-10 | 1E-4 | 1E-3 |
| | | W, see ²⁰⁰ Bi | - | 4E+2 | 1E-7 | 5E-10 | - | - |
| 83 | Bismuth-214 ² | D, see ²⁰⁰ Bi | 2E+4 | 8E+2 | 3E-7 | 1E-9 | - | - |
| | | St wall (2E+4) | | - | - | - | 3E-4 | 3E-3 |
| | | W, see ²⁰⁰ Bi | - | 9E-2 | 4E-7 | 1E-9 | - | - |
| 84 | Polonium-203 ² | D, all compounds except those given for W | 3E+4 | 6E+4 | 3E-5 | 9E-8 | 3E-4 | 3E-3 |
| | | W, oxides, hydroxides, and nitrates | - | 9E+4 | 4E-5 | 1E-7 | - | - |
| 84 | Polonium-205 ² | D, see ²⁰³ Po | 2E+4 | 4E+4 | 2E-5 | 5E-8 | 3E-4 | 3E-3 |
| | | W, see ²⁰³ Po | - | 7E+4 | 3E-5 | 1E-7 | - | - |
| 84 | Polonium-207 | D, see ²⁰³ Po | 8E+3 | 3E+4 | 1E-5 | 3E-8 | 1E-4 | 1E-3 |
| | | W, see ²⁰³ Po | - | 3E+4 | 1E-5 | 4E-8 | - | - |
| 84 | Polonium-210 | D, see ²⁰³ Po | 3E+0 | 6E-1 | 3E-10 | 9E-13 | 4E-8 | 4E-7 |
| | | W, see ²⁰³ Po | - | 6E-1 | 3E-10 | 9E-13 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|---------------------------|-------------------------------------------------|-------------------------------------------------------|---------------------------------------------------|----------------------------------------|----------------------------------------|------------------------------------------|-----------------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μCi) | Col. 2 Inhalation ALI (μCi) | Col. 3 DAC ($\mu\text{Ci/ml}$) | Col. 1 Air ($\mu\text{Ci/ml}$) | Col. 2 Water ($\mu\text{Ci/ml}$) | Monthly Average Concentration ($\mu\text{Ci/ml}$) |
| | | | | | | | | |
| 85 | Astatine-207 ² | D, halides | 6E+3 | 3E+3 | 1E-6 | 4E-9 | 8E-5 | 8E-4 |
| | | W | - | 2E+3 | 9E-7 | 3E-9 | - | - |
| 85 | Astatine-211 | D, halides | 1E+2 | 8E+1 | 3E-8 | 1E-10 | 2E-6 | 2E-5 |
| | | W | - | 5E+1 | 2E-8 | 8E-11 | - | - |
| 86 | Radon-220 | With daughters removed | - | 2E+4 | 7E-6 | 2E-8 | - | - |
| | | With daughters present | - | 2E+1 | 9E-9 | 3E-11 | - | - |
| | | | (or 12 working level months) | | | (or 1.0 working level) | | |
| 86 | Radon-222 | With daughters removed | - | 1E+4 | 4E-6 | 1E-8 | - | - |
| | | With daughters present | - | 1E+2 | 3E-8 | 1E-10 | - | - |
| | | | (or 4 working level months) | | | (or 0.33 working level) | | |
| 87 | Francium-222 ² | D, all compounds | 2E+3 | 5E+2 | 2E-7 | 6E-10 | 3E-5 | 3E-4 |
| 87 | Francium-223 ² | D, all compounds | 6E+2 | 8E+2 | 3E-7 | 1E-9 | 8E-6 | 8E-5 |
| 88 | Radium-223 | W, all compounds | 5E+0 | 7E-1 | 3E-10 | 9E-13 | - | - |
| | | | Bone surf (9E+0) | - | - | - | 1E-7 | 1E-6 |
| 88 | Radium-224 | W, all compounds | 8E+0 | 2E+0 | 7E-10 | 2E-12 | - | - |
| | | | Bone surf (2E+1) | - | - | - | 2E-7 | 2E-6 |
| 88 | Radium-225 | W, all compounds | 8E+0 | 7E-1 | 3E-10 | 9E-13 | - | - |
| | | | Bone surf (2E+1) | - | - | - | 2E-7 | 2E-6 |
| 88 | Radium-226 | W, all compounds | 2E+0 | 6E-1 | 3E-10 | 9E-13 | - | - |
| | | | Bone surf (5E+0) | - | - | - | 6E-8 | 6E-7 |
| 88 | Radium-227 ² | W, all compounds | 2E+4 | 1E+4 | 6E-6 | - | - | - |
| | | | Bone surf (2E+4) | Bone surf (2E+4) | - | 3E-8 | 3E-4 | 3E-3 |
| 88 | Radium-228 | W, all compounds | 2E+0 | 1E+0 | 5E-10 | 2E-12 | - | - |
| | | | Bone surf (4E+0) | - | - | - | 6E-8 | 6E-7 |
| 89 | Actinium-224 | D, all compounds except those given for W and Y | 2E+3 | 3E+1 | 1E-8 | - | - | - |
| | | | LLI wall (2E+3) | Bone surf (4E+1) | - | 5E-11 | 3E-5 | 3E-4 |
| | | W, halides and nitrates | - | 5E+1 | 2E-8 | 7E-11 | - | - |
| | | Y, oxides and hydroxides | - | 5E+1 | 2E-8 | 6E-11 | - | - |
| 89 | Actinium-225 | D, see ²²⁴ Ac | 5E+1 | 3E-1 | 1E-10 | - | - | - |
| | | | LLI wall (5E+1) | Bone surf (5E-1) | - | 7E-13 | 7E-7 | 7E-6 |
| | | W, see ²²⁴ Ac | - | 6E-1 | 3E-10 | 9E-13 | - | - |
| | | Y, see ²²⁴ Ac | - | 6E-1 | 3E-10 | 9E-13 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|--------------------------|----------------------------------------------|------------------------------------------------|--------------------------------------------|---------------------------------|-------------------------------------|-----------------------------------|----------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μ Ci) | Col. 2 Inhalation ALI (μ Ci) | Col. 3 DAC (μ Ci/ml) | Col. 1 Air (μ Ci/ml) | Col. 2 Water (μ Ci/ml) | Monthly Average Concentration (μ Ci/ml) |
| 89 | Actinium-226 | D, see ^{224}Ac | 1E+2 | 3E+0 | 1E-9 | - | - | - |
| | | | LLI wall (1E+2) | Bone surf (4E+0) | - | 5E-12 | 2E-6 | 2E-5 |
| | | W, see ^{224}Ac | - | 5E+0 | 2E-9 | 7E-12 | - | - |
| | | Y, see ^{224}Ac | - | 5E+0 | 2E-9 | 6E-12 | - | - |
| 89 | Actinium-227 | D, see ^{224}Ac | 2E-1 | 4E-4 | 2E-13 | - | - | - |
| | | | Bone surf (4E-1) | Bone surf (8E-4) | - | 1E-15 | 5E-9 | 5E-8 |
| | | W, see ^{224}Ac | - | 2E-3 | 7E-13 | - | - | - |
| | | | - | Bone surf (3E-3) | - | 4E-15 | - | - |
| | | Y, see ^{224}Ac | - | 4E-3 | 2E-12 | 6E-15 | - | - |
| 89 | Actinium-228 | D, see ^{224}Ac | 2E+3 | 9E+0 | 4E-9 | - | 3E-5 | 3E-4 |
| | | | - | Bone surf (2E+1) | - | 2E-11 | - | - |
| | | W, see ^{224}Ac | - | 4E+1 | 2E-8 | - | - | - |
| | | | - | Bone surf (6E+1) | - | 8E-11 | - | - |
| | | Y, see ^{224}Ac | - | 4E+1 | 2E-8 | 6E-11 | - | - |
| 90 | Thorium-226 ² | W, all compounds except those given for Y | 5E+3 | 2E+2 | 6E-8 | 2E-10 | - | - |
| | | | St wall (5E+3) | - | - | - | 7E-5 | 7E-4 |
| 90 | Thorium-227 | Y, oxides and hydroxides | - | 1E+2 | 6E-8 | 2E-10 | - | - |
| | | W, see ^{226}Th | 1E+2 | 3E-1 | 1E-10 | 5E-13 | 2E-6 | 2E-5 |
| 90 | Thorium-228 | Y, see ^{226}Th | - | 3E-1 | 1E-10 | 5E-13 | - | - |
| | | W, see ^{226}Th | 6E+0 | 1E-2 | 4E-12 | - | - | - |
| 90 | Thorium-229 | W, see ^{226}Th | Bone surf (1E+1) | Bone surf (2E-2) | - | 3E-14 | 2E-7 | 2E-6 |
| | | | - | 2E-2 | 7E-12 | 2E-14 | - | - |
| | | Y, see ^{226}Th | 6E-1 | 9E-4 | 4E-13 | - | - | - |
| | | | Bone surf (1E+0) | Bone surf (2E-3) | - | 3E-15 | 2E-8 | 2E-7 |
| | | Y, see ^{226}Th | - | 2E-3 | 1E-12 | - | - | - |
| 90 | Thorium-230 | W, see ^{226}Th | - | Bone surf (3E-3) | - | 4E-15- | - | - |
| | | | 4E+0 | 6E-3 | 3E-12 | - | - | - |
| | | Y, see ^{226}Th | Bone surf (9E+0) | Bone surf (2E-2) | - | 2E-14 | 1E-6 | - |
| | | | - | 2E-2 | 6E-12 | - | - | - |
| | | Y, see ^{226}Th | - | Bone surf (2E-2) | - | 3E-14- | - | - |
| 90 | Thorium-231 | W, see ^{228}Th | 4E+3 | 6E+3 | 3E-6 | 9E-9 | 5E-5 | 5E-4 |
| | | Y, see ^{228}Th | - | 6E+3 | 3E-6 | 9E-9- | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|-------------------------------|----------------------------------------------|------------------------------------------|--------------------------------------|---------------------------|-------------------------------------|-----------------------------|----------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μCi) | Col. 2 Inhalation ALI (μCi) | Col. 3 DAC (μCi/ml) | Col. 1 Air (μCi/ml) | Col. 2 Water (μCi/ml) | Monthly Average Concentration (μCi/ml) |
| | | | | | | | | |
| 90 | Thorium-232 | W, see ²²⁸ Th | 7E-1 | 1E-3 | 5E-13 | - | - | - |
| | | | Bone surf (2E+0) | Bone surf (3E-3) | - | 4E-15 | 3E-8 | 3E-7 |
| | | Y, see ²²⁸ Th | - | 3E-3 | 1E-12 | - | - | - |
| | | | - | Bone surf (4E-3) | - | 6E-15 | - | - |
| 90 | Thorium-234 | W, see ²²⁸ Th | 3E+2 | 2E+2 | 8E-8 | 3E-10 | - | - |
| | | | LLI wall (4E+2) | - | - | - | 5E-6 | 5E-5 |
| | | Y, see ²²⁸ Th | - | 2E+2 | 6E-8 | 2E-10 | - | - |
| | | | - | - | - | - | - | - |
| 91 | Protactinium-227 ² | W, all compounds except those given for Y | 4E+3 | 1E+2 | 5E-8 | 2E-10 | 5E-5 | 5E-4 |
| | | Y, oxides and hydroxides | - | 1E+2 | 4E-8 | 1E-10 | - | - |
| 91 | Protactinium-228 | W, see ²²⁷ Pa | 1E+3 | 1E+1 | 5E-9 | - | 2E-5 | 2E-4 |
| | | | - | Bone surf (2E+1) | - | 3E-11 | - | - |
| | | Y, see ²²⁷ Pa | - | 1E+1 | 5E-9 | 2E-11 | - | - |
| | | | - | - | - | - | - | - |
| 91 | Protactinium-230 | W, see ²²⁷ Pa | 6E+2 | 5E+0 | 2E-9 | 7E-12 | - | - |
| | | | Bone surf (9E+2) | - | - | - | 1E-5 | 1E-4 |
| | | Y, see ²²⁷ Pa | - | 4E+0 | 1E-9 | 5E-12 | - | - |
| | | | - | - | - | - | - | - |
| 91 | Protactinium-231 | W, see ²²⁷ Pa | 2E-1 | 2E-3 | 6E-13 | - | - | - |
| | | | Bone surf (5E-1) | Bone surf (4E-3) | - | 6E-15 | 6E-9 | 6E-8 |
| | | Y, see ²²⁷ Pa | - | 4E-3 | 2E-12 | - | - | - |
| | | | - | Bone surf (6E-3) | - | 8E-15 | - | - |
| 91 | Protactinium-232 | W, see ²²⁷ Pa | 1E+3 | 2E+1 | 9E-9 | - | 2E-5 | 2E-4 |
| | | | - | Bone surf (6E+1) | - | 8E-11 | - | - |
| | | Y, see ²²⁷ Pa | - | 6E+1 | 2E-8 | - | - | - |
| | | | - | Bone surf (7E+1) | - | 1E-10 | - | - |
| 91 | Protactinium-233 | W, see ²²⁷ Pa | 1E+3 | 7E+2 | 3E-7 | 1E-9 | - | - |
| | | | LLI wall (2E+3) | - | - | - | 2E-5 | 2E-4 |
| | | Y, see ²²⁷ Pa | - | 6E+2 | 2E-7 | 8E-10 | - | - |
| | | | - | - | - | - | - | - |
| 91 | Protactinium-234 | W, see ²²⁷ Pa | 2E+3 | 8E+3 | 3E-6 | 1E-8 | 3E-5 | 3E-4 |
| | | | - | 7E+3 | 3E-6 | 9E-9 | - | - |
| | | Y, see ²²⁷ Pa | - | 7E+3 | 3E-6 | 9E-9 | - | - |
| | | | - | - | - | - | - | - |
| 92 | Uranium-230 | D, UF, UOF, UO(NO) | 4E+0 | 4E-1 | 2E-10 | - | - | - |
| | | | Bone surf (6E+0) | Bone surf (6E-1) | - | 8E-13 | 8E-8 | 8E-7 |
| | | W, UO, UF, UCl Y, UO, UO | - | 4E-1 | 1E-10 | 5E-13 | - | - |
| | | | - | 3E-1 | 1E-10 | 4E-13 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|--------------------------|-------------------------|-------------------------------------------------------|---------------------------------------------------|----------------------------------------|----------------------------------------|------------------------------------------|-----------------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μCi) | Col. 2 Inhalation ALI (μCi) | Col. 3 DAC ($\mu\text{Ci/ml}$) | Col. 1 Air ($\mu\text{Ci/ml}$) | Col. 2 Water ($\mu\text{Ci/ml}$) | Monthly Average Concentration ($\mu\text{Ci/ml}$) |
| 92 | Uranium-231 | D, see ^{230}U | 5E+3 LLI wall (4E+3) | 8E+3 - | 3E-6 - | 1E-8 - | - 6E-5 | - 6E-4 |
| | | W, see ^{230}U | - | 6E+3 | 2E-6 | 8E-9 | - | - |
| | | Y, see ^{230}U | - | 5E+3 | 2E-6 | 6E-9 | - | - |
| 92 | Uranium-232 | D, see ^{230}U | 2E+0 Bone surf (4E+0) | 2E-1 Bone surf (4E-1) | 9E-11 - | - 6E-13 | - 6E-8 | - 6E-7 |
| | | W, see ^{230}U | - | 4E-1 | 2E-10 | 5E-13 | - | - |
| | | Y, see ^{230}U | - | 8E-3 | 3E-12 | 1E-14 | - | - |
| 92 | Uranium-233 | D, see ^{230}U | 1E+1 Bone surf (2E+1) | 1E+0 Bone surf (2E+0) | 5E-10 - | - 3E-12 | - 3E-7 | - 3E-6 |
| | | W, see ^{230}U | - | 7E-1 | 3E-10 | 1E-12 | - | - |
| | | Y, see ^{230}U | - | 4E-2 | 2E-11 | 5E-14 | - | - |
| 92 | Uranium-234 ³ | D, see ^{230}U | 1E+1 Bone surf (2E+1) | 1E+0 Bone surf (2E+0) | 5E-10 - | - 3E-12 | - 3E-7 | - 3E-6 |
| | | W, see ^{230}U | - | 7E-1 | 3E-10 | 1E-12 | - | - |
| | | Y, see ^{230}U | - | 4E-2 | 2E-11 | 5E-14 | - | - |
| 92 | Uranium-235 ³ | D, see ^{230}U | 1E+1 Bone surf (2E+1) | 1E+0 Bone surf (2E+0) | 6E-10 - | - 3E-12 | - 3E-7 | - 3E-6 |
| | | W, see ^{230}U | - | 8E-1 | 3E-10 | 1E-12 | - | - |
| | | Y, see ^{230}U | - | 4E-2 | 2E-11 | 6E-14 | - | - |
| 92 | Uranium-236 | D, see ^{230}U | 1E+1 Bone surf (2E+1) | 1E+0 Bone surf (2E+0) | 5E-10 - | - 3E-12 | - 3E-7 | - 3E-6 |
| | | W, see ^{230}U | - | 8E-1 | 3E-10 | 1E-12 | - | - |
| | | Y, see ^{230}U | - | 4E-2 | 2E-11 | 6E-14 | - | - |
| 92 | Uranium-237 | D, see ^{230}U | 2E+3 LLI wall (2E+3) | 3E+3 - | 1E-6 - | 4E-9 - | - 3E-5 | - 3E-4 |
| | | W, see ^{230}U | - | 2E+3 | 7E-7 | 2E-9 | - | - |
| | | Y, see ^{230}U | - | 2E+3 | 6E-7 | 2E-9 | - | - |
| 92 | Uranium-238 ³ | D, see ^{230}U | 1E+1 Bone surf (2E+1) | 1E+0 Bone surf (2E+0) | 6E-10 - | - 3E-12 | - 3E-7 | - 3E-6 |
| | | W, see ^{230}U | - | 8E-1 | 3E-10 | 1E-12 | - | - |
| | | Y, see ^{230}U | - | 4E-2 | 2E-11 | 6E-14 | - | - |
| 92 | Uranium-239 ² | D, see ^{230}U | 7E+4 | 2E+5 | 8E-5 | 3E-7 | 9E-4 | 9E-3 |
| | | W, see ^{230}U | - | 2E+5 | 7E-5 | 2E-7 | - | - |
| | | Y, see ^{230}U | - | 2E+5 | 6E-5 | 2E-7 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|------------------------------|--------------------------------|------------------------------------------|--------------------------------------|---------------------------|-------------------------------------|-----------------------------|----------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μCi) | Col. 2 Inhalation ALI (μCi) | Col. 3 DAC (μCi/ml) | Col. 1 Air (μCi/ml) | Col. 2 Water (μCi/ml) | Monthly Average Concentration (μCi/ml) |
| | | | | | | | | |
| 92 | Uranium-240 | D, see ²³⁰ U | 1E+3 | 4E+3 | 2E-6 | 5E-9 | 2E-5 | 2E-4 |
| | | W, see ²³⁰ U | - | 3E+3 | 1E-6 | 4E-9 | - | - |
| | | Y, see ²³⁰ U | - | 2E+3 | 1E-6 | 3E-9 | - | - |
| 92 | Uranium-natural ³ | D, see ²³⁰ U | 1E+1 | 1E+0 | 5E-10 | - | - | - |
| | | | Bone surf (2E+1) | Bone surf (2E+0) | - | 3E-12 | 3E-7 | 3E-6 |
| | | W, see ²³⁰ U | - | 8E-1 | 3E-10 | 9E-13 | - | - |
| | | Y, see ²³⁰ U | - | 5E-2 | 2E-11 | 9E-24 | - | - |
| 93 | Neptunium-232 ² | W, all compounds | 1E+5 | 2E+3 | 7E-7 | - | 2E-3 | 2E-2 |
| | | | - | Bone surf (5E+2) | - | 6E-9 | - | - |
| 93 | Neptunium-233 ² | W, all compounds | 8E+5 | 3E+6 | 1E-3 | 4E-6 | 1E-2 | 1E-1 |
| 93 | Neptunium-234 | W, all compounds | 2E+3 | 3E+3 | 1E-6 | 4E-9 | 3E-5 | 3E-4 |
| 93 | Neptunium-235 | W, all compounds | 2E+4 | 8E+2 | 3E-7 | - | - | - |
| | | | LLI wall (2E+4) | Bone surf (1E+3) | - | 2E-9 | 3E-4 | 3E-3 |
| 93 | Neptunium-236 (1.15E+5 y) | W, all compounds | 3E+0 | 2E-2 | 9E-12 | - | - | - |
| | | | Bone surf (6E+0) | Bone surf (5E-2) | - | 8E-14 | 9E-8 | 9E-7 |
| 93 | Neptunium-236 (22.5 h) | W, all compounds | 3E+3 | 3E+1 | 1E-8 | - | - | - |
| | | | Bone surf (4E+3) | Bone surf (7E+1) | - | 1E-10 | 5E-5 | 5E-4 |
| 93 | Neptunium-237 | W, all compounds | 5E-1 | 4E-3 | 2E-12 | - | - | - |
| | | | Bone surf (1E+0) | Bone surf (1E-2) | - | 1E-14 | 2E-8 | 2E-7 |
| 93 | Neptunium-238 | W, all compounds | 1E+3 | 6E+1 | 3E-8 | - | 2E-5 | 2E-4 |
| | | | - | Bone surf (2E+2) | - | 2E-10 | - | - |
| 93 | Neptunium-239 | W, all compounds | 2E+3 | 2E+3 | 9E-7 | 3E-9 | - | - |
| | | | LLI wall (2E+3) | - | - | - | 2E-5 | 2E-4 |
| 93 | Neptunium-240 ² | W, all compounds | 2E+4 | 8E+4 | 3E-5 | 1E-7 | 3E-4 | 3E-3 |
| 94 | Plutonium-234 | W, all compounds except PuO | 8E+3 | 2E+2 | 9E-8 | 3E-10 | 1E-4 | 1E-3 |
| | | Y, PuO | - | 2E+2 | 8E-8 | 3E-10 | - | - |
| 94 | Plutonium-235 ² | W, see ²³⁴ Pu | 9E+5 | 3E+6 | 1E-3 | 4E-6 | 1E-2 | 1E-1 |
| | | Y, see ²³⁴ Pu | - | 3E+6 | 1E-3 | 3E-6 | - | - |
| 94 | Plutonium-236 | W, see ²³⁴ Pu | 2E+0 | 2E-2 | 8E-12 | - | - | - |
| | | | Bone surf (4E+0) | Bone surf (4E-2) | - | 5E-14 | 6E-8 | 6E-7 |
| | | Y, see ²³⁴ Pu | - | 4E-2 | 2E-11 | 6E-14 | - | - |
| 94 | Plutonium-237 | W, see ²³⁴ Pu | 1E+4 | 3E+3 | 1E-6 | 5E-9 | 2E-4 | 2E-3 |
| | | Y, see ²³⁴ Pu | - | 3E+3 | 1E-6 | 4E-9 | - | - |
| 94 | Plutonium-238 | W, see ²³⁴ Pu | 9E-1 | 7E-3 | 3E-12 | - | - | - |
| | | | Bone surf (2E+0) | Bone surf (1E-2) | - | 2E-14 | 2E-8 | 2E-7 |
| | | Y, see ²³⁴ Pu | - | 2E-2 | 8E-12 | 2E-14 | - | - |

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|----------------------------|--------------------------|------------------------------------------------|--------------------------------------------|---------------------------------|-------------------------------------|-----------------------------------|----------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μ Ci) | Col. 2 Inhalation ALI (μ Ci) | Col. 3 DAC (μ Ci/ml) | Col. 1 Air (μ Ci/ml) | Col. 2 Water (μ Ci/ml) | Monthly Average Concentration (μ Ci/ml) |
| 94 | Plutonium-239 | W, see ^{234}Pu | 8E-1 Bone surf (1E+0) | 6E-3 Bone surf (1E-2) | 3E-12 - | - | - | - |
| | | Y, see ^{234}Pu | - | 2E-2 Bone surf (2E-2) | 7E-12 - | - | - | - |
| | | | - | - | - | 2E-14 | 2E-8 | 2E-7 |
| 94 | Plutonium-240 | W, see ^{234}Pu | 8E-1 Bone surf (1E+0) | 6E-3 Bone surf (1E-2) | 3E-12 - | - | - | - |
| | | Y, see ^{234}Pu | - | 2E-2 Bone surf (2E-2) | 7E-12 - | - | - | - |
| | | | - | - | - | 2E-14 | 2E-8 | 2E-7 |
| 94 | Plutonium-241 | W, see ^{234}Pu | 4E+1 Bone surf (7E+1) | 3E-1 Bone surf (6E-1) | 1E-10 - | - | - | - |
| | | Y, see ^{234}Pu | - | 8E-1 Bone surf (1E+0) | 3E-10 - | - | - | - |
| | | | - | - | - | 1E-12 | - | - |
| 94 | Plutonium-242 | W, see ^{234}Pu | 8E-1 Bone surf (1E+0) | 7E-3 Bone surf (1E-2) | 3E-12 - | - | - | - |
| | | Y, see ^{234}Pu | - | 2E-2 Bone surf (2E-2) | 7E-12 - | - | - | - |
| | | | - | - | - | 2E-14 | 2E-8 | 2E-7 |
| 94 | Plutonium-243 | W, see ^{234}Pu | 2E+4 | 4E+4 | 2E-5 | 5E-8 | 2E-4 | 2E-3 |
| | | Y, see ^{234}Pu | - | 4E+4 | 2E-5 | 5E-8 | - | - |
| 94 | Plutonium-244 | W, see ^{234}Pu | 8E-1 Bone surf (2E+0) | 7E-3 Bone surf (1E-2) | 3E-12 - | - | - | - |
| | | Y, see ^{234}Pu | - | 2E-2 Bone surf (2E-2) | 7E-12 - | - | - | - |
| | | | - | - | - | 2E-14 | 2E-8 | 2E-7 |
| 94 | Plutonium-245 | W, see ^{234}Pu | 2E+3 | 5E+3 | 2E-6 | 6E-9 | 3E-5 | 3E-4 |
| | | Y, see ^{234}Pu | - | 4E+3 | 2E-6 | 6E-9 | - | - |
| 94 | Plutonium-246 | W, see ^{234}Pu | 4E+2 LLI wall (4E+2) | 3E+2 - | 1E-7 - | 4E-10 - | - | - |
| | | Y, see ^{234}Pu | - | 3E+2 | 1E-7 | 4E-10 | - | - |
| | | | - | - | - | - | 6E-6 | 6E-5 |
| 95 | Americium-237 ² | W, all compounds | 8E+4 | 3E+5 | 1E-4 | 4E-7 | 1E-3 | 1E-2 |
| 95 | Americium-238 ² | W, all compounds | 4E+4 | 3E+3 Bone surf (6E+3) | 1E-6 - | - | 5E-4 | 5E-3 |
| | | | - | - | - | 9E-9 | - | - |
| 95 | Americium-239 | W, all compounds | 5E+3 | 1E+4 | 5E-6 | 2E-8 | 7E-5 | 7E-4 |
| 95 | Americium-240 | W, all compounds | 2E+3 | 3E+3 | 1E-6 | 4E-9 | 3E-5 | 3E-4 |
| 95 | Americium-241 | W, all compounds | 8E-1 Bone surf (1E+0) | 6E-3 Bone surf (1E-2) | 3E-12 - | - | - | - |
| | | | - | - | - | 2E-14 | 2E-8 | 2E-7 |

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|-----------------------------|------------------|-------------------------------------------------------|---------------------------------------------------|----------------------------------------|----------------------------------------|------------------------------------------|-----------------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μCi) | Col. 2 Inhalation ALI (μCi) | Col. 3 DAC ($\mu\text{Ci/ml}$) | Col. 1 Air ($\mu\text{Ci/ml}$) | Col. 2 Water ($\mu\text{Ci/ml}$) | Monthly Average Concentration ($\mu\text{Ci/ml}$) |
| 95 | Americium-242m | W, all compounds | 8E-1 | 6E-3 | 3E-12 | - | - | - |
| | | | Bone surf (1E+0) | Bone surf (1E-2) | - | 2E-14 | 2E-8 | 2E-7 |
| 95 | Americium-242 | W, all compounds | 4E+3 | 8E+1 | 4E-8 | - | 5E-5 | 5E-4 |
| | | | - | Bone surf (9E+1) | - | 1E-10 | - | - |
| 95 | Americium-243 | W, all compounds | 8E-1 | 6E-3 | 3E-12 | - | - | - |
| | | | Bone surf (1E+0) | Bone surf (1E-2) | - | 2E-14 | 2E-8 | 2E-7 |
| 95 | Americium-244m ² | W, all compounds | 6E+4 | 4E+3 | 2E-6 | - | - | - |
| | | | St wall (8E+4) | Bone surf (7E+3) | - | 1E-8 | 1E-3 | 1E-2 |
| 95 | Americium-244 | W, all compounds | 3E+3 | 2E+2 | 8E-8 | - | 4E-5 | 4E-4 |
| | | | - | Bone surf (3E+2) | - | 4E-10 | - | - |
| 95 | Americium-245 | W, all compounds | 3E+4 | 8E+4 | 3E-5 | 1E-7 | 4E-4 | 4E-3 |
| 95 | Americium-246m ² | W, all compounds | 5E+4 | 2E+5 | 8E-5 | 3E-7 | - | - |
| | | | St wall (6E+4) | - | - | - | 8E-4 | 8E-3 |
| 95 | Americium-246 ² | W, all compounds | 3E+4 | 1E+5 | 4E-5 | 1E-7 | 4E-4 | 4E-3 |
| 96 | Curium-238 | W, all compounds | 2E+4 | 1E+3 | 5E-7 | 2E-9 | 2E-4 | 2E-3 |
| 96 | Curium-240 | W, all compounds | 6E+1 | 6E-1 | 2E-10 | - | - | - |
| | | | Bone surf (8E+1) | Bone surf (6E-1) | - | 9E-13 | 1E-6 | 1E-5 |
| 96 | Curium-241 | W, all compounds | 1E+3 | 3E+1 | 1E-8 | - | 2E-5 | 2E-4 |
| | | | - | Bone surf (4E+1) | - | 5E-11 | - | - |
| 96 | Curium-242 | W, all compounds | 3E+1 | 3E-1 | 1E-10 | - | - | - |
| | | | Bone surf (5E+1) | Bone surf (3E-1) | - | 4E-13 | 7E-7 | 7E-6 |
| 96 | Curium-243 | W, all compounds | 1E+0 | 9E-3 | 4E-12 | - | - | - |
| | | | Bone surf (2E+0) | Bone surf (2E-2) | - | 2E-14 | 3E-8 | 3E-7 |
| 96 | Curium-244 | W, all compounds | 1E+0 | 1E-2 | 5E-12 | - | - | - |
| | | | Bone surf (3E+0) | Bone surf (2E-2) | - | 3E-14 | 3E-8 | 3E-7 |
| 96 | Curium-245 | W, all compounds | 7E-1 | 6E-3 | 3E-12 | - | - | - |
| | | | Bone surf (1E+0) | Bone surf (1E-2) | - | 2E-14 | 2E-8 | 2E-7 |
| 96 | Curium-246 | W, all compounds | 7E-1 | 6E-3 | 3E-12 | - | - | - |
| | | | Bone surf (1E+0) | Bone surf (1E-2) | - | 2E-14 | 2E-8 | 2E-7 |
| 96 | Curium-247 | W, all compounds | 8E-1 | 6E-3 | 3E-12 | - | - | - |
| | | | Bone surf (1E+0) | Bone surf (1E-2) | - | 2E-14 | 2E-8 | 2E-7 |
| 96 | Curium-248 | W, all compounds | 2E-1 | 2E-3 | 7E-13 | - | - | - |
| | | | Bone surf (4E-1) | Bone surf (3E-3) | - | 4E-15 | 5E-9 | 5E-8 |

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|------------------------------|-------------------------------------------|------------------------------------------------|--------------------------------------------|---------------------------------|-------------------------------------|-----------------------------------|----------------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μ Ci) | Col. 2 Inhalation ALI (μ Ci) | Col. 3 DAC (μ Ci/ml) | Col. 1 Air (μ Ci/ml) | Col. 2 Water (μ Ci/ml) | Monthly Average Concentration (μ Ci/ml) |
| 96 | Curium-249 ² | W, all compounds | 5E+4 | 2E+4 Bone surf | 7E-6 | - | 7E-4 | 7E-3 |
| | | | - | (3E+4) | - | 4E-8 | - | - |
| 96 | Curium-250 | W, all compounds | 4E-2 | 3E-4 Bone surf | 1E-13 | - | - | - |
| | | | (6E-2) | (5E-4) | - | 8E-16 | 9E-10 | 9E-9 |
| 97 | Berkelium-245 | W, all compounds | 2E+3 | 1E+3 | 5E-7 | 2E-9 | 3E-5 | 3E-4 |
| 97 | Berkelium-246 | W, all compounds | 3E+3 | 3E+3 | 1E-6 | 4E-9 | 4E-5 | 4E-4 |
| 97 | Berkelium-247 | W, all compounds | 5E-1 | 4E-3 Bone surf | 2E-12 | - | - | - |
| | | | (1E+0) | (9E-3) | - | 1E-14 | 2E-8 | 2E-7 |
| 97 | Berkelium-249 | W, all compounds | 2E+2 | 2E+0 Bone surf | 7E-10 | - | - | - |
| | | | (5E+2) | (4E+0) | - | 5E-12 | 6E-6 | 6E-5 |
| 97 | Berkelium-250 | W, all compounds | 9E+3 | 3E+2 Bone surf | 1E-7 | - | 1E-4 | 1E-3 |
| | | | - | (7E+2) | - | 1E-9 | - | - |
| 98 | Californium-244 ² | W, all compounds except those given for Y | 3E+4 St wall | 6E+2 | 2E-7 | 8E-10 | - | - |
| | | | (3E+4) | - | - | - | 4E-4 | 4E-3 |
| | | Y, oxides and hydroxides | - | 6E+2 | 2E-7 | 8E-10 | - | - |
| 98 | Californium-246 | W, see ²⁴⁴ Cf | 4E+2 | 9E+0 | 4E-9 | 1E-11 | 5E-6 | 5E-5 |
| | | Y, see ²⁴⁴ Cf | - | 9E+0 | 4E-9 | 1E-11 | - | - |
| 98 | Californium-248 | W, see ²⁴⁴ Cf | 8E+0 | 6E-2 Bone surf | 3E-11 | - | - | - |
| | | | (2E+1) | (1E-1) | - | 2E-13 | 2E-7 | 2E-6 |
| | | Y, see ²⁴⁴ Cf | - | 1E-1 | 4E-11 | 1E-13 | - | - |
| 98 | Californium-249 | W, see ²⁴⁴ Cf | 5E-1 | 4E-3 Bone surf | 2E-12 | - | - | - |
| | | | (1E+0) | (9E-3) | - | 1E-14 | 2E-8 | 2E-7 |
| | | Y, see ²⁴⁴ Cf | - | 1E-2 Bone surf | 4E-12 | - | - | - |
| | | | - | (1E-2) | - | 2E-14 | - | - |
| 98 | Californium-250 | W, see ²⁴⁴ Cf | 1E+0 | 9E-3 Bone surf | 4E-12 | - | - | - |
| | | | (2E+0) | (2E-2) | - | 3E-14 | 3E-8 | 3E-7 |
| | | Y, see ²⁴⁴ Cf | - | 3E-2 | 1E-11 | 4E-14 | - | - |
| 98 | Californium-251 | W, see ²⁴⁴ Cf | 5E-1 | 4E-3 Bone surf | 2E-12 | - | - | - |
| | | | (1E+0) | (9E-3) | - | 1E-14 | 2E-8 | 2E-7 |
| | | Y, see ²⁴⁴ Cf | - | 1E-2 Bone surf | 4E-12 | - | - | - |
| | | | - | (1E-2) | - | 2E-14 | - | - |
| 98 | Californium-252 | W, see ²⁴⁴ Cf | 2E+0 | 2E-2 Bone surf | 8E-12 | - | - | - |
| | | | (5E+0) | (4E-2) | - | 5E-14 | 7E-8 | 7E-7 |
| | | Y, see ²⁴⁴ Cf | - | 3E-2 | 1E-11 | 5E-14 | - | - |

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|------------------------------------------|--------------------------------------|---------------------------|-------------------------------------|-----------------------------|----------------------------------------------|
| | | | Col. 1 Oral Ingestion ALI (μCi) | Col. 2 Inhalation ALI (μCi) | Col. 3 DAC (μCi/ml) | Col. 1 Air (μCi/ml) | Col. 2 Water (μCi/ml) | Monthly Average Concentration (μCi/ml) |
| 98 | Californium-253 | W, see ²⁴⁴ Cf | 2E+2 | 2E+0 | 8E-10 | 3E-12 | - | - |
| | | | Bone surf (4E+2) | - | - | - | 5E-6 | 5E-5 |
| | | Y, see ²⁴⁴ Cf | - | 2E+0 | 7E-10 | 2E-12 | - | - |
| 98 | Californium-254 | W, see ²⁴⁴ Cf | 2E+0 | 2E-2 | 9E-12 | 3E-14 | 3E-8 | 3E-7 |
| | | Y, see ²⁴⁴ Cf | - | 2E-2 | 7E-12 | 2E-14 | - | - |
| 99 | Einsteinium-250 | W, all compounds | 4E+4 | 5E+2 | 2E-7 | - | 6E-4 | 6E-3 |
| | | | Bone surf (1E+3) | - | - | 2E-9 | - | - |
| 99 | Einsteinium-251 | W, all compounds | 7E+3 | 9E+2 | 4E-7 | - | 1E-4 | 1E-3 |
| | | | Bone surf (1E+3) | - | - | 2E-9 | - | - |
| 99 | Einsteinium-253 | W, all compounds | 2E+2 | 1E+0 | 6E-10 | 2E-12 | 2E-6 | 2E-5 |
| 99 | Einsteinium-254m | W, all compounds | 3E+2 | 1E+1 | 4E-9 | 1E-11 | - | - |
| | | | LLI wall (3E+2) | - | - | - | 4E-6 | 4E-5 |
| 99 | Einsteinium-254 | W, all compounds | 8E+0 | 7E-2 | 3E-11 | - | - | - |
| | | | Bone surf (2E+1) | Bone surf (1E-1) | - | 2E-13 | 2E-7 | 2E-6 |
| 100 | Fermium-252 | W, all compounds | 5E+2 | 1E+1 | 5E-9 | 2E-11 | 6E-6 | 6E-5 |
| 100 | Fermium-253 | W, all compounds | 1E+3 | 1E+1 | 4E-9 | 1E-11 | 1E-5 | 1E-4 |
| 100 | Fermium-254 | W, all compounds | 3E+3 | 9E+1 | 4E-8 | 1E-10 | 4E-5 | 4E-4 |
| 100 | Fermium-255 | W, all compounds | 5E+2 | 2E+1 | 9E-9 | 3E-11 | 7E-6 | 7E-5 |
| 100 | Fermium-257 | W, all compounds | 2E+1 | 2E-1 | 7E-11 | - | - | - |
| | | | Bone surf (4E+1) | Bone surf (2E-1) | - | 3E-13 | 5E-7 | 5E-6 |
| 101 | Mendelevium-257 | W, all compounds | 7E+3 | 8E+1 | 4E-8 | - | 1E-4 | 1E-3 |
| | | | Bone surf (9E+1) | - | - | 1E-10 | - | - |
| 101 | Mendelevium-258 | W, all compounds | 3E+1 | 2E-1 | 1E-10 | - | - | - |
| | | | Bone surf (5E+1) | Bone surf (3E-1) | - | 5E-13 | 6E-7 | 6E-6 |
| - | Any single radionuclide not listed above with decay mode other than alpha emission or spontaneous fission and with radioactive half-life less than 2 hours | Submersion ¹ | - | 2E+2 | 1E-7 | 1E-9 | - | - |
| - | Any single radionuclide not listed above with decay mode other than alpha emission or spontaneous fission and with radioactive half-life greater than 2 hours. | ... | - | 2E-1 | 1E-10 | 1E-12 | 1E-8 | 1E-7 |

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|--------------------------------|---------------------------|------------------------------|-------------------------------------|-----------------------|----------------------------------|
| | | | Col. 1 Oral Ingestion | Col. 2 Inhalation | Col. 3 DAC | Col. 1 Air | Col. 2 Water | Monthly Average Concentration |
| | | | ALI (μCi) | ALI (μCi) | DAC ($\mu\text{Ci/ml}$) | ($\mu\text{Ci/ml}$) | ($\mu\text{Ci/ml}$) | ($\mu\text{Ci/ml}$) |
| | Any single radionuclide not listed above that decays by alpha emission or spontaneous fission, or any mixture for which either the identity or the concentration of any radionuclide in the mixture is not known. | ... | - | 4E-4 | 2E-13 | 1E-15 | 2E-9 | 2E-8 |

FOOTNOTES:

- ¹ “Submersion” means that values given are for submersion in a hemispherical semi-infinite cloud of airborne material.
- ² These radionuclides have radiological half-lives of less than 2 hours. The total effective dose equivalent received during operations with these radionuclides might include a significant contribution from external exposure. The DAC values for all radionuclides, other than those designated Class “Submersion,” are based upon the committed effective dose equivalent due to the intake of the radionuclide into the body and do NOT include potentially significant contributions to dose equivalent from external exposures. The licensee may substitute $1\text{E-}7 \mu\text{Ci/ml}$ for the listed DAC to account for the submersion dose prospectively but shall use individual monitoring devices or other radiation-measuring instruments that measure external exposure to demonstrate compliance with the limits. (See R12-1-410)
- ³ For soluble mixtures of U-238, U-234, and U-235 in air, chemical toxicity may be the limiting factor (see R12-1-408(E)). If the percent by weight (enrichment) of U-235 is not greater than 5, the concentration value for a 40-hour work week is 0.2 milligrams uranium per cubic meter of air average. For any enrichment, the product of the average concentration and time of exposure during a 40-hour work week shall not exceed $8\text{E-}3$ (SA) $\mu\text{Ci-hr/ml}$, where SA is the specific activity of the uranium inhaled. The specific activity for natural uranium is $6.77\text{E-}7$ curies per gram U. The specific activity for other mixtures of U-238, U-235, and U-234, if not known, shall be:

$$\text{SA} = 3.6\text{E-}7 \text{ curies/gram U U-depleted}$$

$$\text{SA} = [0.4 + 0.38 (\text{enrichment}) + 0.0034 (\text{enrichment})^2] \text{E-}6, \text{ enrichment} > 0.72$$

where enrichment is the percentage by weight of U-235, expressed as percent.

NOTE:

- If the identity of each radionuclide in a mixture is known but the concentration of one or more of the radionuclides in the mixture is not known, the DAC for the mixture shall be the most restrictive DAC of any radionuclide in the mixture.
- If the identity of each radionuclide in the mixture is not known, but it is known that certain radionuclides specified in this Appendix are not present in the mixture, the inhalation ALI, DAC, and effluent and sewage concentrations for the mixture are the lowest values specified in this Appendix for any radionuclide that is not known to be absent from the mixture; or\

| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|--------------------------------|---------------------------|------------------------------|-------------------------------------|-----------------------|----------------------------------|
| | | | Col. 1 Oral Ingestion | Col. 2 Inhalation | Col. 3 DAC | Col. 1 Air | Col. 2 Water | Monthly Average Concentration |
| | | | ALI (μCi) | ALI (μCi) | DAC ($\mu\text{Ci/ml}$) | ($\mu\text{Ci/ml}$) | ($\mu\text{Ci/ml}$) | ($\mu\text{Ci/ml}$) |
| | If it is known that Ac-227-D and Cm-250-W are not present | | - | 7E-4 | 3E-13 | - | - | - |
| | If, in addition, it is known that Ac-227-W,Y, Th-229-W,Y, Th-230-W, Th-232-W,Y, Pa-231-W,Y, Np-237-W, Pu-239-W, Pu-240-W, Pu-242-W, Am-241-W, Am-242m-W, Am-243-W, Cm-245-W, Cm-246-W, Cm-247-W, Cm-248-W, Bk-247-W, Cf-249-W, and Cf-251-W are not present | | - | 7E-3 | 3E-12 | - | - | - |

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| Atomic No. | Radionuclide | Class | Table I Occupational Values | | | Table II Effluent Concentrations | | Table III Releases to Sewers |
|---------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|--------------------------------|----------------------|-----------------|-------------------------------------|-------------------|---------------------------------|
| | | | Col. 1 Oral Ingestion | Col. 2 Inhalation | Col. 3 | Col. 1 | Col. 2 | Monthly Average |
| | | | ALI (μCi) | ALI (μCi) | DAC (μCi/ml) | Air (μCi/ml) | Water (μCi/ml) | Concentration (μCi/ml) |
| | If, in addition, it is known that Sm-146-W, Sm-147-W, Gd-148-D,W, Gd-152-D,W, Th-228-W,Y, Th-230-Y, U-232-Y, U-233-Y, U-234-Y, U-235-Y, U-236-Y, U-238-Y, Np-236-W, Pu-236-W,Y, Pu-238-W,Y, Pu-239-Y, Pu-240-Y, Pu-242-Y, Pu-244-W,Y, Cm-243-W, Cm-244-W, Cf-248-W, Cf-249-Y, Cf-250-W,Y, Cf-251-Y, Cf-252-W,Y, and Cf-254-W,Y are not present | | - | 7E-2 | 3E-11 | - | - | - |
| | If, in addition, it is known that Pb-210-D, Bi-210m-W, Po-210-D,W, Ra-223-W, Ra-225-W, Ra-226-W, Ac-225-D,W,Y, Th-227-W,Y, U-230-D,W,Y, U-232-D,W, Pu-241-W, Cm-240-W, Cm-242-W, Cf-248-Y, Es-254-W, Fm-257-W, and Md-258-W are not present | | - | 7E-1 | 3E-10 | - | - | - |
| | If, in addition, it is known that Si-32-Y, Ti-44-Y, Fe-60-D, Sr-90-Y, Zr-93-D, Cd-113m-D, Cd-113-D, In-115-D,W, La-138-D, Lu-176-W, Hf-178m-D,W, Hf-182-D,W, Bi-210m-D, Ra-224-W, Ra-228-W, Ac-226-D,W,Y, Pa-230-W,Y, U-233-D,W, U-234-D,W, U-235-D,W, U-236-D,W, U-238-D,W, Pu-241-Y, Bk-249-W, Cf-253-W,Y, and Es-253-W are not present | | - | 7E+0 | 3E-9 | - | - | - |
| | If it is known that Ac-227-D,W,Y, Th-229-W,Y, Th-232-W,Y, Pa-231-W,Y, Cm-248-W, and Cm-250-W are not present | | - | - | - | 1E-14 | - | - |
| | If, in addition, it is known that Sm-146-W, Gd-148-D,W, Gd-152-D, Th-228-W,Y, Th-230-W,Y, U-232-Y, U-233-Y, U-234-Y, U-235-Y, U-236-Y, U-238-Y, U-Nat-Y, Np-236-W, Np-237-W, Pu-236-W,Y, Pu-238-W,Y, Pu-239-W,Y, Pu-240-W,Y, Pu-242-W,Y, Pu-244-W,Y, Am-241-W, Am-242m-W, Am-243-W, Cm-243-W, Cm-244-W, Cm-245-W, Cm-246-W, Cm-247-W, Bk-247-W, Cf-249-W,Y, Cf-250-W,Y, Cf-251-W,Y, Cf-252-W,Y, and Cf-254-W,Y are not present | | - | - | - | 1E-13 | - | - |
| | If, in addition, it is known that Sm-147-W, Gd-152-W, Pb-210-D, Bi-210m-W, Po-210-D,W, Ra-223-W, Ra-225-W, Ra-226-W, Ac-225-D,W,Y, Th-227-W,Y, U-230-D,W,Y, U-232-D,W, U-Nat-W, Pu-241-W, Cm-240-W, Cm-242-W, Cf-248-W,Y, Es-254-W, Fm-257-W, and Md-258-W are not present | | - | - | - | - | 1E-12 | - |
| | If, in addition it is known that Fe-60, Sr-90, Cd-113m, Cd-113, In-115, I-129, Cs-134, Sm-145, Sm-147, Gd-148, Gd-152, Hg-194 (organic), Bi-210m, Ra-223, Ra-224, Ra-225, Ac-225, Th-228, Th-230, U-233, U-234, U-235, U-236, U-238, U-Nat, Cm-242, Cf-248, Es-254, Fm-257, and Md-258 are not present | | - | - | - | - | 1E-6 | 1E-5 |

3. If a mixture of radionuclides consists of Uranium and its daughters in ore dust (10 μ m AMAD particle distribution assumed) prior to chemical separation of the Uranium from the ore, the following values may be used for the DAC of the mixture: 6E-11 μ Ci of gross

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alpha activity from Uranium-238, Uranium-234, Thorium-230, and Radium-226 per milliliter of air; 3E-11 µCi of natural uranium per milliliter of air; or 45 micrograms of natural uranium per cubic meter of air.

4. If the identity and concentration of each radionuclide in a mixture are known, the limiting values should be derived as follows: determine, for each radionuclide in the mixture, the ratio between the concentration present in the mixture and the concentration otherwise established in Appendix B to Article 4 for the specific radionuclide when not in a mixture. The sum of such ratios for all of the radionuclides in the mixture may not exceed "1" (i.e., "unity").

Example: If radionuclides "A," "B," and "C" are present in concentrations C_A , C_B , and C_C , and if the applicable DACs are DAC_A , DAC_B , and DAC_C respectively then the concentrations shall be limited so that the following relationship exists:

$$\frac{C_A}{DAC_A} + \frac{C_B}{DAC_B} + \frac{C_C}{DAC_C} \leq 1$$

Historical Note

New Appendix B recodified from 12 A.A.C. 1, Article 4, Appendix B, effective March 22, 2018 (Supp. 18-1).

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Appendix C. Quantities¹ of Licensed or Registered Material Requiring Labeling

| Radionuclide | Quantity (μCi) | Radionuclide | Quantity (μCi) | Radionuclide | Quantity (μCi) |
|---------------|----------------|--------------|----------------|----------------|----------------|
| Hydrogen-3 | 1,000 | Nickel-57 | 100 | Krypton-83m | 1,000 |
| Beryllium-7 | 1,000 | Nickel-59 | 100 | Krypton-85m | 1,000 |
| Beryllium-10 | 1 | Nickel-63 | 100 | Krypton-85 | 1,000 |
| Carbon-11 | 1,000 | Nickel-65 | 1,000 | Krypton-87 | 1,000 |
| Carbon-14 | 1,000 | Nickel-66 | 10 | Krypton-88 | 1,000 |
| Fluorine-18 | 1,000 | Copper-60 | 1,000 | Rubidium-79 | 1,000 |
| Sodium-22 | 10 | Copper-61 | 1,000 | Rubidium-81m | 1,000 |
| Sodium-24 | 100 | Copper-64 | 1,000 | Rubidium-81 | 1,000 |
| Magnesium-28 | 100 | Copper-67 | 1,000 | Rubidium-82m | 1,000 |
| Aluminum-26 | 10 | Zinc-62 | 100 | Rubidium-83 | 100 |
| Silicon-31 | 1,000 | Zinc-63 | 1,000 | Rubidium-84 | 100 |
| Silicon-32 | 1 | Zinc-65 | 10 | Rubidium-86 | 100 |
| Phosphorus-32 | 10 | Zinc-69m | 100 | Rubidium-87 | 100 |
| Phosphorus-33 | 100 | Zinc-69 | 1,000 | Rubidium-88 | 1,000 |
| Sulfur-35 | 100 | Zinc-71m | 1,000 | Rubidium-89 | 1,000 |
| Chlorine-36 | 10 | Zinc-72 | 100 | Strontium-80 | 100 |
| Chlorine-38 | 1,000 | Gallium-65 | 1,000 | Strontium-81 | 1,000 |
| Chlorine-39 | 1,000 | Gallium-66 | 100 | Strontium-83 | 100 |
| Argon-39 | 1,000 | Gallium-67 | 1,000 | Strontium-85m | 1,000 |
| Argon-41 | 1,000 | Gallium-68 | 1,000 | Strontium-85 | 100 |
| Potassium-40 | 100 | Gallium-70 | 1,000 | Strontium-87m | 1,000 |
| Potassium-42 | 1,000 | Gallium-72 | 100 | Strontium-89 | 10 |
| Potassium-43 | 1,000 | Gallium-73 | 1,000 | Strontium-90 | 0.1 |
| Potassium-44 | 1,000 | Germanium-66 | 1,000 | Strontium-91 | 100 |
| Potassium-45 | 1,000 | Germanium-67 | 1,000 | Strontium-92 | 100 |
| Calcium-41 | 100 | Germanium-68 | 10 | Yttrium-86m | 1,000 |
| Calcium-45 | 100 | Germanium-69 | 1,000 | Yttrium-86 | 100 |
| Calcium-47 | 100 | Germanium-71 | 1,000 | Yttrium-87 | 100 |
| Scandium-43 | 1,000 | Germanium-75 | 1,000 | Yttrium-88 | 10 |
| Scandium-44m | 100 | Germanium-77 | 1,000 | Yttrium-90m | 1,000 |
| Scandium-44 | 100 | Germanium-78 | 1,000 | Yttrium-90 | 10 |
| Scandium-46 | 10 | Arsenic-69 | 1,000 | Yttrium-91m | 1,000 |
| Scandium-47 | 100 | Arsenic-70 | 1,000 | Yttrium-91 | 10 |
| Scandium-48 | 100 | Arsenic-71 | 100 | Yttrium-92 | 100 |
| Scandium-49 | 1,000 | Arsenic-72 | 100 | Yttrium-93 | 100 |
| Titanium-44 | 1 | Arsenic-73 | 100 | Yttrium-94 | 1,000 |
| Titanium-45 | 1,000 | Arsenic-74 | 100 | Yttrium-95 | 1,000 |
| Vanadium-47 | 1,000 | Arsenic-76 | 100 | Zirconium-86 | 100 |
| Vanadium-48 | 100 | Arsenic-77 | 100 | Zirconium-88 | 10 |
| Vanadium-49 | 1,000 | Arsenic-78 | 1,000 | Zirconium-89 | 100 |
| Chromium-48 | 1,000 | Selenium-70 | 1,000 | Zirconium-93 | 1 |
| Chromium-49 | 1,000 | Selenium-73m | 1,000 | Zirconium-95 | 10 |
| Chromium-51 | 1,000 | Selenium-73 | 100 | Zirconium-97 | 100 |
| Manganese-51 | 1,000 | Selenium-75 | 100 | Niobium-88 | 1,000 |
| Manganese-52m | 1,000 | Selenium-79 | 100 | Niobium-89m | |
| Manganese-52 | 100 | Selenium-81m | 1,000 | (66 min) | 1,000 |
| Manganese-53 | 1,000 | Selenium-81 | 1,000 | Niobium-89 | |
| Manganese-54 | 100 | Selenium-83 | 1,000 | (122 min) | 1,000 |
| Manganese-56 | 1,000 | Bromine-74m | 1,000 | Niobium-90 | 100 |
| Iron-52 | 100 | Bromine-74 | 1,000 | Niobium-93m | 10 |
| Iron-55 | 100 | Bromine-75 | 1,000 | Niobium-94 | 1 |
| Iron-59 | 10 | Bromine-76 | 100 | Niobium-95m | 100 |
| Iron-60 | 1 | Bromine-77 | 1,000 | Niobium-95 | 100 |
| Cobalt-55 | 100 | Bromine-80m | 1,000 | Niobium-96 | 100 |
| Cobalt-56 | 10 | Bromine-80 | 1,000 | Niobium-97 | 1,000 |
| Cobalt-57 | 100 | Bromine-82 | 100 | Niobium-98 | 1,000 |
| Cobalt-58m | 1,000 | Bromine-83 | 1,000 | Molybdenum-90 | 100 |
| Cobalt-58 | 100 | Bromine-84 | 1,000 | Molybdenum-93m | 100 |
| Cobalt-60m | 1,000 | Krypton-74 | 1,000 | Molybdenum-93 | 10 |
| Cobalt-60 | 1 | Krypton-76 | 1,000 | Molybdenum-99 | 100 |
| Cobalt-61 | 1,000 | Krypton-77 | 1,000 | Molybdenum-101 | 1,000 |
| Cobalt-62m | 1,000 | Krypton-79 | 1,000 | Technetium-93m | 1,000 |
| Nickel-56 | 100 | Krypton-81 | 1,000 | Technetium-93 | 1,000 |

TITLE 9. HEALTH SERVICES

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Appendix C. Continued

| Radionuclide | Quantity (μCi) | Radionuclide | Quantity (μCi) | Radionuclide | Quantity (μCi) |
|----------------|----------------|----------------|----------------|------------------|----------------|
| Technetium-94m | 1,000 | Indium-116m | 1,000 | Iodine-128 | 1,000 |
| Technetium-94 | 1,000 | Indium-117m | 1,000 | Iodine-129 | 1 |
| Technetium-96m | 1,000 | Indium-117 | 1,000 | Iodine-130 | 10 |
| Technetium-96 | 100 | Indium-119m | 1,000 | Iodine-131 | 1 |
| Technetium-97m | 100 | Tin-110 | 100 | Iodine-132m | 100 |
| Technetium-97 | 1,000 | Tin-111 | 1,000 | Iodine-132 | 100 |
| Technetium-98 | 10 | Tin-113 | 100 | Iodine-133 | 10 |
| Technetium-99m | 1,000 | Tin-117m | 100 | Iodine-134 | 1,000 |
| Technetium-99 | 100 | Tin-119m | 100 | Iodine-135 | 100 |
| Technetium-101 | 1,000 | Tin-121m | 100 | Xenon-120 | 1,000 |
| Technetium-104 | 1,000 | Tin-121 | 1,000 | Xenon-121 | 1,000 |
| Ruthenium-94 | 1,000 | Tin-123m | 1,000 | Xenon-122 | 1,000 |
| Ruthenium-97 | 1,000 | Tin-123 | 10 | Xenon-123 | 1,000 |
| Ruthenium-103 | 100 | Tin-125 | 10 | Xenon-125 | 1,000 |
| Ruthenium-105 | 1,000 | Tin-126 | 10 | Xenon-127 | 1,000 |
| Ruthenium-106 | 1 | Tin-127 | 1,000 | Xenon-129m | 1,000 |
| Rhodium-99m | 1,000 | Tin-128 | 1,000 | Xenon-131m | 1,000 |
| Rhodium-99 | 100 | Antimony-115 | 1,000 | Xenon-133m | 1,000 |
| Rhodium-100 | 100 | Antimony-116m | 1,000 | Xenon-133 | 1,000 |
| Rhodium-101m | 1,000 | Antimony-116 | 1,000 | Xenon-135m | 1,000 |
| Rhodium-101 | 10 | Antimony-117 | 1,000 | Xenon-135 | 1,000 |
| Rhodium-102m | 10 | Antimony-118m | 1,000 | Xenon-138 | 1,000 |
| Rhodium-102 | 10 | Antimony-119 | 1,000 | Cesium-125 | 1,000 |
| Rhodium-103m | 1,000 | Antimony-120 | | Cesium-127 | 1,000 |
| Rhodium-105 | 100 | (16m) | 1,000 | Cesium-129 | 1,000 |
| Rhodium-106m | 1,000 | Antimony-120 | | Cesium-130 | 1,000 |
| Rhodium-107 | 1,000 | (5.76d) | 100 | Cesium-131 | 1,000 |
| Palladium-100 | 100 | Antimony-122 | 100 | Cesium-132 | 100 |
| Palladium-101 | 1,000 | Antimony-124m | 1,000 | Cesium-134m | 1,000 |
| Palladium-103 | 100 | Antimony-124 | 10 | Cesium-134 | 10 |
| Palladium-107 | 10 | Antimony-125 | 100 | Cesium-135m | 1,000 |
| Palladium-109 | 100 | Antimony-126m | 1,000 | Cesium-135 | 100 |
| Silver-102 | 1,000 | Antimony-126 | 100 | Cesium-136 | 10 |
| Silver-103 | 1,000 | Antimony-127 | 100 | Cesium-137 | 10 |
| Silver-104m | 1,000 | Antimony-128 | | Cesium-138 | 1,000 |
| Silver-104 | 1,000 | (10.4m) | 1,000 | Barium-126 | 1,000 |
| Silver-105 | 100 | Antimony-128 | | Barium-128 | 100 |
| Silver-106m | 100 | (9.01h) | 100 | Barium-131m | 1,000 |
| Silver-106 | 1,000 | Antimony-129 | 100 | Barium-131 | 100 |
| Silver-108m | 1 | Antimony-130 | 1,000 | Barium-133m | 100 |
| Silver-110m | 10 | Antimony-131 | 1,000 | Barium-133 | 100 |
| Silver-111 | 100 | Tellurium-116 | 1,000 | Barium-135m | 100 |
| Silver-112 | 100 | Tellurium-121m | 10 | Barium-139 | 1,000 |
| Silver-115 | 1,000 | Tellurium-121 | 100 | Barium-140 | 100 |
| Cadmium-104 | 1,000 | Tellurium-123m | 10 | Barium-141 | 1,000 |
| Cadmium-107 | 1,000 | Tellurium-123 | 100 | Barium-142 | 1,000 |
| Cadmium-109 | 1 | Tellurium-125m | 10 | Lanthanum-131 | 1,000 |
| Cadmium-113m | 0.1 | Tellurium-127m | 10 | Lanthanum-132 | 100 |
| Cadmium-113 | 100 | Tellurium-127 | 1,000 | Lanthanum-135 | 1,000 |
| Cadmium-115m | 10 | Tellurium-129m | 10 | Lanthanum-137 | 10 |
| Cadmium-115 | 100 | Tellurium-129 | 1,000 | Lanthanum-138 | 100 |
| Cadmium-117m | 1,000 | Tellurium-131m | 10 | Lanthanum-140 | 100 |
| Cadmium-117 | 1,000 | Tellurium-131 | 100 | Lanthanum-141 | 100 |
| Indium-109 | 1,000 | Tellurium-132 | 10 | Lanthanum-142 | 1,000 |
| Indium-110m | | Tellurium-133m | 100 | Lanthanum-143 | 1,000 |
| (69.1m) | 1,000 | Tellurium-133 | 1,000 | Cerium-134 | 100 |
| Indium-110 | | Tellurium-134 | 1,000 | Cerium-135 | 100 |
| (4.9h) | 1,000 | Iodine-120m | 1,000 | Cerium-137m | 100 |
| Indium-111 | 100 | Iodine-120 | 100 | Cerium-137 | 1,000 |
| Indium-112 | 1,000 | Iodine-121 | 1,000 | Cerium-139 | 100 |
| Indium-113m | 1,000 | Iodine-123 | 100 | Cerium-141 | 100 |
| Indium-114m | 10 | Iodine-124 | 10 | Cerium-143 | 100 |
| Indium-115m | 1,000 | Iodine-125 | 1 | Cerium-144 | 1 |
| Indium-115 | 100 | Iodine-126 | 1 | Praseodymium-136 | 1,000 |

TITLE 9. HEALTH SERVICES

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Appendix C. Continued

| Radionuclide | Quantity (μCi) | Radionuclide | Quantity (μCi) | Radionuclide | Quantity (μCi) |
|-------------------|----------------|----------------|----------------|---------------|----------------|
| Praseodymium-137 | 1,000 | Terbium-149 | 100 | Lutetium-179 | 1,000 |
| Praseodymium-138m | 1,000 | Terbium-150 | 1,000 | Hafnium-170 | 100 |
| Praseodymium-139 | 1,000 | Terbium-151 | 100 | Hafnium-172 | 1 |
| Praseodymium-142m | 1,000 | Terbium-153 | 1,000 | Hafnium-173 | 1,000 |
| Praseodymium-142 | 100 | Terbium-154 | 100 | Hafnium-175 | 100 |
| Praseodymium-143 | 100 | Terbium-155 | 1,000 | Hafnium-177m | 1,000 |
| Praseodymium-144 | 1,000 | Terbium-156m | | Hafnium-178m | 0.1 |
| Praseodymium-145 | 100 | (5.0h) | 1,000 | Hafnium-179m | 10 |
| Praseodymium-147 | 1,000 | Terbium-156m | | Hafnium-180m | 1,000 |
| Neodymium-136 | 1,000 | (24.4h) | 1,000 | Hafnium-181 | 10 |
| Neodymium-138 | 100 | Terbium-156 | 100 | Hafnium-182m | 1,000 |
| Neodymium-139m | 1,000 | Terbium-157 | 10 | Hafnium-182 | 0.1 |
| Neodymium-139 | 1,000 | Terbium-158 | 1 | Hafnium-183 | 1,000 |
| Neodymium-141 | 1,000 | Terbium-160 | 10 | Hafnium-184 | 100 |
| Neodymium-147 | 100 | Terbium-161 | 100 | Tantalum-172 | 1,000 |
| Neodymium-149 | 1,000 | Dysprosium-155 | 1,000 | Tantalum-173 | 1,000 |
| Neodymium-151 | 1,000 | Dysprosium-157 | 1,000 | Tantalum-174 | 1,000 |
| Promethium-141 | 1,000 | Dysprosium-159 | 100 | Tantalum-175 | 1,000 |
| Promethium-143 | 100 | Dysprosium-165 | 1,000 | Tantalum-176 | 100 |
| Promethium-144 | 10 | Dysprosium-166 | 100 | Tantalum-177 | 1,000 |
| Promethium-145 | 10 | Holmium-155 | 1,000 | Tantalum-178 | 1,000 |
| Promethium-146 | 1 | Holmium-157 | 1,000 | Tantalum-179 | 100 |
| Promethium-147 | 10 | Holmium-159 | 1,000 | Tantalum-180m | 1,000 |
| Promethium-148m | 10 | Holmium-161 | 1,000 | Tantalum-180 | 100 |
| Promethium-148 | 10 | Holmium-162m | 1,000 | Tantalum-182m | 1,000 |
| Promethium-149 | 100 | Holmium-162 | 1,000 | Tantalum-182 | 10 |
| Promethium-150 | 1,000 | Holmium-164m | 1,000 | Tantalum-183 | 100 |
| Promethium-151 | 100 | Holmium-164 | 1,000 | Tantalum-184 | 100 |
| Samarium-141m | 1,000 | Holmium-166m | 1 | Tantalum-185 | 1,000 |
| Samarium-141 | 1,000 | Holmium-166 | 100 | Tantalum-186 | 1,000 |
| Samarium-142 | 1,000 | Holmium-167 | 1,000 | Tungsten-176 | 1,000 |
| Samarium-145 | 100 | Erbium-161 | 1,000 | Tungsten-177 | 1,000 |
| Samarium-146 | 1 | Erbium-165 | 1,000 | Tungsten-178 | 1,000 |
| Samarium-147 | 100 | Erbium-169 | 100 | Tungsten-179 | 1,000 |
| Samarium-151 | 10 | Erbium-171 | 100 | Tungsten-181 | 1,000 |
| Samarium-153 | 100 | Erbium-172 | 100 | Tungsten-185 | 100 |
| Samarium-155 | 1,000 | Thulium-162 | 1,000 | Tungsten-187 | 100 |
| Samarium-156 | 1,000 | Thulium-166 | 100 | Tungsten-188 | 10 |
| Europium-145 | 100 | Thulium-167 | 100 | Rhenium-177 | 1,000 |
| Europium-146 | 100 | Thulium-170 | 10 | Rhenium-178 | 1,000 |
| Europium-147 | 100 | Thulium-171 | 10 | Rhenium-181 | 1,000 |
| Europium-148 | 10 | Thulium-172 | 100 | Rhenium-182 | |
| Europium-149 | 100 | Thulium-173 | 100 | (12.7h) | 1,000 |
| Europium-150 | | Thulium-175 | 1,000 | Rhenium-182 | |
| (12.62h) | 100 | Ytterbium-162 | 1,000 | (64.0h) | 100 |
| Europium-150 | | Ytterbium-166 | 100 | Rhenium-184m | 10 |
| (34.2y) | 1 | Ytterbium-167 | 1,000 | Rhenium-184 | 100 |
| Europium-152m | 100 | Ytterbium-169 | 100 | Rhenium-186m | 10 |
| Europium-152 | 1 | Ytterbium-175 | 100 | Rhenium-186 | 100 |
| Europium-154 | 1 | Ytterbium-177 | 1,000 | Rhenium-187 | 1,000 |
| Europium-155 | 10 | Ytterbium-178 | 1,000 | Rhenium-188m | 1,000 |
| Europium-156 | 100 | Lutetium-169 | 100 | Rhenium-188 | 100 |
| Europium-157 | 100 | Lutetium-170 | 100 | Rhenium-189 | 100 |
| Europium-158 | 1,000 | Lutetium-171 | 100 | Osmium-180 | 1,000 |
| Gadolinium-145 | 1,000 | Lutetium-172 | 100 | Osmium-181 | 1,000 |
| Gadolinium-146 | 10 | Lutetium-173 | 10 | Osmium-182 | 100 |
| Gadolinium-147 | 100 | Lutetium-174m | 10 | Osmium-185 | 100 |
| Gadolinium-148 | 0.001 | Lutetium-174 | 10 | Osmium-189m | 1,000 |
| Gadolinium-149 | 100 | Lutetium-176m | 1,000 | Osmium-191m | 1,000 |
| Gadolinium-151 | 10 | Lutetium-176 | 100 | Osmium-191 | 100 |
| Gadolinium-152 | 100 | Lutetium-177m | 10 | Osmium-193 | 100 |
| Gadolinium-153 | 10 | Lutetium-177 | 100 | Osmium-194 | 1 |
| Gadolinium-159 | 100 | Lutetium-178m | 1,000 | Iridium-182 | 1,000 |
| Terbium-147 | 1,000 | Lutetium-178 | 1,000 | Iridium-184 | 1,000 |

TITLE 9. HEALTH SERVICES

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Appendix C.

Continued

| Radionuclide | Quantity (μCi) | Radionuclide | Quantity (μCi) | Radionuclide | Quantity (μCi) |
|---------------|----------------|------------------|----------------|-----------------|----------------|
| Iridium-185 | 1,000 | Lead-209 | 1,000 | Uranium-240 | 100 |
| Iridium-186 | 100 | Lead-210 | 0.01 | Uranium-natural | 100 |
| Iridium-187 | 1,000 | Lead-211 | 100 | Neptunium-232 | 100 |
| Iridium-188 | 100 | Lead-212 | 1 | Neptunium-233 | 1,000 |
| Iridium-189 | 100 | Lead-214 | 100 | Neptunium-234 | 100 |
| Iridium-190m | 1,000 | Bismuth-200 | 1,000 | Neptunium-235 | 100 |
| Iridium-190 | 100 | Bismuth-201 | 1,000 | Neptunium-236 | |
| Iridium-192m | | Bismuth-202 | 1,000 | (1.15E + 5) | 0.001 |
| (1.4m) | 10 | Bismuth-203 | 100 | Neptunium-236 | |
| Iridium-192 | | Bismuth-205 | 100 | (22.5h) | 1 |
| (73.8d) | 1 | Bismuth-206 | 100 | Neptunium-237 | 0.001 |
| Iridium-194m | 10 | Bismuth-207 | 10 | Neptunium-238 | 10 |
| Iridium-194 | 100 | Bismuth-210m | 0.1 | Neptunium-239 | 100 |
| Iridium-195m | 1,000 | Bismuth-210 | 1 | Neptunium-240 | 1,000 |
| Iridium-195 | 1,000 | Bismuth-212 | 10 | Plutonium-234 | 10 |
| Platinum-186 | 1,000 | Bismuth-213 | 10 | Plutonium-235 | 1,000 |
| Platinum-188 | 100 | Bismuth-214 | 100 | Plutonium-236 | 0.001 |
| Platinum-189 | 1,000 | Polonium-203 | 1,000 | Plutonium-237 | 100 |
| Platinum-191 | 100 | Polonium-205 | 1,000 | Plutonium-238 | 0.001 |
| Platinum-193m | 100 | Polonium-207 | 1,000 | Plutonium-239 | 0.001 |
| Platinum-193 | 1,000 | Polonium-210 | 0.1 | Plutonium-240 | 0.001 |
| Platinum-195m | 100 | Astatine-207 | 100 | Plutonium-241 | 0.01 |
| Platinum-197m | 1,000 | Astatine-211 | 10 | Plutonium-242 | 0.001 |
| Platinum-197 | 100 | Radon-220 | 1 | Plutonium-243 | 1,000 |
| Platinum-199 | 1,000 | Radon-222 | 1 | Plutonium-244 | 0.001 |
| Platinum-200 | 100 | Francium-222 | 100 | Plutonium-245 | 100 |
| Gold-193 | 1,000 | Francium-223 | 100 | Americium-237 | 1,000 |
| Gold-194 | 100 | Radium-223 | 0.1 | Americium-238 | 100 |
| Gold-195 | 10 | Radium-224 | 0.1 | Americium-239 | 1,000 |
| Gold-198m | 100 | Radium-225 | 0.1 | Americium-240 | 100 |
| Gold-198 | 100 | Radium-226 | 0.1 | Americium-241 | 0.001 |
| Gold-199 | 100 | Radium-227 | 1,000 | Americium-242m | 0.001 |
| Gold-200m | 100 | Radium-228 | 0.1 | Americium-242 | 10 |
| Gold-200 | 1,000 | Actinium-224 | 1 | Americium-243 | 0.001 |
| Gold-201 | 1,000 | Actinium-225 | 0.01 | Americium-244m | 100 |
| Mercury-193m | 100 | Actinium-226 | 0.1 | Americium-244 | 10 |
| Mercury-193 | 1,000 | Actinium-227 | 0.001 | Americium-245 | 1,000 |
| Mercury-194 | 1 | Actinium-228 | 1 | Americium-246m | 1,000 |
| Mercury-195m | 100 | Thorium-226 | 10 | Americium-246 | 1,000 |
| Mercury-195 | 1,000 | Thorium-227 | 0.01 | Curium-238 | 100 |
| Mercury-197m | 100 | Thorium-228 | 0.001 | Curium-240 | 0.1 |
| Mercury-197 | 1,000 | Thorium-229 | 0.001 | Curium-241 | 1 |
| Mercury-199m | 1,000 | Thorium-230 | 0.001 | Curium-242 | 0.01 |
| Mercury-203 | 100 | Thorium-231 | 100 | Curium-243 | 0.001 |
| Thallium-194m | 1,000 | Thorium-232 | 100 | Curium-244 | 0.001 |
| Thallium-194 | 1,000 | Thorium-234 | 10 | Curium-245 | 0.001 |
| Thallium-195 | 1,000 | Thorium-natural | 100 | Curium-246 | 0.001 |
| Thallium-197 | 1,000 | Protactinium-227 | 10 | Curium-247 | 0.001 |
| Thallium-198m | 1,000 | Protactinium-228 | 1 | Curium-248 | 0.001 |
| Thallium-198 | 1,000 | Protactinium-230 | 0.1 | Curium-249 | 1,000 |
| Thallium-199 | 1,000 | Protactinium-231 | 0.001 | Berkelium-245 | 100 |
| Thallium-201 | 1,000 | Protactinium-232 | 1 | Berkelium-246 | 100 |
| Thallium-200 | 1,000 | Protactinium-233 | 100 | Berkelium-247 | 0.001 |
| Thallium-202 | 100 | Protactinium-234 | 100 | Berkelium-249 | 0.1 |
| Thallium-204 | 100 | Uranium-230 | 0.01 | Berkelium-250 | 10 |
| Lead-195m | 1,000 | Uranium-231 | 100 | Californium-244 | 100 |
| Lead-198 | 1,000 | Uranium-232 | 0.001 | Californium-246 | 1 |
| Lead-199 | 1,000 | Uranium-233 | 0.001 | Californium-248 | 0.01 |
| Lead-200 | 100 | Uranium-234 | 0.001 | Californium-249 | 0.001 |
| Lead-201 | 1,000 | Uranium-235 | 0.001 | Californium-250 | 0.001 |
| Lead-202m | 1,000 | Uranium-236 | 0.001 | Californium-251 | 0.001 |
| Lead-202 | 10 | Uranium-237 | 100 | Californium-252 | 0.001 |
| Lead-203 | 1,000 | Uranium-238 | 100 | Californium-253 | 0.1 |
| Lead-205 | 100 | Uranium-239 | 1,000 | Californium-254 | 0.001 |

TITLE 9. HEALTH SERVICES

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Appendix C. Continued

| Radionuclide | Quantity (μCi) | Radionuclide | Quantity (μCi) |
|------------------|----------------|--------------------------------------------------------------------------------------------------------------------------------|----------------|
| Einsteinium-250 | 100 | Any alpha-emitting radionuclide not listed above or mixtures of alpha emitters of unknown composition | 0.001 |
| Einsteinium-251 | 100 | | |
| Einsteinium-253 | 0.1 | | |
| Einsteinium-254m | 1 | | |
| Einsteinium-254 | 0.01 | | |
| Fermium-252 | 1 | | |
| Fermium-253 | 1 | | |
| Fermium-254 | 10 | Any radionuclide other than alpha-emitting radionuclides not listed above, or mixtures of beta emitters of unknown composition | 0.01 |
| Fermium-255 | 1 | | |
| Fermium-257 | 0.01 | | |
| Mendelevium-257 | 10 | | |
| Mendelevium-258 | 0.01 | | |

* To convert μCi to kBq, multiply the μCi value by 37.

NOTE: Where there is involved a combination of radionuclides in known amounts, the limit for the combination shall be derived as follows: determine, for each radionuclide in the combination, the ratio between the quantity present in the combination and the limit otherwise established for the specific radionuclide when not in combination. The sum of such ratios for all radionuclides in the combination may not exceed "1" -- that is, unity.

¹ The quantities listed above were derived by taking 1/10 of the most restrictive ALI listed in Table I, Columns 1 and 2, of Appendix B to Article 4, rounding to the nearest factor of 10, and constraining the values listed between 37 Bq and 37 MBq (0.001 and 1,000 μCi). Values of 3.7 MBq (100 μCi) have been assigned for radionuclides having a radioactive half-life in excess of E+9 years, except rhenium, 37 MBq (1,000 μCi), to take into account their low specific activity.

Historical Note

New Appendix C recodified from 12 A.A.C. 1, Article 4, Appendix C, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

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Appendix D. Classification and Characteristics of Low-level Radioactive Waste

I. Classification of Radioactive Waste for Land Disposal

- a) Considerations. Determination of the classification of radioactive waste involves two considerations. First, consideration must be given to the concentration of long-lived radionuclides (and their shorter-lived precursors) whose potential hazard will persist long after such precautions as institutional controls, improved waste form, and deeper disposal have ceased to be effective. These precautions delay the time when long-lived radio nuclides could cause exposures. In addition, the magnitude of the potential dose is limited by the concentration and availability of the radionuclide at the time of exposure. Second, consideration must be given to the concentration of shorter-lived radionuclides for which requirements on institutional controls, waste form, and disposal methods are effective.

b) Classes of waste.

- 1) Class A waste is waste that is usually segregated from other waste classes at the disposal site. The physical form and characteristics of Class A waste must meet the minimum requirements set forth in Section II(a). If Class A waste also meets the stability requirements set forth in Section II(b), it is not necessary to segregate the waste for disposal.
- 2) Class B waste is waste that must meet more rigorous requirements on waste form to ensure stability after disposal. The physical form and characteristics of Class B waste must meet both the minimum and stability requirements set forth in Section II.
- 3) Class C waste is waste that not only must meet more rigorous requirements on waste form to ensure stability but also requires additional measures at the disposal facility to protect against inadvertent intrusion. The physical form and characteristics of Class C waste must meet both the minimum and stability requirements set forth in Section II.

c) Classification determined by long-lived radionuclides. If the radioactive waste contains only radionuclides listed in Table I, classification shall be determined as follows:

- 1) If the concentration does not exceed 0.1 times the value in Table I, the waste is Class A.
- 2) If the concentration exceeds 0.1 times the value in Table I but does not exceed the value in Table I, the waste is Class C.
- 3) If the concentration exceeds the value in Table I, the waste is not generally acceptable for land disposal.
- 4) For wastes containing mixtures of radionuclides listed in Table I, the total concentration shall be determined by the sum of fractions rule described in Section I(g).

Appendix D. Table I

TABLE I
Concentration

| Radionuclide | curie/cubic meter ^a | nanocuries/gram ^b |
|--------------------------|--------------------------------|------------------------------|
| C-14 | 8 | |
| C-14 in activated metal | 80 | |
| Ni-59 in activated metal | 220 | |
| Nb-94 in activated metal | 0.2 | |
| Tc-99 | 3 | |
| I-129 | 0.08 | |

Alpha-emitting transuranic radionuclides with half-life greater than five years

| | | |
|--------|-----|--------|
| Pu-241 | 100 | 3,500 |
| Cm-242 | | 20,000 |
| Ra-226 | | 100 |

^aTo convert the Ci/m³ values to gigabecquerel (GBq) per cubic meter, multiply the Ci/m³ value by 37.

^bTo convert the nCi/g values to becquerel (Bq) per gram, multiply the nCi/g value by 37.

- d) Classification determined by short-lived radionuclides. If the waste does not contain any of the radionuclides listed in Table I, classification shall be determined based on the concentrations shown in Table II. However, as specified in Section I(f), if radioactive waste does not contain any nuclides listed in either Table I or II, it is Class A.

- 1) If the concentration does not exceed the value in Column 1, the waste is Class A.
- 2) If the concentration exceeds the value in Column 1 but does not exceed the value in Column 2, the waste is Class B.
- 3) If the concentration exceeds the value in Column 2 but does not exceed the value in Column 3, the waste is Class C.
- 4) If the concentration exceeds the value in Column 3, the waste is not generally acceptable for near-surface disposal.
- 5) For wastes containing mixtures of the radionuclides listed in Table II, the total concentration shall be determined by the sum of fractions rule described in Section I(g).

Appendix D. Table II

TABLE II
Concentration,

| Radionuclide | Column 1 | Column 2 | Curie/cubic meter* Column 3 |
|------------------------------------------------------------|----------|----------|--------------------------------|
| Total of all radionuclides with less than 5-year half-life | 700 | * | * |
| H-3 | 40 | * | * |
| Co-60 | 700 | * | * |
| Ni-63 | 3.5 | 70 | 700 |
| Ni-63 in activated metal | 35 | 700 | 7000 |
| Sr-90 | 0.04 | 150 | 7000 |
| Cs-137 | 1 | 44 | 4600 |

* DEPARTMENT NOTE: To convert the Ci/m³ value to gigabecquerel (GBq) per cubic meter, multiply the Ci/m³ value by 37. There are no limits established for these radionuclides in Class B or C wastes. Practical considerations such as the effects of external radiation and internal heat generation on transportation, handling, and disposal will limit the concentrations for these wastes. These wastes shall be Class B unless the concentrations of other radionuclides in Table II determine the waste to be Class C independent of these radionuclides.

- e) Classification determined by both long- and short-lived radionuclides. If the radioactive waste contains a mixture of radionuclides, some of which are listed in Table I and

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some of which are listed in Table II, classification shall be determined as follows:

Each package of waste shall be clearly labeled to identify whether it is Class A, Class B, or Class C waste, in accordance with Section I.

*****See Section R9-7-102 for definition of pyrophoric.

Historical Note

New Appendix D, including Tables 1 and 2 recodified from 12 A.A.C. 1, Article 4, Appendix D, Tables 1 and 2, effective March 22, 2018 (Supp. 18-1).

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Appendix E. Quantities for Use with Decommissioning

| Material | Microcurie | Material | Microcurie |
|----------------------|------------|------------------|------------|
| Americium-241 | 0.01 | Iodine-135 | 10 |
| Antimony-122 | 100 | Iridium-192 | 10 |
| Antimony-124 | 10 | Iridium-194 | 100 |
| Antimony-125 | 10 | Iron-55 | 100 |
| Arsenic-73 | 100 | Iron-59 | 10 |
| Arsenic-74 | 10 | Krypton-85 | 100 |
| Arsenic-76 | 10 | Krypton-87 | 10 |
| Arsenic-77 | 100 | Lanthanum-140 | 10 |
| Barium-131 | 10 | Lutetium-177 | 100 |
| Barium-133 | 10 | Manganese-52 | 10 |
| Barium-140 | 10 | Manganese-54 | 10 |
| Bismuth-210 | 1 | Manganese-56 | 10 |
| Bromine-82 | 10 | Mercury-197m | 100 |
| Cadmium-109 | 10 | Mercury-197 | 100 |
| Cadmium-115m | 10 | Mercury-203 | 10 |
| Cadmium-115 | 100 | Molybdenum-99 | 100 |
| Calcium-45 | 10 | Neodymium-147 | 100 |
| Calcium-47 | 10 | Neodymium-149 | 100 |
| Carbon-14 | 100 | Nickel-59 | 100 |
| Cerium-141 | 100 | Nickel-63 | 10 |
| Cerium-143 | 100 | Nickel-65 | 100 |
| Cerium-144 | 1 | Niobium-93m | 10 |
| Cesium-131 | 1,000 | Niobium-95 | 10 |
| Cesium-134m | 100 | Niobium-97 | 10 |
| Cesium-134 | 1 | Osmium-185 | 10 |
| Cesium-135 | 10 | Osmium-191m | 100 |
| Cesium-136 | 10 | Osmium-191 | 100 |
| Cesium-137 | 10 | Osmium-193 | 100 |
| Chlorine-36 | 10 | Palladium-103 | 100 |
| Chlorine-38 | 10 | Palladium-109 | 100 |
| Chromium-51 | 1,000 | Phosphorus-32 | 10 |
| Cobalt-58m | 10 | Platinum-191 | 100 |
| Cobalt-58 | 10 | Platinum-193m | 100 |
| Cobalt-60 | 1 | Platinum-193 | 100 |
| Copper-64 | 100 | Platinum-197m | 100 |
| Dysprosium-165 | 10 | Platinum-197 | 100 |
| Dysprosium-166 | 100 | Plutonium-239 | 0.01 |
| Erbium-169 | 100 | Polonium-210 | 0.1 |
| Erbium-171 | 100 | Potassium-42 | 10 |
| Europium-152 (9.2 h) | 100 | Praseodymium-142 | 100 |
| Europium-152 (13 yr) | 1 | Praseodymium-143 | 100 |
| Europium-154 | 1 | Promethium-147 | 10 |
| Europium-155 | 10 | Promethium-149 | 10 |
| Fluorine-18 | 1,000 | Radium-226 | 0.01 |
| Gadolinium-153 | 10 | Rhenium-186 | 100 |
| Gadolinium-159 | 100 | Rhenium-188 | 100 |
| Gallium-72 | 10 | Rhodium-103m | 100 |
| Germanium-71 | 100 | Rhodium-105 | 100 |
| Gold-198 | 100 | Rubidium-86 | 10 |
| Gold-199 | 100 | Rubidium-87 | 10 |
| Hafnium-181 | 10 | Ruthenium-97 | 100 |
| Holmium-166 | 100 | Ruthenium-103 | 10 |
| Hydrogen-3 | 1,000 | Ruthenium-105 | 10 |
| Indium-113m | 100 | Ruthenium-106 | 1 |
| Indium-114m | 10 | Samarium-151 | 10 |
| Indium-115m | 100 | Samarium-153 | 100 |
| Indium-115 | 10 | Scandium-46 | 10 |
| Iodine-125 | 1 | Scandium-47 | 100 |
| Iodine-126 | 1 | Scandium-48 | 10 |
| Iodine-129 | 0.1 | Selenium-75 | 10 |
| Iodine-131 | 1 | Silicon-31 | 100 |
| Iodine-132 | 10 | Silver-105 | 10 |
| Iodine-133 | 1 | Silver-110m | 1 |
| Iodine-134 | 10 | Silver-111 | 100 |

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| Material | Microcurie | Material | Microcurie |
|---------------------|------------|---------------------------|------------|
| Sodium-22 | 1 | Tungsten-185 | 10 |
| Sodium-24 | 10 | Tungsten-187 | 100 |
| Strontium-85 | 10 | Uranium (natural)** | 100 |
| Strontium-89 | 1 | Uranium-233 | 0.01 |
| Strontium-90 | 0.1 | Uranium-234 | 0.01 |
| Strontium-91 | 10 | Uranium-235 | 0.01 |
| Strontium-92 | 10 | Vanadium-48 | 10 |
| Sulfur-35 | 100 | Xenon-131m | 1,000 |
| Tantalum-182 | 10 | Xenon-133 | 100 |
| Technetium-96 | 10 | Xenon-135 | 100 |
| Technetium-97m | 100 | Ytterbium-175 | 100 |
| Technetium-97 | 100 | Yttrium-90 | 10 |
| Technetium-99m | 100 | Yttrium-91 | 10 |
| Technetium-99 | 10 | Yttrium-92 | 100 |
| Tellurium-125m | 10 | Yttrium-93 | 100 |
| Tellurium-127m | 10 | Zinc-65 | 10 |
| Tellurium-127 | 100 | Zinc-69m | 100 |
| Tellurium-129m | 10 | Zinc-69 | 1,000 |
| Tellurium-129 | 100 | Zirconium-93 | 10 |
| Tellurium-131m | 10 | Zirconium-95 | 10 |
| Tellurium-132 | 10 | Zirconium-97 | 10 |
| Terbium-160 | 10 | Any alpha emitting | |
| Thallium-200 | 100 | radionuclide not listed | |
| Thallium-201 | 100 | above or mixtures of | |
| Thallium-202 | 100 | alpha emitters of unknown | |
| Thallium-204 | 10 | composition | 0.01 |
| Thorium (natural)** | 100 | Any radionuclide other | |
| Thulium-170 | 10 | than alpha emitting | |
| Thulium-171 | 10 | radionuclides, not listed | |
| Tin-113 | 10 | above or mixtures of | |
| Tin-125 | 10 | beta emitters of unknown | |
| Tungsten-181 | 10 | composition | 0.1 |

* To convert μCi to kBq , multiply the μCi value by 37.

** Based on alpha disintegration rate of Th-232, Th-230 and their daughter products.

*** Based on alpha disintegration rate of U-238, U-234, and U-235.

NOTE: Where there is involved a combination of isotopes in known amounts, the limit for the combination should be derived as follows: Determine, for each isotope in the combination, the ratio between the quantity present in the combination and the limit otherwise established for the specific isotope when not in combination. The sum of such ratios for all the isotopes in the combination may not exceed "1" - that is, unity.

Historical Note

New Appendix E recodified from 12 A.A.C. 1, Article 4, Appendix E, effective March 22, 2018 (Supp. 18-1).

ARTICLE 5. SEALED SOURCE INDUSTRIAL RADIOGRAPHY**R9-7-501. Definitions**

"Access panel" means any panel that is designed to be removed or opened for maintenance or service purposes, opened using tools, and used to provide access to the interior of the cabinet x-ray unit.

"Annual refresher safety training" means a review conducted or provided by the licensee for its employees on radiation safety aspects of industrial radiography. The review shall include, as applicable, the results of internal inspections, new procedures or equipment, new or revised state rules, accidents or errors that have occurred, and provide opportunities for employees to ask safety questions.

"Aperture" means any opening in the outside surface of the cabinet x-ray unit, other than a port, which remains open during generation of x-radiation.

"Associated equipment" means equipment used in conjunction with a radiographic exposure device that drives, guides, or comes in contact with the source.

"Certifying entity" means an independent certifying organization that complies with the requirements in Appendix A of this Article, or requirements of the NRC or another Agreement State, that are equivalent to the requirements in parts II and III of Appendix A.

"Collimator" means a radiation shield that is placed on the end of the guide tube or directly onto a radiographic exposure device to restrict the size of the radiation beam when the sealed source is positioned to make a radiographic exposure.

"Control (drive) cable" means the cable that is connected to the source assembly and used to drive the source to and from the exposure location.

"Control (drive) mechanism" means a device that enables the source assembly to be moved to and from the exposure device.

"Control tube" means a protective sheath for guiding the control cable. The control tube connects the control drive mechanism to the radiographic exposure device.

"Door" means any barrier that is designed to be movable or opened for routine operation purposes, not opened using tools,

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and used to provide access to the interior of the cabinet x-ray unit.

“Exposure head” means a device that places the gamma radiography sealed source in a selected working position.

“Ground fault” means an accidental electrical grounding of an electrical conductor.

“Guide tube (projection sheath)” means a flexible or rigid tube (i.e., “J” tube) for guiding the source assembly and the attached control cable from the exposure device to the exposure head. The guide tube may also include the connections necessary for attachment to the exposure device and to the exposure head.

“Hands-on experience” means accumulation of knowledge or skill in any area relevant to radiography.

“Independent certifying organization” means an independent organization that meets all of the requirements in Appendix A.

“Lay-barge radiography” means industrial radiography performed on any water vessel used for laying pipe.

“Port” means any opening in the outside surface of the cabinet x-ray unit that is designed to remain open, during generation of x-rays, for conveying material being irradiated into and out of the cabinet, or for partial insertion of an object for irradiation whose dimensions do not permit complete insertion into the cabinet x-ray unit.

“Practical examination” means a demonstration, through practical application of safety rules and principles of industrial radiography, including use of all radiography equipment and knowledge of radiography procedures.

“Radiographer certification” means written approval received from a certifying entity stating that an individual has satisfactorily met certain established radiation safety, testing, and experience criteria.

“Radiographic exposure device” means any x-ray machine used for purposes of making an industrial radiographic exposure or a device that contains a sealed source, and the sealed source or its shielding may be moved or otherwise changed from a shielded to an unshielded position for purposes of making an industrial radiographic exposure.

“Radiographic operations” means all activities associated with the presence of radiation sources in a radiographic exposure device during use of the device or transport (except when the device is being transported by a common or contract carrier). This includes performing surveys to confirm the adequacy of boundaries, setting up equipment, and conducting any activity inside restricted area boundaries.

“S-tube” means a tube through which a radioactive source travels when the source is inside a radiographic exposure device.

“Source assembly” means an assembly that consists of a sealed source and a connector that attaches the source to a control cable. The source assembly may also include a stop ball used to secure the source in the shielded position.

“Underwater radiography” means industrial radiography performed when a radiographic exposure device is beneath the surface of water.

Historical Note

New Section R9-7-501 recodified from R12-1-501 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-502. License Requirements

- A. The Department shall review an application for a specific license for the use of radioactive material in industrial radiography and approve the license if an applicant meets all of the following requirements:
1. The applicant satisfies the general requirements in R9-7-309 and any special requirements contained in this Article; and
 2. The applicant submits a program for training radiographers and radiographers’ assistants that complies with R9-7-543, except that:
 - a. After the effective date of this Section, an applicant is not required to describe its initial training and examination program for radiographers;
 - b. An applicant shall affirm that an individual who is acting as an industrial radiographer is certified in radiation safety by a certifying organization, as required in R9-7-543, before permitting the individual to act as a radiographer. This affirmation substitutes for a description of the applicant’s initial training and examination program for radiographers in the subjects outlined in R9-7-543(G); and
 - c. An applicant shall submit procedures for verifying and documenting the certification status of each radiographer and for ensuring that the certification remains valid.
- B. The applicant shall submit written operating and emergency procedures as prescribed in R9-7-522.
- C. The applicant shall submit a description of a program for review of job performance of each radiographer and radiographers’ assistant at intervals that do not exceed six months as prescribed in R9-7-543(E).
- D. The applicant shall submit a description of the applicant’s overall organizational structure as it applies to radiation safety responsibilities in industrial radiography, including specified delegation of authority and responsibility.
- E. The applicant shall submit a list of the qualifications of each individual designated as an RSO under R9-7-512 and indicate which designee is responsible for ensuring that the licensee’s radiation safety program is implemented in accordance with approved procedures.
- F. If an applicant intends to perform leak testing on any sealed source or exposure device that contains depleted uranium (DU) shielding, the applicant shall submit a description of the procedures for performing the leak testing and the qualifications of each person authorized to perform leak testing. If the applicant intends to analyze its own wipe samples, the application shall include a description of the procedures to be followed. The description shall include the:
 1. Instruments to be used,
 2. Methods of performing the analysis, and
 3. Relevant experience of the person who will analyze the wipe samples.
- G. If the applicant intends to perform “in-house” calibrations of survey instruments, the applicant shall describe each calibration method to be used and the relevant experience of each person who will perform a calibration. A licensee shall perform all calibrations according to the procedures prescribed in R9-7-504.
- H. The applicant shall identify and describe the location of all field stations and permanent radiographic installations.

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- I. The applicant shall identify each location where records required by this Chapter will be maintained.

Historical Note

New Section R9-7-502 recodified from R12-1-502 at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-503. Performance Requirements for Equipment

- A. A licensee shall ensure that equipment used in industrial radiographic operations meets the following minimum criteria:

1. Each radiographic exposure device, source assembly or sealed source, and all associated equipment meet the requirements in American National Standards Institute, N432-1980 "Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography" (published as NBS Handbook 136, issued January 1981) by the American National Standards Institute, which is incorporated by reference and on file with the Department. This incorporation by reference contains no future editions or amendments. This publication may be purchased from the American National Standards Institute, Inc., 25 West 43rd Street, New York, New York 10036 Telephone (212) 642-4900. A copy of the document is also on file at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html; or
2. An engineering safety analysis demonstrates the applicability of previously performed testing on similar individual radiography equipment components. Based on a review of the analysis, the Department may find that previously performed testing can be substituted for testing of the component under the standards in subsection (A)(1).

- B. In addition to the requirements in subsection (A), the following requirements apply to each radiographic exposure device, source changer, source assembly, and sealed source:

1. A licensee shall ensure that each radiographic exposure device has attached to it a durable, legible, and clearly visible label bearing:
 - a. The chemical symbol and mass number of the radionuclide in the device;
 - b. The activity of the source and the date on which this activity was last measured;
 - c. The model (or product code) and serial number of the sealed source;
 - d. The manufacturer's description of the sealed source; and
 - e. The licensee's name, address, and telephone number.
2. A licensee shall ensure that each radiographic exposure device intended for use as a Type B transport container meets the applicable requirements of 10 CFR 71, revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
3. A licensee shall not modify any radiographic exposure device, source changer, source assembly, or associated equipment, unless the design of the replacement component, including source holder, source assembly, controls, or guide tubes is consistent with and does not compromise the design safety features of the system.

- C. In addition to the requirements in subsections (A) and (B), the following requirements apply to each radiographic exposure device, source assembly, and associated equipment that allows the source to be moved out of the device for radiographic operations or to a source changer:

1. The license shall ensure that the coupling between the source assembly and the control cable is designed so that the source assembly does not become disconnected if it is positioned outside of the guide tube and is constructed so that an unintentional disconnect will not occur under normal and reasonably foreseeable abnormal conditions;
2. The device automatically secures the source assembly if it is retracted into the fully shielded position within the device and the securing system is released from the exposure device only by means of a deliberate operation;
3. The outlet fittings, lock box, and drive cable fittings on each radiographic exposure device are equipped with safety plugs or covers installed for storage and transportation to protect the source assembly from water, mud, sand, or other foreign matter;
4. Each sealed source or source assembly has attached to it or is engraved with a durable, legible, and visible label with the words: "DANGER--RADIOACTIVE." The licensee shall ensure that the label does not interfere with safe operation of the equipment;
5. The guide tube is able to withstand a crushing test that closely approximates the crushing forces that are likely to be encountered during use, and a kinking resistance test that closely approximates the kinking forces that are likely to be encountered during use;
6. A guide tube is used if a person moves the source out of the device;
7. An exposure head or similar device, designed to prevent the source assembly from passing out of the end of the guide tube, is attached to the outermost end of the guide tube during industrial radiography operations;
8. The guide tube exposure head connection is able to withstand the tensile test for control units specified in ANSI N432-1980, incorporated by reference in subsection (A); and
9. Source changers provide a system for ensuring that the source is not accidentally withdrawn from the changer when a person is connecting or disconnecting the drive cable to or from the source assembly.

- D. A licensee shall ensure that radiographic exposure devices and associated equipment in use after January 10, 1996 comply with the requirements of this Section.

- E. Notwithstanding subsection (A), a licensee with equipment used in industrial radiographic operations need not comply with Sec. 8.92(C) of the Endurance Test in American National Standards Institute N432-1980 if the prototype equipment has been tested using a torque value representative of the torque that an individual using the radiography equipment can realistically exert on the lever or crankshaft of the drive mechanism.

Historical Note

New Section R9-7-503 recodified from R12-1-503 at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-504. Radiation Survey Instruments

- A. A licensee shall maintain at least two calibrated and operable radiation survey instruments at each location where sources of radiation are present to make radiation surveys required by this Article and Article 4 of this Chapter. Instrumentation required by this Section shall be capable of measuring a range from 0.02 millisieverts (2 millirems) per hour through 0.01 sievert (1 rem) per hour.

- B. A licensee shall ensure that each radiation survey instrument required under subsection (A) is calibrated:

1. At intervals that do not exceed six months, and after instrument servicing, except for battery changes;

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2. For linear scale instruments, at two points located approximately one-third and two-thirds of full-scale on each scale; for logarithmic scale instruments, at mid-range of each decade, and at two points of at least one decade; and for digital instruments, at 3 points between 0.02 and 10 millisieverts (2 and 1000 millirems) per hour; and
 3. So that an accuracy within plus or minus 20% of the calibration source can be demonstrated at each point checked.
- C. A licensee shall maintain calibration records for each radiation survey instrument, and maintain each record for three years after it is made.

Historical Note

New Section R9-7-504 recodified from R12-1-504 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-505. Leak Testing and Replacement of Sealed Sources

- A. A licensee shall ensure that replacement of any sealed source fastened to or contained in a radiographic exposure device and leak testing of any sealed source is performed by a person authorized to do so by the Department, the NRC, or another Agreement State.
- B. A licensee shall ensure that opening, repairing, or modifying any sealed source is performed by a person specifically authorized to do so by the Department, the NRC, or another Agreement State.
- C. A licensee that uses a sealed source shall have the source tested for leakage by a qualified person at intervals that do not exceed six months. The person who performs leak testing of the source shall use a method approved by the Department, the NRC, or by another Agreement State. A wipe sample shall be taken from the nearest accessible point to the sealed source where contamination might accumulate. The wipe sample shall be analyzed for radioactive contamination. The licensee shall ensure that the analysis is capable of detecting the presence of 185 Bq (0.005 microcurie) of radioactive material on the test sample and a person specifically authorized by the Department, the NRC, or another Agreement State performs the analysis. The licensee shall maintain records of the leak tests in accordance with this Section.
- D. Unless a sealed source is accompanied by a certificate from the transferor that shows that the sealed source has been leak tested within six months before the transfer, a licensee shall not use the sealed source until it is tested for leakage. A licensee is not required to test a sealed source that is in storage, but shall test each sealed source before use or transfer to another person if the interval of storage exceeds six months.
- E. A licensee shall immediately withdraw equipment containing a leaking source from use and have it decontaminated and repaired or dispose of the source in accordance with this Chapter. The licensee shall file a report with the Director of the Department within five days of any test with results that exceed the threshold in this subsection, and describe the equipment involved, the test results, and corrective action taken. If a leak test conducted under this Section reveals the presence of 185 Bq (0.005 microcurie) or more of removable radioactive material the Department classifies the sealed source as leaking.
- F. A licensee shall test for DU contamination at intervals that do not to exceed 12 months a radiographic exposure device that uses depleted uranium (DU) shielding and an "S" tube configuration. The licensee shall ensure that the analysis is capable of detecting the presence of 185 Bq (0.005 microcuries) of radioactive material on the test sample and a person specifically authorized by the Department, the NRC, or another

Agreement State performs the analysis. If the testing reveals the presence of 185 Bq (0.005 microcuries) or more of removable DU contamination, the licensee shall remove the exposure device from use until an evaluation of the wear on the S-tube is completed. If the evaluation reveals that the S-tube is worn through, the licensee shall ensure that the device is not used again. The licensee is not required to test for DU contamination if the radiographic exposure device is in storage. Before using or transferring the radiographic exposure device, the licensee shall test the device for DU contamination if the interval of storage exceeds 12 months. The licensee shall maintain records of the DU leak test in accordance with subsection (G).

- G. A licensee shall maintain records of leak test results for each sealed source and for each device that contains DU. The licensee shall ensure results are in Becquerels (microcuries), and retain each record for three years after it is made or until the source is removed from storage and tested, whichever is longer.

Historical Note

New Section R9-7-505 recodified from R12-1-505 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-506. Quarterly Inventory

- A. A licensee shall conduct a quarterly physical inventory to account for all sealed sources and devices that contain depleted uranium.
- B. A licensee shall maintain a record of the quarterly inventory required under subsection (A) for three years after it is made.
- C. The record required in subsection (B) shall include the date of the inventory, name of the individual who conducted the inventory, radionuclide, number of becquerels (curies) or mass (for DU) in each device, location of sealed source and associated devices, and manufacturer, model, and serial number of each sealed source and device as applicable.

Historical Note

New Section R9-7-506 recodified from R12-1-506 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-507. Utilization Logs

- A. A licensee shall maintain for each sealed source a utilization log that provides all of the following information:
1. A description, including the make, model, and serial number of each radiographic exposure device, and each sealed source transport and storage container that contains a sealed source;
 2. The identity and signature of the radiographer using the source; and
 3. The plant or site where the source is used and dates of use, including the date each source is removed from and returned to storage.
- B. A licensee shall retain the log required by subsection (A) for three years after the log is made.

Historical Note

New Section R9-7-507 recodified from R12-1-507 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-508. Inspection and Maintenance of Radiographic Exposure Devices, Transport and Storage Containers, Source Changers, Survey Instruments, and Associated Equipment

- A. A licensee shall perform visual and operability checks on each survey instrument, radiographic exposure device, transport and storage container, source changer, and associated equipment before use on each day the equipment is to be used to ensure that the equipment is in good working condition, the source is adequately shielded, and required labeling is present.

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A survey instrument operability check shall be performed using a check source or other authorized means. If an equipment problem is found, the licensee shall remove the equipment from service until it is repaired.

- B.** A licensee shall have written inspection and maintenance procedures to ensure that:
1. Radiographic exposure devices, source changers, transport and storage containers, survey instruments, and associated equipment that require inspection and maintenance at intervals that do not exceed three months or before first use of the equipment are functioning properly and safely. Replacement components shall meet design specifications. If an equipment problem is discovered, the licensee shall remove the equipment from service until it is repaired; and
 2. Type B packages are shipped and maintained in accordance with the certificate of compliance or other approval.
- C.** A licensee shall maintain records of daily checks and quarterly inspections of radiographic exposure devices, transport and storage containers, source changers, survey instruments, and associated equipment, and retain each record for three years after it is made. The record shall include the date of the check or inspection, name of the inspector, equipment involved, any problems found, and any repair or needed maintenance performed.

Historical Note

New Section R9-7-508 recodified from R12-1-508 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-509. Surveillance

During each radiographic operation, a radiographer or the radiographer's assistant, as permitted by R9-7-510, shall maintain continuous direct visual surveillance of the operation to protect against unauthorized entry into a high radiation area, except at permanent radiographic installations where all entrances are locked and the licensee is in compliance with R9-7-539.

Historical Note

New Section R9-7-509 recodified from R12-1-509 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-510. Radiographic Operations

- A.** If industrial radiography is performed at a location other than a permanent radiographic installation, a licensee shall ensure that the radiographer is accompanied by at least one other radiographer or radiographer's assistant, qualified under R9-7-543. The additional radiographer or radiographer's assistant shall observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. Industrial radiography is prohibited if only one qualified individual is present.
- B.** A licensee shall ensure that each industrial radiographic operation is conducted at a location of use authorized on the license in a permanent radiographic installation, unless another permanent location is specifically authorized by the Department.

Historical Note

New Section R9-7-510 recodified from R12-1-510 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-511. Reserved**Historical Note**

R9-7-511 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-512. Radiation Safety Officer (RSO)

- A.** A licensee shall have a radiation safety officer (RSO) who is responsible for implementing procedures and regulatory requirements in the daily operation of the radiation safety program.
- B.** Except as provided in subsection (C), the licensee shall ensure that the RSO satisfies the following minimum requirements:
1. The training and testing requirements in R9-7-543,
 2. Two thousand hours of hands-on experience as a qualified radiographer for an industrial radiographic operation, and
 3. Formal training in the establishment and maintenance of a radiation safety program.
- C.** If the licensee uses an individual in the position of RSO who does not have the training and experience required in subsection (B), the licensee shall provide the Department with a description of the individual's training and experience in the field of ionizing radiation and training with respect to the establishment and maintenance of a radiation safety protection program so the Department can determine whether the individual is qualified to perform under subsection (D).
- D.** The specific duties and authorities of the RSO include, but are not limited to:
1. Establishing and overseeing operating, emergency, and ALARA procedures as required in Article 4 of this Chapter and reviewing them every year to ensure that the procedures in use conform to current Department rules and license conditions;
 2. Overseeing and approving all phases of the training program for radiographic personnel, ensuring that appropriate and effective radiation protection practices are taught;
 3. Overseeing radiation surveys, leak tests, and associated documentation to ensure that the surveys and tests are performed in accordance with the rules and taking corrective measures if levels of radiation exceed established action limits;
 4. Overseeing the personnel monitoring program to ensure that devices are calibrated and used properly by occupationally exposed personnel and ensuring that records are kept of the monitoring results and timely notifications are made as required in R9-7-444; and
 5. Overseeing operations to ensure that they are conducted safely and instituting corrective actions, which may include ceasing operations if necessary.

Historical Note

New Section R9-7-512 recodified from R12-1-512 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-513. Form of Records

A licensee shall maintain records in accordance with R9-7-405.

Historical Note

New Section R9-7-513 recodified from R12-1-513 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-514. Limits on External Radiation Levels from Storage Containers and Source Changers

The maximum rate limits for storage containers and source changers are 2 millisieverts (200 mRem/hr) at any exterior surface and 0.1 millisieverts (10 mRem/hr) at 1 meter from any exterior surface with the sealed source in the shielded position.

Historical Note

New Section R9-7-514 recodified from R12-1-514 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-515. Locking Radiographic Exposure Devices, Storage Containers, and Source Changers

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- A. Except at permanent radiographic installations governed by R9-7-539, a licensee shall ensure that each radiographic exposure device has a lock or an outer container with a lock designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. The licensee shall ensure that the exposure device or its container, if applicable, is locked (and if a keyed lock, with the key removed) if the device or container is not under the direct surveillance of a radiographer or a radiographer's assistant. During radiographic operations, the radiographer or radiographer's assistant shall secure the sealed source assembly in the shielded position each time the source is returned to the shielded position.
- B. A licensee shall ensure that each sealed source storage container and source changer has a lock or an outer container with a lock designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. The licensee shall ensure that each storage container and source changer is locked (and if a keyed lock, with the key removed) if the storage container or source changer contains a sealed source and is not under the direct surveillance of a radiographer or a radiographer's assistant.

Historical Note

New Section R9-7-515 recodified from R12-1-515 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-516. Records of Receipt and Transfer of Sealed Sources

- A. A licensee shall maintain records that show each receipt and transfer of a sealed source or device that uses DU for shielding and retain each record for three years after it is made.
- B. The records shall contain separate entries for each transaction, including the date, name of the individual making the record, radionuclide, number of Becquerels (curies) or mass (for DU), and manufacturer, model, and serial number of each sealed source or device, as applicable.

Historical Note

New Section R9-7-516 recodified from R12-1-516 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-517. Posting

A licensee shall post any area in which industrial radiography is performed as required by R9-7-429. Exceptions listed in R9-7-430 do not apply to industrial radiographic operations.

Historical Note

New Section R9-7-517 recodified from R12-1-517 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-518. Labeling, Storage, and Transportation

- A. A licensee shall not use a source changer or a storage container to store licensed material unless the source changer or the storage container has securely attached to it a durable, legible, and clearly visible label that bears the standard trefoil radiation caution symbol and the standard colors for the symbol specifically: magenta, purple, or black on a yellow background, and the label has a minimum diameter of 25 mm and the wording "CAUTION (or DANGER), RADIOACTIVE MATERIAL NOTIFY CIVIL AUTHORITIES (or "NAME OF COMPANY")"
- B. A licensee shall not transport licensed material unless the material is packaged and the package is labeled, marked, and accompanied with appropriate shipping papers in accordance with 10 CFR 71, January 1, 2004, published by the Office of the Federal Register, National Archives and Records Administration, incorporated by reference, and on file with the Department.

This incorporation by reference contains no future editions or amendments.

- C. A licensee shall physically secure locked radiographic exposure devices and storage containers behind a locked door to prevent tampering or removal by unauthorized personnel. The licensee shall store licensed material in a manner that will minimize danger from explosion or fire.
- D. A licensee shall lock each transport package that contains licensed material and physically secure the package behind the locked doors of the transporting vehicle to prevent accidental loss, tampering, or unauthorized removal of the licensed material from the vehicle.

Historical Note

New Section R9-7-518 recodified from R12-1-518 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-519. Reserved**Historical Note**

R9-7-519 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-520. Reserved**Historical Note**

R9-7-520 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-521. Reserved**Historical Note**

R9-7-521 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-522. Operating and Emergency Procedures

- A. A licensee shall ensure that the operating and emergency procedures include, at a minimum, instructions in the following, as applicable:
 1. Handling and use of sealed sources or radiographic exposure devices, so that persons are not exposed to radiation that exceeds the limits in Article 4 of this Chapter;
 2. Methods and occasions for conducting radiation surveys;
 3. Methods for controlling access to radiographic areas;
 4. Methods and occasions for locking and securing radiographic exposure devices, transport and storage containers, and sealed sources;
 5. Personnel monitoring and associated equipment;
 6. Transportation of sealed sources to field locations, including packing radiographic exposure devices and storage containers in vehicles, placarding vehicles, and maintaining control of the sealed sources during transportation, as required in 49 CFR 171-173, 2002 edition, published October 1, 2002, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, which is incorporated by reference and on file with the Department. This incorporation contains no future editions or amendments;
 7. Inspection, maintenance, and operability checks of radiographic exposure devices, survey instruments, transport containers, and storage containers;
 8. Actions to be taken immediately by radiography personnel if a pocket dosimeter is found to be off-scale or an alarm rate meter sounds an alarm;
 9. Procedures for identifying and reporting defects and non-compliance, as required by R9-7-448 and R9-7-535;
 10. Procedures for notifying the RSO and the Department in the event of an accident;

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11. Methods for minimizing exposure of persons in the event of an accident;
 12. Procedures for recovering a source if the licensee is responsible for source recovery; and
 13. Maintenance of records.
- B.** The licensee shall maintain copies of current operating and emergency procedures until the Department terminates the license. Superseded procedures shall be maintained for three years after being superseded. Additionally, a copy of the procedures shall be maintained at field stations in accordance with R9-7-540.

Historical Note

New Section R9-7-522 recodified from R12-1-522 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-523. Personnel Monitoring

- A.** A licensee shall not permit any individual to act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, each individual wears, on the trunk of the body, a direct reading dosimeter, an operating alarm rate meter, and a personnel dosimeter. At permanent radiography installations where other appropriate alarming or warning devices are in routine use, the wearing of an alarm rate meter is not required. A licensee shall:
1. Use a pocket dosimeter with a range from zero to 2 millisieverts (200 millirems) and ensure that each dosimeter is recharged at the start of each shift. Electronic personnel dosimeters are permitted in place of ion-chamber pocket dosimeters;
 2. Assign a personnel dosimeter to each individual, who shall wear the assigned equipment;
 3. Replace film badges at least monthly and ensure that all other personnel dosimeters that require replacement are replaced at least quarterly; and
 4. Ensure that all personnel dosimeters are evaluated at least quarterly or promptly after replacement, whichever is more frequent.
- B.** A licensee shall record exposures noted from direct reading dosimeters, such as pocket dosimeters or electronic personnel dosimeters, at the beginning and end of each shift. The licensee shall maintain the records for at least three years after the Department terminates the license.
- C.** A licensee shall check pocket dosimeters and electronic personnel dosimeters for correct response to radiation at periods that do not exceed 12 months. The licensee shall record the results of each check and maintain the records for three years after the dosimeter check is performed. The licensee shall discontinue use of a dosimeter if it is not accurate within plus or minus 20 percent of the true radiation exposure.
- D.** If an individual's pocket dosimeter is found to be off-scale, or the individual's electronic personnel dosimeter reads greater than 2 millisieverts (200 millirems), and the possibility of radiation exposure cannot be ruled out as the cause, a licensee shall ensure that:
1. If the individual's personnel dosimeter requires processing, the personnel dosimeter is sent for processing and evaluation within 24 hours after the suspected exposure;
 2. If the individual's personnel dosimeter does not require processing, the evaluation of the personnel dosimeter is started within 24 hours after the suspected exposure;
 3. The individual is not allowed to resume work associated with licensed material until the individual's radiation exposure has been determined by the licensee's RSO or the RSO's designee; and

4. The results of the determination in subsection (D)(2) is included in the personnel monitoring records maintained in accordance with subsection (B).
- E.** If the personnel dosimeter that is required by subsection (A) is lost or damaged, the licensee shall ensure that the worker ceases work immediately until the licensee provides a replacement personnel dosimeter that meets the requirements in subsection (A) and the RSO or the RSO's designee calculates the exposure for the time period from issuance to discovery of the lost or damaged personnel dosimeter. The licensee shall maintain a record of the calculated exposure and the time period for which the personnel dosimeter was lost or damaged in accordance with subsection (B).
- F.** The licensee shall maintain dosimetry reports in accordance with subsection (B).
- G.** For each alarm rate meter a licensee shall ensure that:
1. At the start of each shift, the alarm functions (sounds) properly before an individual uses the device;
 2. Each device is set to give an alarm signal at a preset dose rate of 5 mSv/hr (500 mrem/hr); with an accuracy of plus or minus 20 percent of the true radiation dose rate;
 3. A special means is necessary to change the preset alarm function on the device; and
 4. Each device is calibrated at periods that do not exceed 12 months for correct response to radiation. The licensee shall maintain records of alarm rate meter calibrations in accordance with subsection (B).

Historical Note

New Section R9-7-523 recodified from R12-1-523 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-524. Supervision of a Radiographer's Assistant

If a radiographer's assistant uses a radiographic exposure device, associated equipment, or a sealed source or conducts a radiation survey required by R9-7-533(B) to determine that the sealed source has returned to the shielded position after an exposure, the licensee shall ensure that the assistant is under the personal supervision of a radiographer. For purposes of this Section "personal supervision" means:

1. The radiographer is physically present at the site where the sealed source is being used,
2. The radiographer is available to give immediate assistance if required, and
3. The radiographer is able to observe the assistant's performance directly.

Historical Note

New Section R9-7-524 recodified from R12-1-524 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-525. Notification of Field Work

Each day radioactive material is used for industrial radiography, a licensee shall notify the Department of any planned field radiography. The notice shall be in writing and specify the location of the field work, the name of the supervising individual at the job site, and the expected duration of the work at the job site listed in the notice. A facsimile that provides the required information is sufficient notice.

Historical Note

New Section R9-7-525 recodified from R12-1-525 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-526. Reserved

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Historical Note

R9-7-526 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-527. Reserved**Historical Note**

R9-7-527 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-528. Reserved**Historical Note**

R9-7-528 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-529. Reserved**Historical Note**

R9-7-529 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-530. Reserved**Historical Note**

R9-7-530 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-531. Security

During each radiographic operation, the radiographer or radiographer's assistant shall maintain continuous direct visual surveillance of the operation to protect against unauthorized entry into a high radiation area, as defined in Article 1, unless:

1. The high radiation area is equipped with a control device or an alarm system as prescribed in R9-7-420(A), or
2. The high radiation area is locked to protect against unauthorized or accidental entry.

Historical Note

New Section R9-7-531 recodified from R12-1-531 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-532. Posting

Notwithstanding any provisions in R9-7-430, areas in which radiography is being performed shall be conspicuously posted as required by R9-7-429(A) and (B).

Historical Note

New Section R9-7-532 recodified from R12-1-532 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-533. Radiation Surveys

- A. A licensee shall conduct surveys with a calibrated and operable radiation survey instrument that meets the requirements of R9-7-504.
- B. Using a survey instrument that complies with subsection (A), the licensee shall conduct a survey of the radiographic exposure device and the guide tube after each exposure before approaching the device or the guide tube. The survey shall be performed to determine that the sealed source is in the shielded position before the radiographer or radiographer's assistant exchanges films, repositions the exposure head, or dismantles the equipment.
- C. The licensee shall conduct a survey of the radiographic exposure device with a calibrated radiation survey instrument any time the source is exchanged or the device is placed in a storage area, as defined in R9-7-102, to ensure that the sealed source is in the shielded position.
- D. The licensee shall maintain a record of each exposure device survey conducted before the device is placed in storage under subsection (C), if that survey is the last one performed during

the workday. Each record shall be maintained for three years after the record is made.

Historical Note

New Section R9-7-533 recodified from R12-1-533 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-534. Reserved**Historical Note**

R9-7-534 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-535. Notifications

- A. In addition to the reporting requirements specified in Article 4, each licensee shall provide a written report to the Department if any of the following incidents involving radiography equipment occur:
 1. Unintentional disconnection of the source assembly from the control cable;
 2. Inability to retract the source assembly to the fully shielded position or secure it in this position; or
 3. Failure of any component (critical to safe operation of the device) to properly perform its intended function;
- B. A licensee shall include the following information in any report submitted under this Section, regarding radiography equipment, or Article 4, regarding an overexposure, if the report concerns the failure of safety components of radiography equipment:
 1. A description of the equipment problem;
 2. Cause of the incident, if known;
 3. Name of manufacturer and model number of the equipment involved in the incident;
 4. Place, date, and time of the incident;
 5. Actions taken to establish normal operations;
 6. Corrective actions taken or planned to prevent recurrence; and
 7. Qualifications of personnel involved in the incident.
- C. Any licensee that conducts radiographic operations, or stores radioactive material at a location not listed on the license or for a period longer than 180 days during a calendar year, shall notify the Department of these activities before the 180 days has elapsed.

Historical Note

New Section R9-7-535 recodified from R12-1-535 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-536. Reserved**Historical Note**

R9-7-536 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-537. Reserved**Historical Note**

R9-7-537 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-538. Reserved**Historical Note**

R9-7-538 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-539. Permanent Radiographic Installations

- A. If a licensee maintains a permanent radiographic installation that does not fall within the definition of "enclosed radiography" in R9-7-102, the licensee shall ensure that each entrance, used for personnel access to the high radiation area, has either:

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1. An entrance control device of the type described in R9-7-420(A)(1) that reduces the radiation level upon entry into the area, or
2. Both conspicuous visible and audible alarm signals to warn of the presence of radiation. The licensee shall ensure that the visible signal is actuated by radiation if a source is exposed and the audible signal is actuated if someone attempts to enter the installation while a source is exposed.

- B.** A licensee with an alarm signal shall test the alarm signal for proper operation with a radiation source each day before the installation is used for radiographic operations. The test shall include a check of both the visible and audible signals. A licensee with an entrance control device shall test the device monthly. If an entrance control device or alarm signal is operating improperly, the licensee shall immediately label the device or signal as "defective" and repair the device or signal within seven calendar days. The licensee may continue to use the facility during this seven-day period, if the licensee implements continuous surveillance requirements of R9-7-509 and uses an alarming rate meter.
- C.** A licensee shall maintain each record an alarm system or entrance control device test for three years after the record is made.

Historical Note

New Section R9-7-539 recodified from R12-1-539 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-540. Location of Documents and Records

- A.** A licensee shall maintain a copy of each record required by this Article and other applicable Articles of this Chapter at a location specified under R9-7-502(I).
- B.** A licensee shall maintain a copy of each record listed below at each field station and temporary job site;
1. The license that authorizes use of radioactive material;
 2. A copy of Articles 4, 5, and 10 of this Chapter;
 3. Utilization logs for each radiographic exposure device dispatched from that location, as required by R9-7-507;
 4. Records of equipment problems identified in daily checks of equipment, as required by R9-7-508(A);
 5. Records of alarm system and entrance control checks as required by R9-7-539;
 6. Records of direct-reading dosimeters, such as pocket dosimeters and electronic personnel dosimeters as required by R9-7-523;
 7. Operating and emergency procedures as required by R9-7-522;
 8. A report on the most recent calibration of the radiation survey instruments in use at the site as required by R9-7-504;
 9. A report on the most recent calibration of each alarm rate meter, and operability check of each pocket dosimeter and electronic personnel dosimeter as required in R9-7-523;
 10. Most recent survey record as required by R9-7-533;
 11. The shipping papers for the transportation of radioactive material required by 10 CFR 71.5, 2003 edition, published January 1, 2003, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, which is incorporated by reference and on file with the Department (this incorporation contains no future editions or amendments); and
 12. If operating under reciprocity in accordance with R9-7-320, a copy of the NRC or Agreement State license authorizing the use of radioactive materials.

Historical Note

New Section R9-7-540 recodified from R12-1-540 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-541. Reserved**Historical Note**

R9-7-541 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-542. Reserved**Historical Note**

R9-7-542 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-543. Training

- A.** A licensee shall not allow an individual to act as a radiographer until the individual has received training in the subjects in subsection (G), has participated in a minimum of two months of on-the-job training, and is certified through a radiographer certification program by a independent certifying organization in accordance with the criteria specified in Appendix A.
1. A licensee shall provide the Department with proof of an individuals' certification and a written request that the individual be added to a license as a certified radiographer.
 2. A licensee shall maintain proof of certification at the job site where a radiographer is performing field radiography.
 3. A licensee that employs certified radiographers in Arizona shall ensure that:
 - a. Each radiographer has obtained initial certification within the last five years, and
 - b. An uncertified radiographer works only as a radiographer's assistant until certified.
 4. A radiographer shall recertify every five years by:
 - a. Taking an approved radiography certification examination in accordance with this subsection; or
 - b. Providing written evidence that the radiographer is active in the practice of industrial radiography and has participated in continuing education during the previous five-year period.
 5. If an individual cannot provide the written evidence required in subsection (4)(b), the individual shall retake the certification examination.
 6. A radiographer shall provide the licensee with proof of certification in the form of a card issued by the certifying organization that contains:
 - a. A picture of the certified radiographer,
 - b. The radiographer's certification number,
 - c. The date the certification expires, and
 - d. The radiographer's signature.
- B.** A licensee shall not allow an individual to act as a radiographer until the individual:
1. Has received copies of and instruction in the requirements of this Article; applicable Sections of Articles 4 and 10 and R9-7-107; applicable DOT regulations in 10 CFR 71, January 1, 2003 edition, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, which is incorporated by reference, contains no future editions or amendments, and is on file with Department; the Department license or licenses under which the radiographer will perform industrial radiography; and the licensee's operating and emergency procedures;
 2. Has demonstrated an understanding of the licensee's license and operating and emergency procedures by suc-

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- cessfully completing a written or oral examination that covers the relevant material;
3. Has received training in:
 - a. Use of the licensee's radiographic exposure devices and sealed sources,
 - b. Daily inspection of devices and associated equipment, and
 - c. Use of radiation survey instruments; and
 4. Has demonstrated an understanding of the use of radiographic exposure devices, sources, survey instruments, and associated equipment described in subsection (B)(3) by successfully completing a practical examination covering this material.
- C. A licensee shall not allow an individual to act as a radiographer's assistant until the individual:
1. Has received copies of and instruction in the requirements of this Article; applicable Sections of Articles 4 and 10 and R9-7-107; applicable DOT regulations in 10 CFR 71, January 1, 2003 edition, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, which is incorporated by reference, contains no future editions or amendments, and is on file with the Department; the Department license or licenses under which the radiographer's assistant will perform industrial radiography; and the licensee's operating and emergency procedures;
 2. Has developed competence to use, under the personal supervision of the radiographer, the licensee's radiographic exposure devices, sealed sources, associated equipment, and radiation survey instruments; and
 3. Has demonstrated understanding of the instructions provided under subsection (C)(1) by successfully completing a written test on the subjects covered and has demonstrated competence using the hardware described in subsection (C)(2) by successfully completing a practical examination.
- D. A licensee shall provide refresher safety training for each radiographer and radiographer's assistant at intervals not to exceed 12 months.
- E. Unless an individual serves as both a radiographer and an RSO, the RSO or the RSO's designee shall design and implement an inspection program to examine the job performance of each radiographer and radiographer's assistant and to ensure that the Department's rules and license requirements, and the licensee's operating and emergency procedures are followed. The inspection program shall:
1. Include observation of the performance of each radiographer and radiographer's assistant during an actual industrial radiographic operation, at intervals that do not exceed six months; and
 2. If a radiographer or a radiographer's assistant has not participated in an industrial radiographic operation for more than six months, the radiographer shall demonstrate knowledge of the training requirements in subsection (B)(3) and the radiographer's assistant shall demonstrate knowledge of the training requirements of subsection (C)(2) by a practical examination before participating in a radiographic operation.
- F. A licensee shall maintain records of the training required in this Section including certification documents, written and practical examinations, refresher safety training documents, and inspection documents, in accordance with subsection (I).
- G. A licensee shall include the following subjects in the training required under subsection (A):
1. Fundamentals of radiation safety, including:
 - a. Characteristics of gamma radiation,
 - b. Units of radiation dose and quantity of radioactivity,
 - c. Hazards of exposure to radiation,
 - d. Levels of radiation from licensed material, and
 - e. Methods of controlling radiation dose (time, distance, and shielding);
 2. Radiation detection instruments, including:
 - a. Use, operation, calibration, and limitations of radiation survey instruments;
 - b. Survey techniques; and
 - c. Use of personnel monitoring equipment;
 3. Equipment topics, including:
 - a. Operation and control of radiographic exposure equipment, use of remote handling equipment, and use of storage containers, using pictures or models of source assemblies (pigtailed);
 - b. Storage, control, and disposal of licensed material; and
 - c. Inspection and maintenance of equipment;
 4. The requirements of pertinent Department rules; and
 5. Case histories of accidents in radiography.
- H. A licensee shall maintain records of radiographer certification in accordance with subsection (I)(1) and provide proof of certification as required in subsection (A)(1).
- I. A licensee shall maintain the following records for three years after each record is made:
1. Records of training for each radiographer and each radiographer's assistant. For radiographers, the records shall include radiographer certification documents and verification of certification status. All records shall include copies of written tests, dates of oral and practical examinations, and names of individuals who conducted and took the oral and practical examinations; and
 2. Records of annual refresher safety training and semi-annual inspections of job performance for each radiographer and each radiographer's assistant. The records for the annual refresher safety training shall list topics discussed during training, the date of training, and names of each instructor and attendee. For inspections of job performance, the records shall include a list of the items checked during the inspection and any non-compliance observed by the RSO.

Historical Note

New Section R9-7-543 recodified from R12-1-543 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Appendix A. Standards for Organizations that Provide Radiography Certification

Note: For purposes of this Article an "independent certifying organization" means an organization that meets all of the criteria in this Appendix.

I. Requirements for an Organization that Provides Radiographer Certification

To qualify to provide radiographer certification an organization shall:

- A. Be a society or association, with members who participate in, or have an interest in, the field of industrial radiography;
- B. Not restrict membership because of race, color, religion, sex, age, national origin, or disability;
- C. Have a certification program that is open to nonmembers, as well as members;
- D. Be an incorporated, nationally recognized organization that is involved in setting national standards of practice within its fields of expertise;

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- E. Have a staff comparable to other nationally recognized organizations, a viable system for financing its operations, and a policy-and decision-making review board;
- F. Have a set of written, organizational by-laws and policies that address conflicts of interest and provide a system for monitoring and enforcing the by-laws and policies;
- G. Have a committee, with members who can carry out their responsibilities impartially, review and approve the certification guidelines and procedures, and advise the organization's staff in implementing the certification program;
- H. Have a committee, with members who can carry out their responsibilities impartially, review complaints against certified individuals and determine sanctions;
- I. Have written procedures describing all aspects of the organization's certification program;
- J. Maintain records of the current status of each individual's certification and administration of the certification program;
- K. Have procedures to ensure that certified individuals are provided due process with respect to administration of the certification program, including a process for becoming certified and a process for imposing sanctions against certified individuals;
- L. Have procedures for proctoring examinations and qualifying proctors. The organization, through these procedures, shall ensure that an individual who proctors an examination is not employed by the same company or corporation (or a wholly-owned subsidiary of the company or corporation) that employs an examinee;
- M. Exchange information about certified individuals with the Department, other independent certifying organizations, the NRC, or Agreement States and allow periodic review of its certification program and related records; and
- N. Provide a description to the Department of its procedures for choosing examination sites and providing a favorable examination environment.

II. Requirements for a Certification Program

An independent certifying organization shall ensure that its certification program:

- A. Requires an applicant for certification to:
 1. Obtain training in the subjects listed in R9-7-543(G) or equivalent NRC or Agreement State regulations, and
 2. Satisfactorily complete a written examination that covers these subjects;
- B. Requires an applicant for certification to provide documentation demonstrating that the applicant has:
 1. Received training in the subjects listed in R9-7-543(G) or equivalent NRC or Agreement State regulations;
 2. Satisfactorily completed the on-the-job training required in R9-7-543(A); and
 3. Received verification by an Agreement State or a NRC licensee that the applicant has demonstrated the capability of independently working as a radiographer;
- C. Provides procedures that protect examination questions from disclosure;
- D. Provides procedures for denying certification to an applicant and revoking, suspending, and reinstating a certificate;
- E. Provides a certification period that is not less than three years or more than five years, procedures for renewing certifications and, if the procedures allow renewals without examination, a system for assessing evidence of recent full-time employment and annual refresher training; and
- F. Provides a timely response to inquiries, by telephone or letter, from members of the public, about an individual's certification status.

III. Requirements for a Written Examination

An independent certifying organization shall ensure that its examination:

- A. Is designed to test an individual's knowledge and understanding of the subjects listed in R9-7-543(G);
- B. Is written in a multiple-choice format; and
- C. Has psychometrically valid questions drawn from a question bank and based on the material in R9-7-543(G).

Historical Note

New Article 5, Appendix A recodified from 12 A.A.C. 1, Article 5, Appendix A at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 6. USE OF X-RAYS IN THE HEALING ARTS**R9-7-601. Reserved****Historical Note**

R9-7-601 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-602. Definitions

The following definitions apply in this Article, unless the context otherwise requires:

"Accessible surface" means the external surface of the enclosure or housing provided by the manufacturer.

"Added filter" means the filter added to the inherent filtration.

"Aluminum equivalent" means the thickness of aluminum (type 1100 alloy) that affords equivalent attenuation, under specified conditions, as the material in question. (The nominal chemical composition of type 1100 aluminum alloy is 99.00 percent minimum aluminum, 0.12 percent copper).

"Annual" means annually within two months of the anniversary due date as determined by the original installation date, inspection date, survey date, or a reset date created by conducting a full survey before the anniversary date has arrived.

"Assembler" means any person engaged in the business of assembling, replacing, or installing one or more components into an x-ray system or subsystem.

"Attenuation block" means a block or stack, having dimensions 20 cm by 20 cm by 3.8 cm (7.9 inches by 7.9 inches by 1.5 inches) of type 1100 aluminum alloy or other materials that afford equivalent attenuation.

"Automatic exposure control" means a device that automatically controls one or more technique factors in order to obtain, at a preselected location or locations, a required quantity of radiation.

"Barrier" (See "Protective barrier")

"Beam axis" means a line from the source through the center of the x-ray field.

"Beam-limiting device" means a device that provides a means to restrict the dimensions of the x-ray field.

"C-arm x-ray system" means an x-ray system that has the image receptor and x-ray tube housing assembly connected by a common mechanical support system to maintain a desired spatial relationship. This system is designed to allow a change in the projection of the beam through the patient without a change in the position of the patient.

"Changeable filter" means any filter, exclusive of inherent filtration, which can be removed from the useful beam by an electronic, mechanical, or physical process.

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“Cinefluorography” means fluorography that uses a movie camera to record fluorograph images on film for later playback.

“Coefficient of variation” means the ratio of the standard deviation to the mean value of a population of observations.

“Collimator” means an adjustable device, generally made of lead, that is fixed to an x-ray tube housing to intercept or collimate the useful beam and, if not made of lead, has a lead equivalency of not less than that of the tube housing assembly.

“Compression device” means a device used to bring object structures closer to the image plane of a radiograph and make a part of the human body a more uniform thickness so the optical density of the radiograph will be more uniform.

“Computed tomography” means the production of a tomogram by the acquisition and computer processing of x-ray transmission data. For purposes of these rules this term has the same meaning as “CT.”

“Contact therapy system” means that the x-ray tube port is put in contact with or within 5 centimeters (2 inches) of the surface being treated.

“Control panel” means that part of the x-ray machine where switches, knobs, push-buttons, or other hardware necessary for manually setting the technique factors are located.

“Cooling curve” means the graphical relationship between heat units stored and cooling time.

“CT gantry” means the tube housing assemblies, beam-limiting devices, detectors, and the supporting structure, frame, and cover which hold or enclose these components.

“Dead-man switch” means a switch constructed so that a circuit-closing contact can be maintained only by continuous pressure on the switch by the operator.

“Diagnostic source assembly” means the tube housing assembly with a beam-limiting device attached.

“Diagnostic x-ray system” means an x-ray system designed for irradiation of any part of a human or animal body for the purpose of diagnosis or visualization.

“Direct scattered radiation” means scattered radiation that has been deviated in direction only by materials irradiated by the useful beam (see “Scattered radiation”).

“Electronic brachytherapy” means a method of radiation therapy where an electrically generated source of ionizing radiation is placed in or near the tumor or target tissue to deliver therapeutic radiation dosage.

“Entrance exposure rate” means the roentgens per unit time at the point where the center of the useful beam enters the patient.

“Equipment” (See “X-ray equipment”)

“Filter” means material placed in the useful beam to absorb undesirable radiation.

“Fluoroscopic imaging assembly” means a subsystem in which x-ray photons produce a fluoroscopic image. It includes the image receptor or receptors such as the image intensifier and spot-film device, electrical interlocks, if any, and structural material that provides a linkage between the image receptor and diagnostic source assembly.

“Fluoroscopic system” means a radiographic x-ray system used to directly visualize internal structure, the motion of

internal structures, and fluids in real time, or near real-time, to aid in the treatment or diagnosis of disease, or the performance of other medical procedures.

“Focal spot” means the region of the anode target in an x-ray tube where electrons from the cathode interact to produce x-rays.

“General purpose radiographic x-ray system” means any radiographic x-ray system that, by design, is not limited to radiographic examination of a specific anatomical region.

“Gonadal shield” means a protective barrier for the testes or ovaries.

“Grid” means a device used to improve the image detail in a radiograph by reducing the intensity of x-ray scatter radiation exiting the film side of the patient.

“Half-value layer” or “HVL” means the thickness of a specified material that attenuates the beam of radiation to an exposure rate that is one-half of its original value. In this definition, the contribution of any scattered radiation, other than that which is present initially in the beam, is excluded.

“Healing arts radiography” means the application of x-radiation to human patients for diagnostic or therapeutic purposes by a licensed practitioner or a person certified in accordance with R9-7-603(B)(1), at the direction of a licensed practitioner. Healing arts radiography includes:

Positioning the x-ray beam with respect to the patient,

Anatomical positioning of the patient,

Selecting exposure factors, or

Initiating the exposure.

“Healing arts screening” means the application of radiation from an x-ray machine to a human for the detection or evaluation of health indications when the tests are not specifically and individually ordered by a licensed practitioner.

“Image intensifier” means an electronic device, installed in an x-ray system housing, which instantaneously converts an x-ray pattern into a corresponding light image of higher intensity.

“Image receptor” means any device, such as a fluorescent screen or radiographic film, which transforms incident x-ray photons either into a visible image or into another form which can be made into a visible image by further transformation.

“Inherent filtration” means the filtration of the useful beam by permanently installed components of the tube housing assembly.

“Kilovolts peak” or “kVp” (See “Peak tube potential”)

“Lateral fluoroscope” means the x-ray tube and image receptor combination in a biplane system dedicated to the lateral projection. It consists of the lateral x-ray tube housing assembly and the lateral image receptor that are fixed in position relative to the table with the x-ray beam axis parallel to the plane of the table.

“Lead equivalent” means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.

“Leakage radiation” means all radiation emanating from the tube housing except the useful beam and radiation produced when the exposure switch or timer is not activated.

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“Leakage technique factors” means the technique factors associated with the diagnostic source assembly that are used in measuring leakage radiation. Included are:

For capacitor energy storage equipment, the maximum-rated peak tube potential and the maximum-rated number of exposures in an hour for operation at the maximum-rated peak tube potential with the quantity of charge per exposure being 10 millicoulombs (mAs) or the minimum obtainable from the unit, whichever is larger;

For field emission equipment rated for pulsed operation, the maximum-rated peak tube potential and maximum-rated number of x-ray pulses in an hour for operation at the maximum-rated peak tube potential; and

For all other source assemblies, the maximum-rated peak tube potential and maximum-rated continuous tube current for the maximum-rated peak tube potential.

“mA” means milliampere.

“Mammographic x-ray system” means an x-ray system that is specifically engineered to image human breasts.

“mAs” means milliampere second.

“Mobile equipment” (See “X-ray equipment”)

“Peak tube potential” means the maximum value of the potential difference across the x-ray tube during an exposure.

“Phantom” means a volume of material that behaves in a manner similar to tissue with respect to the attenuation and scattering of radiation. (i.e. “Breast phantom” means an artificial test object that simulates the average composition of, and various structures in the breast.)

“Phototimer” (See “Automatic exposure control”)

“Portable equipment” (See “X-ray equipment”)

“Primary protective barrier” (See “Protective barrier”)

“Protective apron” means an apron made of radiation, absorbing material used to reduce radiation exposure.

“Protective barrier” means a barrier of radiation-absorbing material used to reduce radiation exposure.

“Primary protective barrier” means the material, excluding filters, placed in the useful beam.

“Secondary protective barrier” means the material which attenuates stray radiation.

“Protective glove” means a glove made of radiation- absorbing material used to reduce radiation exposure.

“Radiologic physicist” means an individual who:

Is certified by the American Board of Radiology, American Board of Medical Physics, or the American Board of Health Physics;

Possesses documentation of state approval;

Holds a master’s degree or higher in a physical science; and

Meets the training and certification requirements in R9-7-615(A)(1)(c).

“Scattered radiation” means radiation that, during passage through matter, has been deviated in direction. (See “Direct scattered radiation”)

“Screen” or “intensifying screen” means a device that converts the energy of the x-ray beam into visible light that interacts with the radiographic film, forming a latent image, or contains photostimulable phosphor plates that upon exposure, emit visible or nonvisible light to create an image.

“Secondary protective barrier” (See “Protective barrier”)

“Shutter” (See “Collimator”)

“Source” means the focal spot of the x-ray tube.

“Source-to-image receptor distance” or “SID” means the distance from the source to the center of the input surface of the image receptor.

“Spot check” means an abbreviated calibration procedure which is performed to assure that a previous calibration continues to be valid. Also, a spot film may be taken to improve visualization by arresting motion and to document medical observations. Note that in some cases, a film may not be created.

“Stationary equipment” (See “X-ray equipment”)

“Stray radiation” means the sum of leakage and scattered radiation.

“System” (See “X-ray system”)

“Technique chart” means a tabulation of technique factors.

“Technique factors” means the following conditions of operation:

For capacitor energy storage equipment, peak tube potential in kV and quantity of charge in mAs;

For field emission equipment rated for pulsed operation, peak tube potential in kV, and number of x-ray pulses;

For CT x-ray systems designed for pulsed operation, peak tube potential in kV, scan time in seconds, and either tube current in mA, x-ray pulse width in seconds, and number of x-ray pulses per scan, or the product of tube current, x-ray pulse width, and number of x-ray pulses in mAs;

For CT x-ray systems not designed for pulsed operation, peak tube potential in kV, and either tube current in mA and scan time in seconds, or the product of tube current, exposure time in mAs, when the scan time and exposure time are equivalent; and

For all other equipment, peak tube potential in kV, and either tube current in mA and exposure time in seconds, or the product of tube current and exposure time in mAs.

“Treatment simulator” means a diagnostic x-ray system that duplicates a medical particle accelerator or other teletherapy in terms of its geometrical, mechanical, and optical qualities; the main function of which, is to display radiation treatment fields so that the target volume may be accurately included in the area of irradiation without delivering excess radiation to surrounding normal tissue.

“Tube” means x-ray tube unless otherwise specified.

“Tube housing assembly” means the tube housing with the tube installed. It includes high-voltage or filament transformers and other elements contained within the tube housing.

“Tube rating chart” means the set of curves that specify the rated limits of operation of the tube in terms of the technique factors.

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“Useful beam” means the radiation emanating from the tube housing port or the radiation head and passing through the aperture of the beam-limiting device when the exposure controls are in a mode that causes the system to produce radiation.

“Visible area” means that portion of the input surface on the image receptor over which incident x-ray photons are producing a visible image.

“X-ray equipment” means an x-ray system, subsystem, or component described further by the following terms:

“Hand-held” means x-ray equipment designed to be held by an operator while being used.

“Mobile” means x-ray equipment mounted on a permanent base with wheels or casters for moving while completely assembled.

“Portable” means x-ray equipment designed to be hand-carried, but used with a cord or delayed timer system that allows the operator to be six feet or more away from the useful beam.

“Stationary” means x-ray equipment installed in a fixed location.

“Transportable mobile” means x-ray equipment installed in a vehicle or trailer.

“X-ray system” means an assemblage of components for the controlled production of x-rays. It includes, at minimum, an x-ray high-voltage generator, an x-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components that function with the system are considered integral parts of the system.

“X-ray tube” means any electron tube that is designed for the conversion of electrical energy into x-ray energy. For purposes of the rules contained in 9 A.A.C. 7, this term is synonymous with “tube.”

Historical Note

New Section R9-7-602 recodified from R12-1-602 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-603. Operational Standards, Shielding, and Darkroom Requirements

- A.** A person shall not make, sell, lease, transfer, lend, or install x-ray equipment or the supplies used in connection with the equipment unless the supplies and equipment, when properly placed in operation and properly used, meets the requirements of 9 A.A.C. 7.
- B.** A registrant shall direct the operation of x-ray machines under the registrant’s control and assure that all of the following provisions are met in the operation of x-ray machines:
 1. The registrant shall not permit any individual to engage in the practice of “Healing Arts Radiography” using equipment under the registrant’s control, unless the individual possesses, and displays in the primary employer’s facility, an official certificate issued by, or is exempt from, the Medical Radiologic Technology Board of Examiners that contains an original signature of its Director or designee. A copy of the certificate shall be posted at any secondary employment location with documentation that verifies that the employer has physically seen the official certificate and has annotated on the copy the location where the official certificate may be viewed by Department staff.
 2. The registrant shall maintain records documenting compliance with subsection (B)(1) for each individual practicing

“Healing Arts Radiography” using equipment under the registrant’s control,

3. The registrant shall provide safety rules to each individual operating x-ray equipment under the registrant’s control, including any restrictions in operating procedures necessary for the safe use of the equipment and require that the operator demonstrate familiarity with 9 A.A.C. 7.

C. Shielding

1. Each registrant shall provide each installation with primary and secondary protective barriers that are necessary to assure compliance with 9 A.A.C. 7, Article 4.
2. A registrant shall ensure that attenuation provided by a protective barrier meets or exceeds the level of protection established in Report No. 147 Structural Shielding Design for Medical X-ray Imaging Facilities, November 19, 2004, by the National Council on Radiation Protection and Measurements, (NCRP), NCRP Publications, 7910 Woodmont Ave., Suite 400, Bethesda, MD 20814-3095. This report is incorporated by reference and available under R9-7-101. The incorporated material contains no future editions or amendments. Copies of the report are available from NCRP Publications: online at <http://www.ncrppublications.org>; toll free at (800) 229-2652 (Ext. 25); or e-mail at NCRPpubs@NCRPonline.org. Each registrant shall use this incorporated material to provide sufficient shielding to prevent a public exposure that exceeds the limits in R9-7-416.
3. A registrant shall:
 - a. Mount each lead barrier so that the barrier will not sag or cold flow because of its own weight and protect the barrier from damage;
 - b. Use barriers designed so that joints between different ends of protective material do not impair the overall protection of the barriers;
 - c. Use barriers designed so that joints at the floor and ceiling do not impair the overall protection of the barriers;
 - d. Use windows, window frames, doors, and door frames that have the same lead equivalence required in the adjacent walls; and
 - e. Cover holes in protective barriers so that overall attenuation is not impaired.
4. A registrant shall also meet the structural shielding requirements in R9-7-607(C), if the x-ray system in question is not a mobile fluoroscopic unit, dental panoramic, cephalometric, dental CT, or intraoral radiographic system.

D. Film Processing and Darkroom Requirements. A registrant shall:

1. Ensure that the darkroom is light-tight and use proper safe-lighting such that any film type in use exposed in a cassette to x-ray radiation sufficient to produce an optical density from 1 to 2 when processed shall not suffer an increase in density greater than 0.1 (0.05 for mammography) when exposed in the darkroom for two minutes with all safe-lights illuminated. (A processor with a daylight loader satisfies this requirement.);
2. Ensure that film is stored in a cool, dry place and is protected from radiation exposure; and that film located in open packages is stored in a light-tight container;
3. Ensure that film cassettes and intensifying screens are inspected annually, cleaned, and replaced as necessary;
4. Ensure that film cassettes contain film and intensifying screens that have the same sensitivity;

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5. Ensure that automatic film processors develop film in accordance with time-temperature relationships recommended by the film manufacturer;
 6. Ensure that manually developed film is developed in accordance with the time-temperature relationships recommended by the manufacturer, and that a timer, thermometer, and a time-temperature chart are available and used in the darkroom;
 7. Ensure that film processing solutions are prepared and maintained in accordance with the directions of the manufacturer;
 8. Ensure that outdated film is not used for diagnostic radiographs;
 9. Follow manufacturer's recommendations for cleaning or inspection of computed radiography (CR) cassettes, but not less than annually;
 10. Follow manufacturer's recommendations for preventive maintenance on digital radiography panels or cassettes, but not less than annually; and
 11. Maintain documentation that demonstrates that requirements of this subsection are being met for three years for Department review from the date of inspection.
- a. Exposure of an individual without meeting the required healing art requirements and without a valid directive from a licensed practitioner;
 - b. Exposure of an individual for training, demonstration, or other non-healing arts purpose;
 - c. Exposure of an individual for the purpose of healing arts screening, except as authorized by the Department after submitting to the Department the information listed in Appendix A of this Article. (If any information submitted to the Department changes, the registrant shall immediately notify the Department of the changes.);
 - d. Routinely holding film or a patient during an exposure to x-ray radiation; or
 - e. Exposure of an individual to fluoroscopy as a positioning method for general purpose radiological procedures.
4. All persons who are associated with the operation of an x-ray system are subject to the occupational exposure limits specified in Article 4. Exposure of a personnel monitoring device to deceptively indicate a dose delivered to an individual is prohibited.
 5. The registrant shall check radiation protective equipment for reliability and integrity defects on an annual basis, as follows:
 - a. Aprons, gloves, and shields shall be checked for holes, tears, and breaks.
 - b. If defects are found in the equipment, the registrant shall replace or remove it from service. Equipment removed from service shall not be put back into service until it is repaired.
 - c. A record of the annual reliability and integrity check and any equipment replacement shall be maintained for three years.

Historical Note

New Section R9-7-603 recodified from R12-1-603 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-604. General Procedures

- A.** Each registrant shall ensure the following procedural requirements are met in the operation of x-ray equipment:
1. An x-ray machine which does not meet the provisions of this Chapter shall not be operated for diagnostic or therapeutic purposes, unless specifically exempted by the Department.
 2. Except for patients who cannot be moved out of the room, only the individuals required for the radiological procedure or in training may be present in the room during radiographic exposure, and all the following requirements apply:
 - a. All individuals shall be positioned such that no part of the body, including the extremities not protected by 0.5 mm lead equivalent, will be struck by the useful beam.
 - b. Staff and ancillary personnel shall be protected from the direct scatter radiation by protective aprons or whole body protective barriers of not less than 0.25 mm lead equivalent.
 - c. Individuals, other than the patient to be examined, who cannot be removed from the room during mobile or portable radiography shall be protected from the direct scatter radiation by whole body protective barriers of 0.25 millimeters lead equivalent or shall be so positioned that the nearest portion of the body is at least 2 meters (6.5 feet) from both the tube head and the nearest edge of the image receptor.
 - d. If a portion of the body of any staff or ancillary personnel is potentially subjected to stray radiation that could result in that individual receiving 10 percent of the maximum permissible dose as defined in Article 4 of this Chapter, the registrant shall provide additional protective devices as specified by the Department.
 3. An individual shall not be exposed to the useful beam except for a healing arts purpose authorized by a licensed practitioner of the healing arts. The following acts are prohibited:

- B.** The registrant shall maintain the following records for each x-ray machine:
1. Survey, calibration, maintenance, and modification records regarding the x-ray machine or room, which include the name of the person who performed the service; and
 2. Correspondence with the Department regarding the x-ray machine facility.

Historical Note

New Section R9-7-604 recodified from R12-1-604 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-605. X-ray Machine Standards

- A.** A registrant shall prevent leakage radiation from the diagnostic source assembly measured at a distance of 1 meter in any direction from the source assembly from exceeding 25.8 $\mu\text{C/kg}$ (100 milliroentgens) in one hour when the x-ray tube is operated at its leakage technique factors. The Department shall determine compliance by obtaining measurements averaged over an area of 100 square centimeters (15.5 square inches) with no linear dimension greater than 20 centimeters (7.9 inches).
- B.** The registrant shall prevent radiation emitted by a component other than the diagnostic source assembly from exceeding 516 nC/kg (2 milliroentgens) in one hour at 5 centimeters from any accessible surface of the component when it is operated in an assembled x-ray system under any conditions for which it was designed. The Department shall determine compliance by obtaining measurements averaged over an area of 100 square centimeters (15.5 square inches) with no linear dimension greater than 20 centimeters (7.9 inches).
- C.** Beam quality.

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1. The registrant shall prevent the useful beam half-value layer (HVL) for diagnostic x-ray given x-ray tube potential from falling below the values shown in Table I. If it is necessary to determine the HVL at an x-ray tube potential that is not listed in Table I, the registrant shall use linear interpolation or extrapolation to make the determination.

Table I

| Design operating range (kilovolts peak) | Measured potential (kilovolts peak) | HVL (millimeters of aluminum) Dental Intraoral Units manufactured after December 1, 1980 | Medical X-ray Units manufactured before June 10, 2006 and Dental Intraoral Units manufactured on or before December 1, 1980 | Medical X-ray Units manufactured on or after June 10, 2006 |
|-----------------------------------------|-------------------------------------|---------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------|
| Below 51 | 30 | 1.5 | 0.3 | 0.3 |
| | 40 | 1.5 | 0.4 | 0.4 |
| | 50 | 1.5 | 0.5 | 0.5 |
| 51 to 70 | 51 | 1.5 | 1.2 | 1.3 |
| | 60 | 1.5 | 1.3 | 1.5 |
| | 70 | 1.5 | 1.5 | 1.8 |
| Above 70 | 71 | 2.1 | 2.1 | 2.5 |
| | 80 | 2.3 | 2.3 | 2.9 |
| | 90 | 2.5 | 2.5 | 3.2 |
| | 100 | 2.7 | 2.7 | 3.6 |
| | 110 | 3.0 | 3.0 | 3.9 |
| | 120 | 3.2 | 3.2 | 4.3 |
| | 130 | 3.5 | 3.5 | 4.7 |
| | 140 | 3.8 | 3.8 | 5.0 |
| | 150 | 4.1 | 4.1 | 5.4 |

2. If the registrant demonstrates that the aluminum equivalent of the total filtration in the primary beam is not less than that shown in Table II, the registrant is considered to have met the criteria in subsection (C)(1).

Table II - Filtration Required vs. Operating Voltage

| Operating Voltage (kVp) | Total Filtration (inherent plus added) (millimeters aluminum equivalent) |
|-------------------------|--------------------------------------------------------------------------------|
| Below 51 | 0.5 millimeters |
| 51 - 70 | 1.5 millimeters |
| Above 70 | 2.5 millimeters |

3. The registrant shall use beryllium window tubes that have a minimum of 0.5 millimeters aluminum equivalent filtration permanently mounted in the useful beam.
4. For capacitor energy storage equipment, the Department shall determine compliance with the maximum quantity of charge per exposure.
5. When determining the minimum aluminum equivalent filtration, the registrant shall include the filtration contributed by all materials that are always present between the focal spot of the tube and the patient (for example, a tabletop when the tube is mounted "under the table" and inherent filtration of the tube).
- D. Multiple tubes.** If two or more radiographic tubes are controlled by one exposure switch, the operator shall clearly indicate which tube or tubes have been selected before initiation of the exposure, activating one light on the x-ray control panel and a second light at or near the tube housing assembly, each indicating the tube or tubes that have been selected.
- E. Mechanical support of tube head.** The registrant shall adjust the tube housing assembly supports so that the tube housing assembly will remain stable during an exposure, unless the tube housing movement is a designed function of the x-ray system.
- F. Exposure reproducibility.** The coefficient of variation shall not exceed 0.10 when all technique factors are held constant. This requirement is satisfied if the value of the average exposure (E) is greater than or equal to five times the difference between the maximum exposure (E_{max}) and minimum exposure (E_{min}) when four exposures are made at identical technique factors, $[E \geq 5(E_{\max} - E_{\min})]$.
- G. Accuracy deviation.** A registrant shall not use an x-ray machine if the measured technique factors for kVp and time duration are not within the limits specified by the manufacturer. In the absence of the manufacturer's specifications, a registrant shall not use an x-ray machine if the measured kVp is not within 10 percent of the indicated kVp value and the measured time duration is not within 20 percent of the indicated time.

Historical Note

New Section R9-7-605, including Tables I and II, recodified from R12-1-605, Tables I and II, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-606. Fluoroscopic and Fluoroscopic Treatment Simulator Systems

- A. Useful beam limitation.** A registrant shall:
1. Provide beam-limiting devices that restrict the entire cross section of the useful beam to less than the area of the primary barrier at any Source-to-Image Receptor Distance (SID);

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2. Ensure that the x-ray field size produced by fluoroscopic systems without image intensification does not extend beyond the visible area of the image receptor at any SID;
 3. Ensure that the x-ray field size produced by fluoroscopic systems with image intensification and automatic shutter control does not exceed the diameter of the image receptor at any SID;
 4. Ensure that the x-ray field size produced by fluoroscopic systems with image intensification and manual shutter control does not exceed the diameter of the image receptor with the fluoroscopic imaging assembly positioned at the maximum usable distance above the table top; and
 5. Ensure that the x-ray field size produced by fluoroscopic systems with image intensification and manual shutter control, where the fluoroscopic tube is above the table top, does not exceed the diameter of the image receptor with the shutters open to the fullest extent, and at the maximum SID which the fluoroscopic tube is capable of producing radiation.
- B. Fluoroscopic primary protective barrier.** A registrant shall:
1. Provide the fluoroscopic imaging assembly with a primary protective barrier that always intercepts the entire cross section of the useful beam at any SID.
 2. Ensure that the fluoroscopic tube is not capable of producing radiation unless the primary protective barrier is in a position to intercept the entire cross section of the useful beam.
 3. Ensure that fluoroscopic radiation production automatically terminates if the primary protective barrier is removed from the useful beam.
 4. Ensure that the fluoroscopic primary protective barrier meets the following requirements for attenuation of the useful beam:
 - a. For equipment installed before November 15, 1967, the required lead equivalent of the barrier is not less than 1.5 millimeters for fluoroscopes that produce less than 100 kVp, 1.8 millimeters for fluoroscopes that produce at least 100 kVp but less than 125 kVp, and 2.0 millimeters for fluoroscopes that produce 125 or more kVp. (For conventional fluoroscopes, these requirements may be assumed to have been met if the exposure rate measured at the viewing surface of the fluorescent screen does not exceed 12.9 microcoulombs per kilogram (50 milliroentgens) per hour with the screen in the primary beam of the fluoroscope without a patient, under normal operating conditions.) For equipment installed or reinstalled, the required lead equivalent of the barrier is 2.0 millimeters for fluoroscopes that produce less than 125 kVp or 2.7 millimeters for fluoroscopes that produce 125 or more kVp.
 - b. For fluoroscopic systems that use image intensification, the exposure rate, due to transmission through the primary protective barrier, does not exceed 516 nC/kg (2 milliroentgens) per hour at 10 centimeters (4 inches) from any accessible surface of the fluoroscopic imaging assembly, beyond the plane of the image receptor for each 258 μ C/kg (1 roentgen) per minute of entrance exposure rate.
 - c. Compliance with subsections (B)(4)(a) and (b) is determined with the image receptor positioned 35.5 centimeters (14 inches) from the panel or table top, at normal operating technical factors and with the attenuation block in the useful beam for systems with image intensification.
- C. Entrance exposure rate limits.** A registrant shall ensure that:
1. The exposure rate, measured at the point where the center of the useful beam enters the patient does not exceed 2.6 mC/kg (10 roentgens) per minute at any combination of tube potential and current, except during recording of fluoroscopic images or if provided with optional high-level control.
 2. If provided with optional high-level control, the equipment is not operable at any combination of tube potential and current that will result in an exposure rate in excess of 2.6 mC/kg (10 roentgens) per minute at the point where the center of the useful beam enters the patient, unless the high-level control is activated, in which case an exposure rate in excess of 5.2 mC/kg (20 roentgens) per minute is prohibited.
 - a. Special means of activation of high-level controls, such as additional pressure applied continuously by the operator, are required to avoid accidental use.
 - b. A continuous signal audible to the fluoroscopist is required to indicate that the high-level control is being employed.
 3. The Department shall determine compliance with subsections (C)(1) and (2) as follows:
 - a. Remove grids and compression devices from the useful beam during the measurement;
 - b. If the source is below the table, measure the exposure rate 1 centimeter above the table top or cradle; and
 - c. If the source is above the table, measure the exposure rate 30 centimeters (11.8 inches) above the table top with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement;
 - d. For fluoroscopy involving a mobile C-arm x-ray system, measure the exposure rate 30 centimeters (11.8 inches) from the input surface of the fluoroscopic imaging assembly;
 - e. For fluoroscopy involving a C-arm x-ray system, measure the exposure rate 30 centimeters (11.8 inches) from the input surface of the fluoroscope imaging assembly, with the x-ray source positioned at any available SID, provided that the end of the beam-limiting device or spacer is not closer than 30 centimeters (11.8 inches) from the input surface of the fluoroscopic image assembly; and
 - f. For a lateral fluoroscope, measure the exposure rate 15 centimeters (5.9 inches) from the centerline of the x-ray table and in the direction of the x-ray source with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement. If the tabletop is movable, it shall be positioned as closely as possible to the lateral x-ray source, with the end of the beam-limiting device or spacer no closer than 15 centimeters (5.9 inches) to the centerline of the x-ray table.
- D.** The registrant shall ensure that the source-to-skin distance is not less than:
1. 38 centimeters (15 inches) on stationary fluoroscopes installed after January 2, 1996;
 2. 35.5 centimeters (14 inches) on stationary fluoroscopes which are in operation before January 2, 1996;
 3. 30 centimeters (11.8 inches) on all mobile fluoroscopes; and
 4. 20 centimeters (8 inches) for image-intensified fluoroscopes used for a specific surgical application. The registrant shall follow any precautionary measures in the users operating manual.

C. Entrance exposure rate limits. A registrant shall ensure that:

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- E. Each fluoroscopic system installation is subject to all of the following requirements for the control of stray radiation. A registrant shall:
1. Provide a shielding device of at least 0.25 millimeter lead equivalent for covering the Bucky-slot during fluoroscopy;
 2. Except for fluoroscopy performed using portable or mobile C-arm x-ray systems or during surgical procedures or cardiac catheterization, provide protective drapes, or hinged or sliding panels of at least 0.25 millimeters lead equivalent, between the patient and fluoroscopist to intercept scattered radiation that would otherwise reach the fluoroscopist and others near the machine, but not substitute drapes and panels for a protective apron; and
 3. Ensure that protective aprons of at least 0.25 millimeter lead equivalent are worn in the fluoroscopy room by each person, except the patient, whose body is likely to be exposed to 50 μ Sv/hr (5 mR/hr) or more.
- F. Exposure control. A registrant shall:
1. Ensure that activation of the fluoroscopic tube is controlled by a "dead-man" switch;
 2. Provide a manual reset cumulative timing device, which is activated only during production of radiation in the fluoroscopic mode, to indicate elapsed time by an audible signal or terminate production of radiation;
 3. Provide a device for exposure control in the "spot film" mode that terminates exposure either automatically, or after a preset time interval, preset number of pulses, preset product of current and time, or preset exposure; and
 4. Ensure that the x-ray tube potential and current are continuously indicated.
- G. A registrant shall provide systems used for mobile fluoroscopy with image intensification.
- H. Fluoroscopic treatment simulators. Simulators are exempt from subsections (A) through (G). A registrant shall:
1. Use a beam limiting device that restricts the beam to the area of clinical interest.
 2. Include and label devices for settings or physical factors, such as kVp, mA, or exposure time on the control panel;
 3. Ensure that the fluoroscopic exposure switch or switches are of the "deadman" type;
 4. Ensure that each person whose presence is necessary is in the simulator room during exposure and protected with a lead apron of at least 0.5 millimeter lead equivalent or a portable shield. Any person who places their hands in the useful x-ray beam shall wear leaded gloves; and
 5. Ensure that the operator stands behind a barrier and is able to observe the patient during simulator exposures.
- Historical Note**
- New Section R9-7-606 recodified from R12-1-606 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-607. Additional X-ray Machine Standards, Shielding Requirements, and Procedures, Except Mobile Fluoroscopic, Dental Panoramic, Cephalometric, Dental CT, or Dental Intra-oral Radiographic Systems**
- A. Useful beam limitation. A registrant shall:
1. Provide a means to restrict the useful beam to the area of clinical interest for any combination of SID and image receptor size employed.
 2. Ensure that beam-limiting devices meet the following requirements:
 - a. Devices that project a circular radiation field restrict the diameter of the useful beam, not to exceed the diagonal dimension of the image receptor by greater than 2 percent of the SID;
 - b. Devices that project a rectangular or square radiation field restrict the useful beam to the longitudinal and transverse dimensions of the image receptor to within 2 percent of the SID;
 - c. Beam limiting devices that do not incorporate light beams to define the projected radiation field are clearly labeled, indicating the SID and image receptor size at which each device complies with the applicable requirements of subsection (A)(2)(a) or (b);
 - d. Adjustable beam-limiting devices installed after July 31, 1971, incorporate light beams to define the projected dimensions of the useful beam and provide an average illumination of not less than 100 lux (9 foot-candles) at 1 meter (3.3 feet) or at the maximum SID, whichever is less. The average illumination shall be based upon measurements made in the approximate center of each quadrant of the light field; and
 - e. All beam-limiting devices installed, on general purpose fixed and mobile radiographic systems, provide stepless means of continuous adjustment of the projected radiation field size.
3. Provide a means to align the center of the radiation field to the center of the image receptor to within 2 percent of the SID.
- B. Radiation exposure control. A registrant shall:
1. Provide a means to terminate the exposure at a preset time interval, preset product of current and time, preset number of pulses, or a preset exposure to the image receptor. The registrant shall ensure that it is not possible to make an exposure when the exposure control device is set to a "zero" or "off" position if either position is provided.
 2. Ensure that the exposure switch is a "dead-man" switch, and except for those used with "spot-film" devices in fluoroscopy, is arranged so that it cannot be conveniently operated outside a shielded area.
 3. Provide x-ray systems with automatic exposure control, which indicates at the control panel when this mode is selected, and a visual and audible signal, which indicates termination of the exposure.
 4. Use a control panel that includes:
 - a. A device (usually a milliamp meter) that will give a positive indication during radiation production; and
 - b. Control setting indicators or meters that indicate the appropriate technical factors: kVp, mAs, mA, or exposure time, and any special mode selected for the exposure.
- C. Structural shielding. A registrant shall:
1. Ensure that all wall, floor and ceiling areas struck by the useful beam have primary protective barriers. Primary protective barriers in walls shall extend from the finished floor to a minimum height of 2.13 meters (7 feet);
 2. Ensure that secondary protective barriers are provided in all wall, floor, and ceiling areas that do not have primary protective barriers or where the primary protective barrier requirements are lower than the secondary barrier requirements;
 3. Ensure that the operator's station is behind a protective barrier sufficient to ensure compliance with R9-7-408, R9-7-414, and R9-7-416, and the operator is able to communicate with the patient from the operator's station.

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4. Provide a window of transparent material equal in attenuation to that required by the adjacent barrier, or a mirror system, that is large enough and placed so that the operator can see the patient during exposure without having to leave the protected area.

D. Operating procedures. A registrant shall:

1. Use mechanical supporting or restraining devices, if a patient must be held in position for radiography. If the patient must be held by an individual, the registrant shall ensure that the individual is protected with appropriate shielding devices, such as protective gloves and apron, and is positioned so that no part of the body of the individual holding the patient is struck by the useful beam;
2. Ensure that only individuals required for the radiographic procedure are in the radiographic room during exposure, and, except for the patient, all these individuals are equipped with protective devices;
3. Restrict the useful beam to the clinical area of interest;
4. Provide a chart in the vicinity of the diagnostic x-ray system's control panel that specifies, for all routine examinations performed with the system, the following information:
 - a. Patient's anatomical size and technique factors;
 - b. Type and size of the film or film screen combination;
 - c. Type and focal distance of the grid, if any;
 - d. X-ray source-to-image receptor distance; and
 - e. Type and location of gonad shielding.
5. Provide documentation of the following items:
 - a. The patient's identity;
 - b. The x-ray examination, as recorded in a radiographic log;
 - c. The date the examination is performed;
 - d. The number of projections (if applicable), or on-time, or dose factors depending upon the unit; and
 - e. A method of identifying the individual who performed the examination.
6. The registrant shall maintain in chronological order, the documentation required in subsection (D)(5) in written or readily available electronic form. The documentation shall be maintained for three years from the date the examination is performed.

Historical Note

New Section R9-7-607 recodified from R12-1-607 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-608. Mobile Diagnostic Radiographic and Mobile Fluoroscopic Systems, Except Dental Panoramic, Cephalometric, Dental CT, or Dental Intraoral Radiographic Systems**A. Equipment**

1. All requirements of R9-7-607(A) and (B) apply.
2. For mobile radiographic units the registrant shall provide a "dead-man" switch, together with an electrical cord of sufficient length so that the operator can stand out of the useful beam and at least 1.82 meters (6 feet) from the patient during all x-ray exposures.
3. A registrant shall ensure that a cone, spacer frame, or inherent provision is made so that the equipment is not operated at source-skin distances of less than 20.3 centimeters (8 inches).

B. Structural shielding. If a mobile unit is used routinely in one location, it is considered a fixed installation subject to the shielding requirements in R9-7-603(C), and R9-7-607(C).**C. Operating procedures**

1. All provisions of R9-7-607(D) apply.

2. An individual who operates a mobile x-ray system shall comply with R9-7-419(B).

Historical Note

New Section R9-7-608 recodified from R12-1-608 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-609. Chest Photofluorographic Systems

Use of chest photofluorographic systems for diagnosis of human disease is prohibited.

Historical Note

New Section R9-7-609 recodified from R12-1-609 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-610. Dental Intraoral Radiographic Systems**A. Equipment.** A registrant shall:

1. Use a protective tube housing of diagnostic type;
2. Use diaphragms or cones for restricting the useful beam and to provide the same degree of protection as the housing. The diameter of the useful beam at the end of the cone or spacer frame shall not be more than 7.6 centimeters (3 inches) for intraoral radiography;
3. Ensure that a cone or spacer frame provides a source-to-skin distance of not less than 17.8 centimeters (7 inches) with apparatus operating above 50 kVp or 10 centimeters (4 inches) with apparatus operating at 50 kVp or below for intraoral radiography;
4. Provide a timer to terminate the exposure at a preset time interval, a preset product of current and time, a preset number of pulses, or a preset radiation exposure to the image receptor;
5. Ensure that it is not possible to make an exposure if the timer is set to the "zero" or "off" position;
6. Ensure that the tube head remains stationary if placed in the exposure position;
7. Ensure that the exposure initiating device is a "dead-man" switch;
8. Use a control panel that includes:
 - a. A means to provide visual or audible indication, detectable at or from the operator's position, during x-ray production or exposure termination; and
 - b. Indication of technique factors for kVp, mA, exposure time, and any special mode that may be selected for the exposure;
9. Use technique factors, where deviation of measured values from indicated values for kVp and exposure time do not exceed the limits specified by the manufacturer. In the absence of the manufacturer's specifications, the deviation shall not exceed plus or minus 10 percent of the indicated value for kVp and plus or minus 20 percent for exposure time duration;
10. For a digital system that uses an electronic sensor, use digital radiography techniques that permit reducing x-ray beam on-time to 25 percent of the exposure time required for "D" speed film or lower, reducing radiation to the patient by the same rate; and
11. For a computed radiography (imaging plate (IP) made of photostimulable phosphor) system that uses an imaging plate, use radiography techniques that permit reducing x-ray beam on-time to 50 percent of the exposure time required for "D" speed film or lower, reducing radiation to the patient by the same rate.

B. Structural shielding. The registrant shall:

1. Provide dental installations with primary and secondary barriers to ensure compliance with the personnel exposure requirements in Article 4 of this Chapter; (Note: In many cases, structural materials of ordinary walls suffice

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as a protective barrier without addition of special shielding material.)

2. Install primary protective barriers between rooms or areas if dental x-ray units are used in adjacent rooms or areas;
3. Provide each installation with a protective barrier for the operator or arrange the installation so that the operator can stand at least 1.82 meters (6 feet) from the patient and well away from the useful beam;
4. Arrange the operator's position to allow visual contact with the patient during exposure; and
5. Comply with fixed installation requirements, if a mobile unit is used routinely in one location.

C. Operating procedures

1. A dentist or other persons shall not hold patients or films during exposure. Only persons required for the radiographic procedure are allowed in the radiographic room during exposures.
2. An operator shall stand at least 1.82 meters (6 feet) from the patient or behind a protective barrier during each exposure.
3. An operator shall ensure that only the patient is in the useful beam.
4. The licensed practitioner or other person shall not hold the tube housing or the cone during the exposure.
5. A registrant shall not perform dental fluoroscopy without an image intensifier.

Historical Note

New Section R9-7-610 recodified from R12-1-610 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-610.01. Hand-held Intraoral Dental Radiographic Unit Requirements For Use

- A. Registrants are subject to the following requirements for Intraoral dental radiographic units designed to be operated as a hand-held unit:
 1. For all uses:
 - a. Operators of hand-held intraoral dental radiographic units shall be specifically trained to operate such equipment.
 - b. A hand-held intraoral dental radiographic unit shall be held without any motion during a patient examination. A tube stand may be utilized to immobilize a hand-held intraoral dental radiographic unit during patient examination.
 - c. The operator shall ensure there are no bystanders within a radius of at least six feet from the patient being examined with a hand-held intraoral radiographic unit.
 2. Additional requirements for operatories in permanent facilities:
 - a. Hand-held intraoral dental radiographic units shall be used for patient examinations in dental operatories that meet the structural shielding requirements specified by the Department or by a qualified health or medical physicist.
 - b. Hand-held intraoral dental radiographic units shall not be used for patient examinations in hallways and waiting rooms.
- B. Hand-held units may only be used in a manner as specified on the registration issued by the Department.

Historical Note

New Section R9-7-610.01 recodified from R12-1-610.01 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-611. Therapeutic X-ray Systems of Less Than 1 MeV

A. Equipment requirements.

1. Leakage radiation. When the x-ray tube is operated at its maximum rated tube current for the maximum kVp, the leakage air kerma rate shall not exceed the value specified at the distance specified for that classification of therapeutic radiation machine. For each therapeutic radiation machine, the registrant shall determine, or obtain from the manufacturer, the leakage radiation existing at the positions specified:
 - a. 5-50 kVp Systems. The leakage air kerma rate measured at any position 5 centimeters from the tube housing assembly shall not exceed 1 mGy (100 mrad) in any one hour.
 - b. Greater than 50 kVp and less than 1MeV Systems. The leakage air kerma rate measured at a distance of 1 meter from the target in any direction shall not exceed 1 centigray (1 rad) in any 1 hour. This air kerma rate measurement may be averaged over areas no larger than 100 square centimeters (100 cm²). In addition, the air kerma rate at a distance of 5 centimeters from the surface of the tube housing assembly shall not exceed 30 centigray (30 rad) per hour.
2. Permanent beam limiting devices. A registrant shall ensure that fixed diaphragms or cones used for limiting the useful beam provide the same or higher degree of attenuation as required for the tube housing assembly.
3. Removable and adjustable beam-limiting devices. A registrant shall ensure that:
 - a. Removable and adjustable beam-limiting devices, for the portion of the useful beam to be blocked by these devices, transmit not more than 1 percent of the original x-ray beam at the maximum kilovoltage and maximum treatment filter; and
 - b. When adjustable beam limiting devices are used, the position and shape of the radiation field shall be indicated by a light beam.
4. Filter system. A registrant shall ensure that the filter system is designed so that:
 - a. Filters cannot be accidentally displaced from the useful beam at any possible tube orientation;
 - b. For equipment installed after January 1, 2011, an interlock system prevents irradiation if the proper filter is not in place;
 - c. The air kerma rate escaping from the filter slot shall not exceed 1 centigray (1 rad) per hour at one (1) meter under any operating conditions; and
 - d. Each filter is marked regarding its material of construction and its thickness or wedge angle for wedge filters.
5. X-ray tube immobilization. A registrant shall ensure that the tube housing assembly is capable of being immobilized during stationary treatments and the x-ray tube shall be so mounted that it cannot accidentally turn or slide with respect to the housing aperture.
6. Focal spot marking. A registrant shall ensure that the tube housing assembly is marked so that it is possible to determine the location of the focal spot to within 5 millimeters, and the marking is readily accessible for use during calibration procedures.
7. Therapy treatment timers. A registrant shall:
 - a. Provide a timer that has a display at the treatment control panel. The timer shall have a preset time selector and an elapsed time indicator;
 - b. Ensure that the timer is a cumulative timer that activates with the radiation, retains its reading after irradiation is interrupted or terminated, and requires the operator to reset the preset time selector after irradiation.

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- ation is terminated and before irradiation can be reinitiated;
- c. Ensure that the timer terminates irradiation when a preselected time has elapsed;
 - d. Ensure that the timer permits accurate presetting and determination of exposure times as short as one second;
 - e. Ensure that the timer does not permit an exposure if set at zero; and
 - f. Ensure that the timer does not activate until the shutter is opened if irradiation is controlled by a shutter mechanism.
8. Control panel functions. In addition to the displays required in other provisions of this Section, a registrant shall ensure that a control panel has:
 - a. An indication of whether electrical power is available at the control panel and if activation of the x-ray tube is possible;
 - b. An indication of whether x-rays are being produced;
 - c. A means for indicating kVp and x-ray tube current;
 - d. A means for terminating an exposure at any time;
 - e. A locking device that will prevent unauthorized use of the x-ray system; and
 - f. For x-ray equipment installed after January 2, 1996, a positive display of specific filters in the beam.
 9. Multiple tubes. If one control panel is used to energize more than one x-ray tube a registrant shall ensure that:
 - a. It is possible to activate only one x-ray tube during any time interval,
 - b. There is an indication at the control panel that identifies which x-ray tube is energized, and
 - c. There is an indication at the tube housing assembly when that tube is energized.
 10. Source-to-patient distance. A registrant shall ensure that there is a means of determining the source-to-patient distance to within 1 centimeter.
 11. Shutters. Unless it is possible to bring the x-ray output to the prescribed exposure parameters within five seconds, a registrant shall ensure that the entire useful beam is automatically attenuated by a shutter with a lead equivalency not less than that of the tube housing assembly. In addition the registrant shall ensure that:
 - a. After the unit is at operating parameters, the operator controls the shutter electrically from the control panel; and
 - b. An indication of shutter position appears at the control panel.
 12. Low filtration x-ray tubes. A registrant shall ensure that each x-ray system equipped with a beryllium or other low-filtration window is clearly labeled as low-filtration equipment on the tube housing assembly and at the control panel.
- B. Facility design requirements.** In addition to shielding necessary to meet the requirements of Article 4 of this Chapter, a registrant shall ensure that:
1. Warning lights. A treatment room to which access is possible through more than one entrance has a warning light, in a readily observable position near the outside of any access doors, which will indicate when the useful beam is "on."
 2. Voice communication. Two-way oral communication is possible between the patient and the operator at the control panel; or where excessive noise levels make oral communication impractical, another effective method of communication.
 3. Viewing systems. Windows, mirrors, closed-circuit television, or an equivalent system, permits continuous observation of the patient during irradiation and is located so that the operator can observe the patient from the control panel. If the primary viewing system is by electronic means (for example, television), the registrant shall have an alternate viewing system for use in the event of electronic failure.
 4. Systems above 150 kVp. For treatment rooms that contain an x-ray system capable of operating above 150 kVp a registrant shall ensure that:
 - a. All necessary shielding, except for any beam interceptor, is provided by fixed barriers;
 - b. The control panel is within a protective booth equipped with an interlocked door, or located outside the treatment rooms;
 - c. All doors of the treatment room are electrically connected to the control panel so that x-ray production cannot occur unless all doors are closed; and
 - d. Opening of any door to the treatment room during exposure results in automatic termination of x-ray production or reduction of radiation levels to an average of no more than 516 nC/kg (2 milliroentgens) per hour and a maximum of 2.6 μ C/kg (10 milliroentgens) per hour at a distance of 1 meter (3.3 feet) from the target in any direction, and restoration of the machine to full operation is possible only from the control panel after the termination or reduction.
- C. Surveys.** A registrant shall ensure that:
1. All facilities, both new and existing, or not previously surveyed, are surveyed before being put into service for the treatment of patients by, or under the direction of, a person trained and experienced in the principles of radiation protection, and perform additional surveys of a facility after any change in the facility or a facility's equipment that might cause a significant increase in radiation hazard, before being put into service for the treatment of patients.
 2. The person conducting the survey reports the survey findings in writing to the individual in charge of the facility and maintains a copy of the survey report for inspection by the Department.
 3. The installation is operated in compliance with any limitations indicated by the protection survey required by subsection (C)(1).
- D. Calibrations.** A registrant shall ensure that:
1. The calibration of a therapeutic x-ray system includes, but is not limited to, the following determinations:
 - a. Verification that the x-ray system is operating in compliance with the design specifications;
 - b. The dose rate equivalent for each combination of field size, technique factors, filter, and treatment distance used;
 - c. The degree of congruence between the radiation field and the field indicated by the localizing device if a localizing device is used; and
 - d. An evaluation of the uniformity of the radiation field symmetry for the field sizes used and any dependence upon source housing assembly orientation;
 2. The calibration of an x-ray system is performed at intervals not to exceed annually and after any change or replacement of components that could cause a change in the radiation output;
 3. The calibration of the radiation output of the x-ray system is performed by, or under the direction of, a person

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- trained and experienced in performing calibrations, who is physically present at the facility during calibration;
4. Calibration of the radiation output of an x-ray system is performed with a calibrated instrument. The registrant shall ensure that calibration of the instrument is directly traceable to the National Institute of Standards and Technology (NIST) and that the instrument has been calibrated within the preceding 24 months;
 5. Records of calibration performed under subsection (D)(3) are maintained for at least three years after completion of the calibration and are made available for inspection by the Department; and
 6. A copy of the most recent calibration is available for use by the operator at the control panel.
- E.** Spot checks. A registrant shall ensure that spot checks are performed on therapeutic x-ray systems capable of operation at greater than 150 kVp. The registrant shall ensure that spot checks meet the following requirements:
1. The spot-check procedures are in writing and have been developed by a qualified expert;
 2. The measurements taken during the spot checks demonstrate the degree of consistency of the operating characteristics that can affect the radiation output of the x-ray system;
 3. The written spot-check procedure specifies the frequency of the tests or measurements, made at intervals not to exceed monthly;
 4. The spot-check procedure identifies conditions that require recalibration of the system in accordance with subsection (D)(1); and
 5. Records of spot-check measurements performed as required by subsection (E)(3) are maintained, available for inspection by the Department, for three years following the measurements.
- F.** Operating procedures. A registrant shall ensure that:
1. Therapeutic x-ray systems are not left unattended unless the system is secured according to subsection (A)(8)(e);
 2. If a patient must be held in position for radiation therapy, mechanical supporting or restraining devices are used;
 3. The tube housing assembly is not held by an individual during exposures; and
 4. At 150 kVp or more the patient is the only person in the treatment room during production of radiation. At less than 150 kVp an individual may be in the room with patient, provided the individual is protected by a barrier sufficient to meet the requirements of Article 4 of this Chapter.
- G.** Electronic Brachytherapy units are exempt from the requirements of this Section.
- Historical Note**
- New Section R9-7-611 recodified from R12-1-611 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-611.01. Electronic Brachytherapy to Deliver Interstitial and Intracavitary Therapeutic Radiation Dosage**
- A.** Electronic brachytherapy devices used to deliver interstitial and intracavitary therapeutic radiation dosage shall be subject to the requirements of this Section, and unless otherwise specified in this Section shall be exempt from the requirements of R9-7-611.
1. An electronic brachytherapy device that does not meet the requirements of this Section shall not be used for irradiation of patients; and
 2. An electronic brachytherapy device shall only be utilized for human use applications specifically approved by the U.S. Food and Drug Administration (FDA), unless participating in a research study approved by the registrant's Institutional Review Board (IRB).
- B.** Each facility location authorized to use an electronic brachytherapy device in accordance with this Section shall possess appropriately calibrated portable monitoring equipment. At a minimum, such equipment shall include a portable survey instrument capable of measuring dose rates over the range 10 μ Sv (1 mrem) per hour to 10 mSv (1000 mrem) per hour. The survey instrument shall be capable of measuring as low as 10 μ Sv (1 mrem) per hour in the energy range of the electronic brachytherapy unit for which the survey instrument is to be used. Published correction factors utilized in conjunction with the instrument's readings may be used to achieve sensitivity. The survey instrument or instruments shall be operable and calibrated before first use, at intervals not to exceed 12 months, and after survey instrument repairs.
- C.** Facility Design Requirements for Electronic Brachytherapy Devices. In addition to shielding adequate to meet requirements of R9-7-603(C), the treatment room shall meet the following design requirements:
1. If applicable, provision shall be made to prevent simultaneous operation of more than one therapeutic radiation machine in a treatment room.
 2. Access to the treatment room shall be controlled by a door at each entrance.
 3. Each treatment room shall have provisions to permit continuous oral communication and visual observation of the patient from the treatment control panel during irradiation. The electronic brachytherapy device shall not be used for patient irradiation unless the patient can be observed.
 4. For electronic brachytherapy devices capable of operating below 150 kVp, radiation shielding for the staff in the treatment room may be available, either as a portable shield or as localized shielded material around the treatment site or both, in lieu of the requirements for room shielding. The shielding shall meet the requirements of R9-7-603(C).
 5. For electronic brachytherapy devices capable of operating at or greater than 150 kVp, the facility must meet the requirements of R9-7-611(B)(4).
- D.** Control Panel Functions. The control panel, in addition to the displays required by other provisions in this Section, shall:
1. Provide an indication of whether electrical power is available at the control panel and if activation of the electronic brachytherapy source is possible;
 2. Provide an indication of whether x-rays are being produced;
 3. Provide a means for indicating electronic brachytherapy source potential and current;
 4. Provide the means for terminating an exposure at any time; and
 5. Include an access control (locking) device that will prevent unauthorized use of the electronic brachytherapy device.
- E.** Timer. A suitable irradiation control device (timer) shall be provided to terminate the irradiation after a pre-set time interval or integrated charge on a dosimeter-based monitor.
1. A timer shall be provided at the treatment control panel. The timer shall indicate the planned setting and the time elapsed or remaining;
 2. The timer shall not permit an exposure if set at zero;
 3. The timer shall be a cumulative device that activates with an indication of "BEAM-ON" that retains its reading after irradiation is interrupted or terminated. After irradiation is terminated and before irradiation can be reinitiated

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ated, it shall be necessary to reset the elapsed time indicator;

4. The timer shall terminate irradiation when a pre-selected time has elapsed, if any dose monitoring system has not previously terminated irradiation.
5. The timer shall permit setting of exposure times as short as 0.1 second; and
6. The timer shall be accurate to within one percent of the selected value or 0.1 second, whichever is greater.

F. Qualified Medical Physicist Support.

1. The services of a Qualified Medical Physicist shall be required in facilities having electronic brachytherapy devices. The Qualified Medical Physicist shall be responsible for:
 - a. Evaluation of the output from the electronic brachytherapy source;
 - b. Generation of the necessary dosimetric information;
 - c. Supervision and review of treatment calculations prior to initial treatment of any treatment site;
 - d. Establishing the periodic and day-of-use quality assurance checks and reviewing the data from those checks as required in subsection (J);
 - e. Consultation with the authorized user in treatment planning, as needed; and
 - f. Performing calculations/assessments regarding patient treatments that may constitute a medical event.
2. If the Qualified Medical Physicist is not a full-time employee of the registrant, then the operating procedures required by subsection (G) shall also specifically address how the Qualified Medical Physicist is to be contacted for problems or emergencies, as well as the specific actions, if any, to be taken until the Qualified Medical Physicist can be contacted.

G. Operating Procedures.

1. Only individuals approved by the authorized user, Radiation Safety Officer, or Qualified Medical Physicist shall be present in the treatment room during treatment;
2. Electronic brachytherapy devices shall not be made available for medical use unless the requirements of subsections (A), (H), and (I) have been met;
3. The electronic brachytherapy device shall be inoperable, either by hardware or password, when unattended by qualified staff or service personnel;
4. During operation, the electronic brachytherapy device operator shall monitor the position of all persons in the treatment room, and all persons entering the treatment room, to prevent entering persons from unshielded exposure from the treatment beam;
5. If a patient must be held in position during treatment, mechanical supporting or restraining devices shall be used;
6. Written procedures shall be developed, implemented, and maintained for responding to an abnormal situation. These procedures shall include:
 - a. Instructions for responding to equipment failures and the names of the individuals responsible for implementing corrective actions; and
 - b. The names and telephone numbers of the authorized users, the Qualified Medical Physicist, and the Radiation Safety Officer to be contacted if the device or console operates abnormally.
7. A copy of the current operating and emergency procedures shall be physically located at the electronic brachytherapy device control console;

8. Instructions shall be maintained with the electronic brachytherapy device control console to inform the operator of the names and telephone numbers of the authorized users, the Qualified Medical Physicist, and the Radiation Safety Officer to be contacted if the device or console operates abnormally; and
9. The Radiation Safety Officer, or the Radiation Safety Officer's designee, and an authorized user shall be notified immediately if the patient has a medical emergency, suffers injury or dies. The Radiation Safety Officer or the Qualified Medical Physicist shall inform the manufacturer of the event.

H. Safety Precautions for Electronic Brachytherapy Devices.

1. Any person in the treatment room, other than the person being treated, shall wear personnel monitoring devices;
2. An authorized user and a Qualified Medical Physicist shall be physically present during the initiation of all new patient treatments involving the electronic brachytherapy device;
3. After the first treatment one of the following individuals shall be physically present during continuation of all patient treatments involving the electronic brachytherapy device:
 - a. A Qualified Medical Physicist, or
 - b. An authorized user, or
 - c. A certified therapy technologist (CTT) certified by the Arizona Medical Radiologic Technology Board of Examiners, under the direct supervision of an authorized user, who has been trained in the operation and emergency response for the electronic brachytherapy device;
4. When shielding is required by subsection (C)(4), surveys shall be conducted to ensure that the requirements of R9-7-408, R9-7-414, and R9-7-416 are met. Alternatively, a Qualified Medical Physicist shall designate shield locations sufficient to meet the requirements of R9-7-603(C) and R9-7-607(C) for any individual, other than the patient, in the treatment room; and
5. All personnel in the treatment room are required to remain behind shielding during treatment. A Qualified Medical Physicist shall approve any deviation from this requirement and shall designate alternative radiation safety protocols, compatible with patient safety, to provide an equivalent degree of protection.

I. Electronic Brachytherapy Source Calibration Measurements.

1. Calibration of the electronic brachytherapy source output shall be performed by, or under the direct supervision of, a Qualified Medical Physicist. If the control console is integral to the electronic brachytherapy device, the required procedures shall be kept where the operator is located during electronic brachytherapy device operation;
2. Calibration of the electronic brachytherapy source output shall be made for each electronic brachytherapy source, or after any repair affecting the x-ray beam generation, or when indicated by the electronic brachytherapy source quality assurance checks;
3. Calibration of the electronic brachytherapy source output shall utilize a dosimetry system appropriate for the energy output of the unit and calibrated by the National Institute for Standards and Technology (NIST) or by an American Association of Physicists in Medicine (AAPM) Accredited Dosimetry Calibration Laboratory (ADCL). The calibration shall have been performed within the previous 24 months and after any servicing that may have affected system calibration;

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4. Calibration of the electronic brachytherapy source output shall include, as applicable, determination of:
 - a. The output within two percent of the expected value, if applicable, or determination of the output if there is no expected value;
 - b. Timer accuracy and linearity over the typical range of use;
 - c. Proper operation of back-up exposure control devices;
 - d. Evaluation that the relative dose distribution about the source is within five percent of that expected; and
 - e. Source positioning accuracy to within one millimeter within the applicator;
 5. Calibration of the x-ray source output required shall be in accordance with current published recommendations from a recognized national professional association with expertise in electronic brachytherapy (when available). In the absence of a calibration protocol published by a national professional association, the manufacturer's calibration protocol shall be followed.
 6. The registrant shall maintain a record of each calibration in an auditable form for the duration of the registration. The record shall include: the date of the calibration; the manufacturer's name, model number and serial number for the electronic brachytherapy device and a unique identifier for its electronic instrument or instruments brachytherapy source; the model numbers and serial numbers of the instrument or instruments used to calibrate the electronic brachytherapy device; and the name and signature of the Qualified Medical Physicist responsible for performing the calibration.
- J. Periodic and Day-of-Use Quality Assurance Checks for Electronic Brachytherapy Devices.**
1. Quality assurance checks shall be performed on each electronic brachytherapy device:
 - a. At the beginning of each day of use;
 - b. Each time the device is moved to a new room or site; and
 - c. After each x-ray tube installation.
 2. The registrant shall perform periodic quality assurance checks required in accordance with procedures established by the Qualified Medical Physicist;
 3. To satisfy the requirements of this subsection, radiation output quality assurance checks shall include at a minimum:
 - a. Verification that output of the electronic brachytherapy source falls within three percent of expected values, as appropriate for the device, as determined by:
 - i. Output as a function of time, or
 - ii. Output as a function of setting on a monitor chamber.
 - b. Verification of the consistency of the dose distribution to within three percent (or the manufacturer's or Qualified Medical Physicist's documented recommendation not to exceed five percent), observed at the source calibration required by subsection (I); and
 - c. Validation of the operation of positioning methods to ensure that the treatment dose exposes the intended location within one millimeter; and
 4. The registrant shall use a dosimetry system that has been intercompared within the previous 12 months with the dosimetry system described in this Section to make the quality assurance checks required in subsection (J)(3);
 5. The registrant shall review the results of each radiation output quality assurance check to ensure that:
 - a. An authorized user and Qualified Medical Physicist are immediately notified if any parameter is not within its acceptable tolerance, and the electronic brachytherapy device is not used until the Qualified Medical Physicist has determined that all parameters are within their acceptable tolerances;
 - b. If all radiation output quality assurance check parameters appear to be within their acceptable range, the acceptable quality assurance checklist shall be reviewed and signed by either the authorized user or Qualified Medical Physicist prior to the next patient use of the unit. In addition, the Qualified Medical Physicist shall review and sign the results of each radiation output quality assurance check at intervals not to exceed 30 days.
6. To satisfy the requirements of subsection (J)(1), safety device quality assurance checks shall, at a minimum, assure:
- a. Proper operation of radiation exposure indicator lights on the electronic brachytherapy device and on the control console;
 - b. Proper operation of viewing and intercom systems in each electronic brachytherapy facility, if applicable;
 - c. Proper operation of radiation monitors, if applicable;
 - d. The integrity of all cables, catheters or parts of the device that carry high voltages; and
 - e. Connecting guide tubes, transfer tubes, transfer-tube-applicator interfaces, and treatment spacers are free from any defects that interfere with proper operation.
7. If the results of the safety device quality assurance checks required in subsection (J)(6) indicate the malfunction of any system, a registrant shall secure the control console in the OFF position and not use the electronic brachytherapy device except as may be necessary to repair, replace, or check the malfunctioning system.
8. The registrant shall maintain a record of each quality assurance check required by this Section in a legible form for three years.
- a. The record shall include the date of the quality assurance check; the manufacturer's name, model number and serial number for the electronic brachytherapy device; the name and signature of the individual who performed the periodic quality assurance check and the name and signature of the Qualified Medical Physicist who reviewed the quality assurance check;
 - b. For radiation output quality assurance checks required by subsection (J)(3), the record shall also include the unique identifier for the electronic brachytherapy source and the manufacturer's name; model number and serial number for the instrument or instruments used to measure the radiation output of the electronic brachytherapy device.
- K. Therapy-related Computer Systems.** The registrant shall perform acceptance testing on the treatment planning system of electronic brachytherapy-related computer systems in accordance with current published recommendations from a recognized national professional association with expertise in electronic brachytherapy (when available). In the absence of an acceptance testing protocol published by a national professional association, the manufacturer's acceptance testing protocol shall be followed.
1. Acceptance testing shall be performed by, or under the direct supervision of a Qualified Medical Physicist. At a

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minimum, the acceptance testing shall include, as applicable, verification of:

- a. The source-specific input parameters required by the dose calculation algorithm;
 - b. The accuracy of dose, dwell time, and treatment time calculations at representative points;
 - c. The accuracy of isodose plots and graphic displays;
 - d. The accuracy of the software used to determine radiation source positions from radiographic images; and
 - e. If the treatment planning system is different from the treatment delivery system, the accuracy of electronic transfer of the treatment delivery parameters to the treatment delivery unit from the treatment planning system.
2. The position indicators in the applicator shall be compared to the actual position of the source or planned dwell positions, as appropriate, at the time of commissioning.
 3. Prior to each patient treatment regimen, the parameters for the treatment shall be evaluated for correctness and approved by the authorized user and the Qualified Medical Physicist through means independent of that used for the determination of the parameters.
- L. Training for e-brachytherapy Authorized Users.**
1. The registrant for any therapeutic radiation machine subject to this Section shall require the authorized user to be a physician who is:
 - a. Certified in:
 - i. Radiation oncology or therapeutic radiology by the American Board of Radiology or radiology (combined diagnostic and therapeutic radiology program) by the American Board of Radiology prior to 1976; or
 - ii. Radiation oncology by the American Osteopathic Board of Radiology; or
 - iii. Radiology, with specialization in radiotherapy, as a British "Fellow of the Faculty of Radiology" or "Fellow of the Royal College of Radiology"; or
 - iv. Therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; or
 - b. In the active practice of therapeutic radiology, and has completed 200 hours of instruction in basic radiation techniques applicable to the use of an external beam radiation therapy unit, 500 hours of supervised work experience, and a minimum of three years of supervised clinical experience.
 2. To satisfy the requirement in subsection (L)(1)(b) for:
 - a. Instruction, the classroom and laboratory training shall include:
 - i. Radiation physics and instrumentation;
 - ii. Radiation protection;
 - iii. Mathematics pertaining to the use and measurement of ionization radiation; and
 - iv. Radiation biology;
 - b. Supervised work experience, training shall be under the supervision of an authorized user and shall include:
 - i. Review of the full calibration measurements and periodic quality assurance checks;
 - ii. Evaluation of prepared treatment plans and calculation of treatment times or patient treatment settings or both;
 - iii. Using administrative controls to prevent medical events as described in R9-7-444;
 - iv. Implementing emergency procedures to be followed in the event of the abnormal operation of an external beam radiation therapy unit or console; and
 - v. Checking and using radiation survey meters; and
 - c. A period of supervised clinical experience, training shall include one year in a formal training program approved by the Residency Review Committee for Radiology of the Accreditation Council for Graduate Medical Education or the Council on Postdoctoral Training of the American Osteopathic Association and an additional two years of clinical experience in therapeutic radiology under the supervision of an authorized user. The supervised clinical experience shall include:
 - i. Examining individuals and reviewing their case histories to determine their suitability for external beam radiation therapy treatment, and any limitations or contraindications or both;
 - ii. Selecting proper dose and how it is to be administered;
 - iii. Calculating the therapeutic radiation machine doses and collaborating with the authorized user in the review of patients' progress and consideration of the need to modify originally prescribed doses or treatment plans as warranted by patients' reaction to radiation or both; and
 - iv. Post-administration follow-up and review of case histories.
 3. A physician shall not act as an authorized user until such time as the physician's training has been reviewed and approved by the Department.
 4. Notwithstanding the requirements of subsections (L)(1) through (L)(3), the registrant for any therapeutic radiation machine subject to this Section may also submit the training of the prospective authorized user physician for Department review on a case-by-case basis if the training includes substantially equivalent training as that listed in subsections (L)(1)(b) and (L)(2) and the training includes dosimetry calculation training and experience.
- M. Training for Qualified Medical Physicist.** The registrant for any therapeutic radiation machine subject to this Section shall require the Qualified Medical Physicist to:
1. Be certified with the Department, as a provider of radiation services in the area of calibration and compliance surveys of external beam radiation therapy units; and
 2. Be certified by the American Board of Radiology in:
 - a. Therapeutic radiological physics; or
 - b. Roentgen-ray and gamma-ray physics; or
 - c. X-ray and radium physics; or
 - d. Radiological physics; or
 3. Be certified by the American Board of Medical Physics in Radiation Oncology Physics; or
 4. Be certified by the Canadian College of Physicists in Medicine; or
 5. Hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university, and have completed one year of full-time training in medical physics and an additional year of full-time work experience under the supervision of a Qualified Medical Physicist at a medical institution. This training and work experience shall be conducted in clinical radiation facilities that provide high-energy external beam radiation

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therapy (photons and electrons with energies greater than or equal to one MV/one MeV). To meet this requirement, the individual shall have performed the tasks listed in this subsection under the supervision of a Qualified Medical Physicist during the year of work experience.

- N. Qualifications of Operators. Individuals who will be operating a therapeutic radiation machine for medical use shall be certified by the Department as a CTT by the Arizona Medical Radiologic Technology Board of Examiners.
- O. Additional training requirements.
 - 1. A registrant shall provide instruction, initially and at least annually, to all individuals who operate the electronic brachytherapy device, as appropriate to the individual's assigned duties, in the operating procedures identified in subsection (G). If the interval between patients exceeds one year, retraining of the individuals shall be provided.
 - 2. In addition to the requirements of subsection (L) for therapeutic radiation machine authorized users and subsection (M) for Qualified Medical Physicists, these individuals shall also receive device-specific instruction initially from the manufacturer, and annually from either the manufacturer or other qualified trainer. The training shall be of a duration recommended by a recognized national professional association with expertise in electronic brachytherapy (when available). In the absence of any training protocol recommended by a national professional association, the manufacturer's training protocol shall be followed. The training shall include, but not be limited to:
 - a. Device-specific radiation safety requirements;
 - b. Device operation;
 - c. Clinical use for the types of use approved by the FDA;
 - d. Emergency procedures, including an emergency drill; and
 - e. The registrant's quality assurance program.
 - 3. A registrant shall retain a record of individuals receiving manufacturer's instruction for three years. The record shall include a list of the topics covered, the date of the instruction, the name or names of the attendee or attendees, and the name or names of the individual or individuals who provided the instruction.
- P. Mobile Electronic Brachytherapy Service. A registrant providing mobile electronic brachytherapy service shall, at a minimum:
 - 1. Check all survey instruments before medical use at each address of use or on each day of use, whichever is more restrictive;
 - 2. Account for the electronic brachytherapy x-ray tube in the electronic brachytherapy device before departure from the client's address; and
 - 3. Perform, at each location on each day of use, all of the required quality assurance checks specified in this Section to assure proper operation of the device.
- Q. Medical events shall be reported to the Department. For purposes of this Section "medical event" means a therapeutic radiation dose from a machine:
 - 1. Delivered to the wrong patient;
 - 2. Delivered using the wrong mode of treatment;
 - 3. Delivered to the wrong treatment site; or
 - 4. Delivered in one week to the correct patient, using the correct mode, to the correct therapy site, but greater than 130 percent of the prescribed weekly dose; or
- R. A therapeutic radiation dose from a machine with errors in the calibration, time of exposure, or treatment geometry that result in a calculated total treatment dose differing from the final,

prescribed total treatment dose by more than 20 percent, except for treatments given in 1 to 3 fractions, in which case a difference of more than 10 percent constitutes a medical event.

- S. Reports of therapy medical events:
 - 1. Within 24 hours after discovery of a medical event, a registrant shall notify the Department by telephone by speaking to a Department staff member. The registrant shall also notify the referring physician of the affected patient and the patient or a responsible relative or guardian, unless the referring physician personally informs the registrant either that he or she will inform the patient, or that in his or her medical judgment, telling the patient or the patient's responsible relative or guardian would be harmful to one or the other, respectively. If the Department staff member, referring physician, or the patient's responsible relative or guardian cannot be reached within 24 hours, the registrant shall notify them as soon as practicable. The registrant shall not delay medical care for the patient because of notification problems.
 - 2. Within 15 days following the verbal notification to the Department, the registrant shall report, in writing, to the Department and individuals notified under subsection (S)(1). The written report shall include the registrant's name, the referring physician's name, a brief description of the event, the effect on the patient, the action taken to prevent recurrence, whether the registrant informed the patient or the patient's responsible relative or guardian, and if not, why not. The report shall not include the patient's name or other information that could lead to identification of the patient.
 - 3. Each registrant shall maintain records of all medical events for Department inspection. The records shall:
 - a. Contain the names of all individuals involved in the event, including:
 - i. The physician,
 - ii. The allied health personnel,
 - iii. The patient,
 - iv. The patient's referring physician,
 - v. The patient's identification number if one has been assigned,
 - vi. A brief description of the event,
 - vii. The effect on the patient, and
 - viii. The action taken to prevent recurrence.
 - b. Be maintained for three years beyond the termination date of the affected registration.

Historical Note

New Section R9-7-611.01 recodified from R12-1-611.01 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-611.02. Other Use of Electronically-Produced Radiation to Deliver Superficial Therapeutic Radiation Dosage

A person shall not utilize any device which is designed to electrically generate a source of ionizing radiation to deliver superficial therapeutic radiation dosage, and which is not appropriately regulated under any existing category of therapeutic radiation machine, until:

- 1. The applicant or registrant has, at a minimum, provided the Department with:
 - a. A detailed description of the device and its intended application or applications;

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- b. Facility design requirements, including shielding and access control;
 - c. Documentation of appropriate training for authorized user physician or physicians and qualified medical physicist or physicists;
 - d. Methodology for measurement of dosages to be administered to patients or human research subjects;
 - e. Documentation regarding calibration, maintenance, and repair of the device, as well as instruments and equipment necessary for radiation safety;
 - f. Radiation safety precautions and instructions; and
 - g. Other information requested by the Department in its review of the application; and
2. The applicant or registrant has received written approval from the Department to utilize the device in accordance with the regulations and specific conditions the Department considers necessary for the medical use of the device; and
 3. The applicant or registrant has submitted the application information and forms required by Article 2.
 4. In addition to the requirements of this Section, a registrant using a device for x-ray radiation therapy shall meet the requirements of R9-7-611.01(Q), (R), and (S).

Historical Note

New Section R9-7-611.02 recodified from R12-1-611.02 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-612. Computed Tomography Systems**A. Definitions:**

1. "CT" means computed tomography.
 2. "CT conditions of operation" means all selectable parameters governing the operation of a CT including nominal tomographic section thickness, and technique factors.
 3. "CTDI" means computed tomography dose index, the integral of the dose profile along a line perpendicular to the tomographic plane divided by the product of the nominal tomographic thickness and the number of tomogram produced in a single scan.
 4. "CTDI vol" means a value of a volume-weighted tomography dose index. The unit of the CTDI vol is Gray or subunits of the Gray. The value of the CTDI vol for patient scan is used to trigger a notification when the value exceeds or will exceed a threshold value.
 5. "CTN" means CT number, the number used to represent the x-ray attenuation associated with each elemental area of the CT image.
 6. "Dose profile" means the dose as a function of position along a line.
 7. "DLP" means the dose-length product. The DLP is the mathematical product of the CTDI vol and the length of the scan. The unit DLP is the Gray-cm of subunits of the Gray-cm. The DLP is used to trigger a notification when the value exceeds or will exceed a threshold value.
 8. "Elemental area" means the smallest area within a tomogram for which the x-ray attenuation properties of a body are depicted.
 9. "Multiple tomogram system" means a CT system that obtains x-ray transmissions data simultaneously during a single scan to produce more than one tomogram.
 10. "Nominal tomographic section thickness" means the full width at half-maximum of the sensitivity profile taken at the center of the cross section volume over which x-ray transmission data are collected.
 11. "Reference plane" means a plane that is displaced from and parallel to the tomographic plane.
 12. "Scan" means the complete process of collecting x-ray transmission data for the production of a tomogram. Data can be collected simultaneously during a single scan for the production of one or more tomograms.
- B. Facility:** A registrant shall ensure that a CT facility has:
1. An operable two-way communication system between the patient and the operator in each CT room.
 2. A viewing system that will allow the operator to continuously view the patient from the control panel during each examination. If the viewing system malfunctions the CT shall not be used until the viewing system is repaired.
- C. Equipment.** A registrant shall ensure that:
1. There is a means to terminate x-ray exposure automatically in the event of equipment failure by:
 - a. De-energizing the x-ray source, or
 - b. Shuttering the x-ray beam.
 2. The equipment shall provide the operator the ability to terminate the x-ray exposure at any time during the examination, provided the scan or series of scans is greater than one-half second duration.
 - a. If an operator terminates an x-ray exposure, the operator shall reset the CT conditions of operation before the initiation of another scan.
 - b. A visible signal shall indicate when an x-ray exposure has been terminated because of equipment failure.
 3. A means is provided to permit visual determination of the tomographic plane for a single tomogram system, or the location of a reference plane offset from a single tomograph or multiple tomogram system.
 - a. If a light source is used to satisfy this requirement, it shall provide illumination of the tomographic plane or reference plane under ambient light conditions.
 - b. The difference between the actual plane location and the indicated location of a tomographic plane or reference plane shall not exceed 5 millimeters.
 - c. The deviation of indicated scan increment versus actual increment shall not exceed plus or minus 1 millimeter with any mass from 0 to 100 kilograms resting on the patient support device.
 4. The control panel and gantry provides a visual indication, if x-rays are produced.
 5. Emergency buttons and switches are marked by function.
 6. Parameters of CT operation used during a patient examination are visible to the operator upon initiation of the scan. If an operational parameter is not adjustable by the operator, this subsection may be met by indicating on the control panel the parameter is not adjustable by the operator.
 7. Radiation exposure does not exceed 100 mR in one hour at one meter in any direction from the tube port of an operating CT.
 8. The angular position or positions where the maximum surface CTDI occurs is identified to allow for reproducible positioning of a CT dosimetry phantom, except in those cases where the x-ray tubes are designed to move, in which case, the maximum dose and associated tube position shall be evaluated according to manufacturer recommendations.
- D. Operating Procedures.** A registrant shall ensure that:
1. Operating procedures are available at the control panel, or by electronic means, regarding the operation of a CT and evaluation of a CT's operation.
 2. The operating procedures contain the following information:

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- a. A copy of the latest evaluation of the CT's operation, to include output for each CT procedure, performed by a qualified expert;
 - b. Instructions on the use of the CT performance phantom by the qualified expert, a schedule of quality control tests with the results of the most recent quality control test, and the allowable variations for the indicated parameters;
 - c. The distance in millimeters between the tomographic plane and the reference plane if a reference plane is used; and
 - d. A current technique chart that contains the information required in R9-7-607(D)(4)(a) for both adult and pediatric patients, as applicable, is available at the CT operating console, and a procedure for determining whether a CT has been performed according to instructions of a physician.
 - e. A written or electronic log that contains the information required in R9-7-607(D)(5) as well as an entry in the record of any displayed values for the exam from either a CTDI vol or DLP measurement for each patient exam completed on equipment manufactured on or after January 1, 2011.
3. If the evaluation of the CT's operation or quality control test identifies a parameter exceeding the tolerance established by a qualified expert, the use of a CT for patient examination is limited to those uses established in written instructions from the qualified expert.
- E. Quality control tests.** A registrant shall have a written quality control test procedure, developed by a qualified expert, and ensure that the quality control test procedure:
1. Incorporates the use of a CT performance phantom that is compatible with an approved accreditation program approved by the Medicare Improvements for Patients and Providers Act (MIPPA) or supplied by or approved for use by the manufacturer of the unit.
 2. Is followed in the evaluation of the CT's operation, that the interval between tests does not exceed those set forth in the application for accreditation or quarterly if not accredited by an organization approved by (MIPPA), and that system conditions are specified by the registrant's qualified expert.
 3. Includes obtaining quality control test images with the CT performance phantom using the same processing mode and CT conditions of operation that are used to perform the evaluation of the CT's operation.
 4. Requires that images obtained under subsection (E)(3) be retained until a new evaluation of the CT's operation is performed.
 5. Requires that any Alerts and Notification settings using CTDI vol or DLP are reviewed against preloaded techniques in the system and any missing fields are reviewed with the staff radiologist and noted in the annual report.
 6. Requires the quality control test procedure and records of quality control tests performed be maintained for three years for Department inspection.
- F. Evaluation of a CT's operation.** A registrant shall ensure that:
1. The evaluation of a CT's operation is performed by, or under the direct supervision of, a qualified expert who is physically present at the facility during the evaluation of the CT's operation.
 2. The evaluation of a CT's operation:
 - a. Is performed before initial patient use and annually (within two months of the annual due date) and after any change or replacement of components that could, in the opinion of the qualified expert, cause a change in radiation output; and
 - b. Shall measure the CTDI in a dosimetry phantom along the two axes specified in subsection (F)(4)(b).
 - c. A complete evaluation of a CT unit, performed before the annual due date shall clearly list if the new survey changes the annual due date for the unit. It shall be clearly noted on all documentation for the next three years that the survey has established a new annual due date based upon the date of the new survey.
3. The evaluation of a CT's x-ray system is performed with a calibrated dosimetry system that:
 - a. Has been calibrated using a method that is traceable to the National Institute of Standards and Technology (NIST), and
 - b. Has been calibrated within the preceding two years.
 4. CT dosimetry phantoms used in determining radiation output are compatible with an approved accreditation program approved by (MIPPA) or supplied by or approved for use by the manufacturer of the unit; and
 - a. Are constructed in a way that the parameters used to image the most commonly imaged parts of the human body are evaluated; and
 - b. At a minimum, provide means for placement of a dosimeter along the axis of rotation and along a line parallel to the axis of rotation 1.0 centimeter from the outer surface and within the phantom.
 5. Any effects on the measured dose due to the removal of phantom material to accommodate the dosimeter are accounted for in the reported data or included in the statement of maximum deviation for the measured values.
- G. CT units designated for simulator use, veterinary use, dental use, podiatry use, and non-diagnostic use on humans** are exempt from the annual requirements in subsections (E) and (F) provided an initial evaluation is conducted by a qualified expert and the output does not exceed the manufacturers specified limits. The initial evaluation shall be maintained for Department review.

Historical Note

New Section R9-7-612 recodified from R12-1-612 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-613. Veterinary Medicine Radiographic Systems

- A. Equipment.** A registrant shall ensure that:
1. The total filtration permanently in the useful beam is not less than 1.5 millimeters aluminum-equivalent for equipment operating at up to 70 kVp and 2.0 millimeters aluminum-equivalent for equipment operating in excess of 70 kVp;
 2. A device is provided to terminate the exposure after a preset time or exposure;
 3. Each radiographic system has a "dead-man" exposure switch with an electrical cord of sufficient length to allow the operator to stand at least 1.82 meters (six feet) away from the useful beam during x-ray exposures.
- B. Procedures:** A registrant shall ensure that:
1. Unless required to restrain an animal, the operator stands at least 1.82 meters (6 feet) away from the useful beam and the animal during a radiographic exposure;
 2. An individual other than the operator is not in the x-ray room or area while an exposure is being made, unless the individual's assistance is required;
 3. If possible, an animal is held in position during an x-ray exposure using mechanical supporting or restraining devices;

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4. An individual holding an animal during an x-ray exposure is:
 - a. Wearing protective gloves and an apron of not less than 0.5 millimeter lead equivalent or positioned behind a whole-body protective barrier;
 - b. Wearing required personnel monitoring devices; and
 - c. Positioned so that no part of the person's body, except hands and arms, will be struck by the useful beam;
5. If an individual holds or supports an animal or a film during an x-ray exposure, the name of the individual is recorded in an x-ray log that contains the animal's name, the type of x-ray procedure, the number of exposures, and the date of the procedure; and
6. As a condition of employment an individual is not required to routinely hold or support animals, or hold film during radiation exposures.
8. A mammographic x-ray system using screen-film image receptors has:
 - a. At least two different sizes of moving anti-scatter grids, including one for each size of image receptor utilized; and
 - b. Automatic exposure control;
9. All mammographic x-ray systems indicate or provide a means of determining, the mAs resulting from each exposure made with automatic exposure control;
10. The collimation provided limits the useful beam to the image receptor so that the beam does not extend beyond any edge of the image receptor at any designated source to image receptor distance by more than 2 percent of the source to image receptor distance;
11. The accuracy of the indicated kVp is within plus or minus 2kVp;
12. Mammographic x-ray systems operating with automatic exposure control are capable of maintaining a film density within plus or minus 0.15 optical density units over the clinical range of kVp used, for a breast having an equivalent phantom thickness from 2 to 6 centimeters. If a technique chart is used, the operator shall maintain the film density within plus or minus 0.15 optical density units of the mean optical density;
13. At a kVp of 28, the mammographic x-ray system is capable of generating at least 2.0 $\mu\text{C/kg/mAs}$ (8mR/mAs) and at least 200 $\mu\text{C/kg/second}$ (800 mR/second), measured at a point 4.5 centimeters above the surface of the patient support device when the Source-image receptor distance is at its maximum;
14. Screens are not used for mammography if one or more areas of greater than 1 centimeter squared of poor screen-film contact are seen when tested, using a 40 mesh screen test;
15. Mammographic image quality meets the minimum mammography film standards for phantom performance in Mammography Quality Control Manual, 1999 edition, published by the American College of Radiology (ACR). (This manual is incorporated by reference and available under R9-7-101. The incorporated material contains no future editions or amendments. The manual is available from ACR Publication Sales, P.O. Box 533, Annapolis Junction, MD 20701: toll free at (800) 227-7762; e-mail at: acr@brightkey.net).
16. The mean glandular dose for one cranio-caudal view of a 4.2 centimeter (1.8 inch) compressed breast, composed of 50 percent adipose and 50 percent glandular tissue, does not exceed 300 millirads (3 milligray); and
17. A radiologic physicist who meets the requirements in R9-7-615(A)(1)(c) evaluates the operation of a mammographic x-ray system:
 - a. When first installed and annually thereafter,
 - b. Following any major change in equipment or replacement of parts, and
 - c. When quality assurance tests indicate calibration is necessary.

Historical Note

New Section R9-7-613 recodified from R12-1-613 at 24

A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R.

2151, effective July 12, 2018 (Supp. 18-3).

R9-7-614. Mammography Systems**A. Equipment.** A registrant shall ensure that:

1. Only radiation machines specifically designed for mammographic examinations are used;
2. The film processor used in the registrant's facility is maintained in accordance with the film processor's and film manufacturer's recommendations;
3. Each facility has an image development system onsite unless the Department has approved an alternate system;
4. If used with screen-film image receptors, and the contribution to filtration made by the compression device is included, the useful beam has a half-value layer between the values of: "measured kVp/100 and measured kVp/100 + L millimeters" of aluminum equivalent, where L = 0.12 for Mo/Mo, L = 0.19 for Mo/Rh, L = 0.22 for Rh/Rh, L = 0.30 for W/Rh target filtration combinations and L = 0.33 for other target filtration combinations not otherwise specified.
5. The combination of focal spot size, source-to-image distance and magnification produces a radiograph with a resolution of at least 12 line pairs per millimeter at an object-to-image receptor distance of 4.5 centimeters; or the standards in Table 3-3 of the American Association of Physicists in Medicine (AAPM), Report No. 29, Equipment Requirements and Quality Control for Mammography, August 1990, published by the American Institute of Physics, Suite 1NO1, 2 Huntington Quadrangle, Melville, NY 11747 (This report is incorporated by reference and available under R9-7-101. The incorporated material contains no future editions or amendments. The report is available online at: <http://www.aapm.org/pubs/reports>; print copies may be purchased from Medical Physics Publishing, 4513 Vernon Blvd., Madison, WI 53705; toll free at (800) 442-5778;);
6. The compression device used with the mammographic unit, unless specifically manufactured otherwise, is parallel to the imaging plane, not varying at any spot by more than 1 centimeter;
7. The mammographic x-ray system with initial power drive:
 - a. Has compression paddles compatible with each size of image receptor;
8. Operating Procedures. A registrant shall ensure that:

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1. Each mammographic facility has a quality assurance program, and that the quality assurance program includes performance and documentation of the quality control tests in subsection (B)(2), conducted at the required time intervals. Test results shall fall within the specified limits in subsection (B)(2) or the registrant shall take corrective action and maintain documentation that the results are within specified limits before performing or processing any further examinations using the system that failed. A radiologic physicist, as defined in R9-7-615(A)(1)(c), shall review the program and make any recommendations necessary for the facility to comply with this Section;
 2. The quality assurance program meets federal requirements (Contained in 21 CFR 900.12(d)(1), and (e)(1) through (e)(10), revised April 1, 2013, incorporated by reference and available under R9-7-101. This incorporated material contains no future editions or amendments.); or the following requirements:
 - a. Daily sensitometric and densitometric evaluation of the image processing system demonstrates that Base + Fog < +0.03 optical density of operating level, Mid Density \pm 0.15 optical density of operating level, and Density Difference \pm 0.15 optical density of operating level;
 - b. Weekly phantom image quality evaluations demonstrate the visualization of at least four fibers, three speck groups, and three masses with a background of greater than 1.40 optical density, not varying by 0.20 optical density of operating level;
 - c. Monthly technique chart evaluations demonstrate updates for all equipment changes and that all examinations are being performed according to a physicist's density control recommendation;
 - d. Quarterly fixer retention evaluations demonstrate an acceptable limit of less than or equal to 5.0 micrograms per square centimeter;
 - e. Quarterly repeat analysis demonstrates an acceptable limit of less than 2 percent increase in repeats;
 - f. Semiannual darkroom fog evaluations meet the limit of less than or equal to 0.05 optical density of fog, using the two minute exposed film method;
 - g. Semiannual screen film contact evaluations meet the limit of less than one area of poor contact of 1 centimeter squared, using a 40 mesh screen on all clinically-used screens;
 - h. Semiannual automatic compression force evaluations meet the limit of greater than or equal to 25 pounds (111 Newtons) and less than 45 pounds (200 Newtons);
 - i. A survey shall be conducted annually and whenever indicated for installation, major repairs, parts replacement, or as deemed necessary by a qualified expert when quality control test results indicate a survey is necessary; the survey shall include all of the following tests:
 - i. Automatic exposure control performance and thickness response;
 - ii. Accuracy and reproducibility of kVp;
 - iii. System resolution;
 - iv. Breast entrance air kerma and automatic exposure control reproducibility;
 - v. Average glandular dose;
 - vi. X-ray field, light field, and image receptor alignment;
 - vii. Compression paddle alignment;
 - viii. Uniformity of screen speed;
 - ix. System artifacts;
 - x. Radiation output;
 - xi. Decompression;
 - xii. Beam quality and half value layer;
 - j. For systems with image receptor modalities other than screen film:
 - i. The quality assurance and quality control program for the acquisition system meets or exceeds the recommendations by the manufacturer;
 - ii. The quality assurance and quality control program for the printer meets or exceeds the recommendations by the image receptor manufacturer. In the absence of recommendations by the image receptor manufacturer for the specified printer, the quality control and assurance program meets or exceeds the recommendations of the printer manufacturer; and
 - iii. The quality assurance and quality control program for the interpretation monitors meets or exceeds the recommendations by the image receptor manufacturer. In the absence of recommendations by the image receptor manufacturer for the specified monitor or monitors, the quality control and assurance program meets or exceeds the recommendations of the interpretation monitor or monitors manufacturer; and
 - k. The registrant maintains records documenting compliance with the provisions in this subsection for three years from the date each requirement is met. The records shall be made available for Department inspection.
- C. Mammographic films and reports.**
1. A registrant shall maintain films and reports for a minimum of five years. In those cases where no subsequent mammographic procedures are performed, the registrant shall maintain films and associated reports for 10 years. If the mammographic facility is closed, the registrant shall make arrangements for storage of the films and associated reports for five years after the closure; and
 2. A registrant shall make films and reports available for comparison upon request for temporary or permanent transfer to other mammographic facilities.
- Historical Note**
New Section R9-7-614 recodified from R12-1-614 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-615. Mammography Personnel**
- A. Personnel.**
1. Each registrant shall require personnel who perform mammography, which includes the production, processing, and interpretation of mammograms and related quality assurance activities, to meet the following requirements:
 - a. An interpreting physician shall meet federal requirements (Contained in 21 CFR 900.12(a)(1), revised April 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.); or
 - i. Be licensed under A.R.S. Title 32, Chapters 13 or 17;
 - ii. Have initially completed 40 hours of medical education credits in mammography;
 - iii. Be certified by the American Board of Radiology or the American Osteopathic Board of Radiology or meet the requirements of the

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- mammography quality standards act regulations for quality standards of interpreting physicians;
- iv. Have interpreted or reviewed an average of 300 mammograms per year during the preceding two years or have completed a radiology residency that included mammogram image interpretation in the preceding two years;
 - v. Have completed 15 hours of continuing medical education credits in mammography during the preceding three years; and
 - vi. Have received at least eight hours of training specific to each mammographic modality before engaging in independent interpretation.
- b. A mammographic technologist shall meet federal requirements (Contained in 21 CFR 900.12(a)(2), revised April 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.); or
 - i. Possess a valid mammographic technologist certificate issued by the Medical Radiologic Technology Board of Examiners, as required in A.R.S. § 32-2841, or be pursuing mammography certification by training under the direct supervision of a technologist who possesses a valid mammographic technologist certificate;
 - ii. Have performed at least 200 mammographic examinations in the preceding two years;
 - iii. Have completed 15 hours of continuing medical education credits in mammography during the preceding three years; and
 - iv. Have received at least eight hours of training specific to each mammographic modality to be used by the technologist in performing mammographic examinations.
 - c. A radiologic physicist shall meet federal requirements (Contained in 21 CFR 900.12(a)(3), revised April 1, 2013, incorporated by reference and available under R9-7-101. This incorporated material contains no future editions or amendments.); or
 - i. Be certified by the American Board of Radiology, American Board of Medical Physics, or the American Board of Health Physics;
 - ii. Possess documentation of state approval;
 - iii. Hold a master's degree or higher in a physical science;
 - iv. Have, upon initial employment as a radiologic physicist, experience conducting, at least one mammographic facility survey and evaluating at least 10 mammographic units;
 - v. Have, after completing the experience requirements in subsection (A)(1)(c)(iv), continuing experience surveying two mammographic facilities and evaluating six mammographic units during the preceding two years;
 - vi. Have completed 15 hours of continuing medical education credits in mammography during the three preceding years; or
 - vii. Have received at least eight hours of training specific to any modality surveyed; and
2. Each registrant shall maintain records documenting the requirements in subsection (A)(1) for three years from the date the requirement is met and make the records available for Department inspection.
- B. Radiologic physicists shall apply for and renew their certification on Department-approved forms. In addition to the Department-approved forms, applicants must also submit documentation showing education, mammography specific training, education, and board certification. Upon renewal, an applicant must submit documentation showing current continuing education requirements are met.

Historical Note

New Section R9-7-615 recodified from R12-1-615 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Appendix A. Information Submitted to the Department According to R9-7-604(A)(3)(c)

- A. Name and address of the applicant and, if applicable, the name and address of any person within this state that is authorized to act on behalf of the applicant;
- B. Disease or conditions to be diagnosed using the proposed x-ray examination;
- C. A detailed description of each x-ray examination that will be used in the diagnosis;
- D. A description of the population to be examined in the screening program, using characteristics such as age, sex, physical condition, and other descriptive information;
- E. An evaluation of any known alternative diagnostic modalities not involving ionizing radiation that could achieve the same diagnosis as a screening program and why these modalities have not been chosen;
- F. An evaluation by a qualified expert of the x-ray equipment used in the screening program, which demonstrates that the x-ray equipment satisfies the requirements of this Article;
- G. A description of the quality control program;
- H. A copy of the technique chart for the planned x-ray examination;
- I. The qualifications of each individual who will be operating the x-ray equipment;
- J. The qualifications of the individual who will be supervising each operator of the x-ray equipment;
- K. The name and address of the individual who will interpret each radiographic image;
- L. A description of the planned procedures for advising a screened individual and the screened individual's physician of the screening procedure results, and the need for further medical care, and
- M. A description of the procedures for retention or disposition of the radiographic images and other records pertaining to the x-ray examination.

Historical Note

New Appendix A, recodified from 12 A.A.C. 1, Article 6, Appendix A at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 7. MEDICAL USES OF RADIOACTIVE MATERIAL**R9-7-701. License Required**

- A. A person may manufacture, produce, acquire, receive, possess, prepare, use, or transfer radioactive material for medical use only in accordance with a specific license issued by the Department, the NRC, or another Agreement State, or as allowed in subsection (B)(1) or (B)(2).
- B. A specific license is not needed for an individual who:
 1. Receives, possesses, uses, or transfers radioactive material in accordance with the rules in this Chapter under the supervision of an authorized user as provided in R9-7-706, unless prohibited by license condition; or

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2. Prepares unsealed radioactive material for medical use in accordance with the rules in this Chapter under the supervision of an authorized nuclear pharmacist or authorized user.

Historical Note

New Section R9-7-701 recodified from R12-1-701 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-702. Definitions

“Authorized medical physicist” means an individual who meets the requirements in R9-7-711. For purposes of ensuring that personnel are adequately trained, an authorized medical physicist is a “qualified expert” as defined in Article 1.

“Authorized nuclear pharmacist” means a pharmacist who meets the requirements in R9-7-712.

“Authorized user” means a physician, dentist, or podiatrist who meets the requirements in R9-7-719, R9-7-721, R9-7-723, R9-7-727, R9-7-728, or R9-7-744.

“Brachytherapy” means a method of radiation therapy in which a sealed source or group of sealed sources is utilized to deliver beta or gamma radiation at a distance of up to a few centimeters, by surface, intracavitary, intraluminal, or interstitial application.

“CT” means computerized tomography.

“High dose rate afterloading brachytherapy” means the treating of human disease using the radiation from a radioactive sealed source containing more than 1 curie of radioactive material. The radioactive material is introduced into a patient’s body using a device that allows the therapist to indirectly handle the radiation source during the treatment. For purposes of the requirements in this Article “pulse dose rate afterloading brachytherapy” is included in this definition.

“Human research subject” means an individual who is or becomes a participant in research overseen by an IRB, either as a recipient of the test article or as a control. A subject may be either a healthy human, in research overseen by the RDRC, or a patient.

“Institutional review board” (IRB) is defined in R9-7-704(B).

“Manual brachytherapy” means a type of brachytherapy in which the brachytherapy sources (e.g., seeds, ribbons) are manually placed topically on or inserted either into the body cavities that are in close proximity to a treatment site or directly into the tissue volume.

“Medical event” means an event that meets the criteria in R9-7-745.

“Medical institution” means an organization in which several medical disciplines are practiced.

“Medical use” means the intentional internal or external administration of radioactive material, or the radiation from it, to an individual under the supervision of an authorized user.

“Nuclear cardiology” means the diagnosis of cardiac disease using radiopharmaceuticals.

“PET” means positron emission tomography.

“Physically present” means that a supervising medical professional is in proximity to the patient during a radiation therapy procedure so that immediate emergency orders can be communicated to ancillary staff, should the occasion arise.

“Prescribed dosage” means the specified activity or range of activity of unsealed radioactive material as documented:

In a written directive; or

In accordance with the directions of the authorized user for procedures performed in accordance with the uses described in Exhibit A.

“Prescribed dose” means:

For gamma stereotactic radiosurgery, the total dose as documented in the written directive;

For teletherapy, the total dose and dose per fraction as documented in the written directive;

For manual brachytherapy, either the total source strength and exposure time or the total dose, as documented in the written directive; or

For remote brachytherapy afterloaders, the total dose and dose per fraction as documented in the written directive.

“Radiation Safety Officer” (RSO) for purposes of this Article, and in addition to the definition in Article 1 means an individual who:

Meets the requirements in R9-7-710, or

Is identified as a radiation safety officer on:

A specific medical use license issued by the NRC or Agreement State; or

A medical use permit issued by a NRC master material licensee.

“Radioactive drug” is defined in 21 CFR 310.3(c) and includes a “radioactive biological product” as defined in 21 CFR 600.3, April 1, 2006, both of which are incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Department. These incorporated materials contain no future editions or amendments.

“Radioactive Drug Research Committee” (RDRC) means the committee established by the licensee to review all basic research involving the administration of a radioactive drug to human research subjects, taken from 21 CFR 361.1, April 1, 2006, which is incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments. Research is considered basic research if it is done for the purpose of advancing scientific knowledge, which includes basic information regarding the metabolism (including kinetics, distributions, dosimetry, and localization) of a radioactive drug or regarding human physiology, pathophysiology, or biochemistry. Basic research is not intended for immediate therapeutic or diagnostic purposes and is not intended to determine the safety and effectiveness of a radioactive drug in humans.

“Radiopharmaceutical” means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any nonradioactive reagent kit or nuclide generator that is intended to be used in the preparation of any such substance. For purposes of this Article radiopharmaceutical is equivalent to radioactive drug.

“Remote afterloading brachytherapy device” means a device used in radiation therapy that allows the authorized user to insert, from a remote location, a radiation source into an appli-

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cator that has been previously inserted in an individual requiring treatment.

“Sealed Source and Device Registry” means the national registry that contains all the registration certificates, generated by both NRC and the Agreement States, that summarize the radiation safety information for the sealed sources and devices and describe the licensing and use conditions approved for the product.

“Stereotactic radiosurgery” means the use of external radiation in conjunction with a stereotactic guidance device to very precisely deliver a dose.

“Teletherapy” means therapeutic irradiation in which the sealed source of radiation is at a distance from the body.

“Therapeutic dosage” means a dosage of unsealed radioactive material that is intended to deliver a radiation dose to a patient or human research subject for palliative or curative treatment.

“Therapeutic dose” means a radiation dose delivered from a source containing radioactive material to a patient or human research subject for palliative or curative treatment.

“Treatment site” means the anatomical description of the tissue intended to receive a radiation dose, as described in a written directive.

“Unit dosage” means a dosage prepared for medical use for administration as a single dosage to a patient or human research subject without any further manipulation of the dosage after it is initially prepared.

“Written directive” means an authorized user’s written order for the administration of radioactive material or radiation from radioactive material to a specific patient or human research subject, as specified in R9-7-707.

Historical Note

New Section R9-7-702 recodified from R12-1-702 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-703. License for Medical Use of Radioactive Material

A. In addition to the requirements set forth in R9-7-309, the Department shall issue a specific license for medical use of radioactive material if:

1. The applicant has appointed a radiation safety committee, meeting the requirements in R9-7-705, that will oversee the use of licensed material throughout the licensee’s facility and associated radiation safety program;
2. The applicant possesses facilities for the clinical care of patients or human research subjects; and
3. The individual designated on the application as an authorized user has met the training and experience requirements in R9-7-719, R9-7-721, R9-7-723, R9-7-727, R9-7-728, or R9-7-744.

B. Specific licenses to individual authorized users for medical use of radioactive material:

1. The Department shall approve an application by a prospective individual authorized user or prospective group of authorized users for a specific license governing the medical use of radioactive material if:
 - a. The applicant satisfies the general requirements in R9-7-309;
 - b. The application is for use in the applicant’s practice at an office outside of a medical institution;

- c. The applicant meets the training and experience requirements in subsection (A)(3); and
 - d. The applicant has a radiation safety committee, if the criteria in R9-7-705 are applicable and a RDRC, if the use is basic research involving humans.
2. The Department shall not approve an application by a prospective authorized user or group of prospective authorized users for a specific license to receive, possess, or use radioactive material on the premises of a medical institution unless:
- a. The use of radioactive material is limited to:
 - i. The administration of radiopharmaceuticals for diagnostic or therapeutic purposes;
 - ii. The performance of diagnostic studies on patients or human research subjects to whom a radiopharmaceutical has been administered;
 - iii. The performance of in vitro diagnostic studies; or
 - iv. The calibration and quality control checks of radioactive assay instrumentation, radiation safety instrumentation, or diagnostic instrumentation;
 - b. The authorized user brings the radioactive material and removes the radioactive material upon departure; and
 - c. The medical institution does not hold a radioactive materials license under subsection (A).

C. Specific licenses for certain groups of medical uses of radioactive material:

1. The Department shall approve an application for a specific license under subsections (A) or (B), for any medical use or uses of radioactive material specified in Groups 100 through 1,000, in Exhibit A of this Article, for all of the materials within each group requested in the application if:
 - a. The applicant satisfies the requirements of subsections (A) and (B);
 - b. Each person involved in the preparation and use of the radioactive material is an authorized user, an authorized nuclear pharmacist, or certified as a nuclear medicine technologist by the Medical Radiologic Technology Board of Examiners (MRTBE);
 - c. The applicant’s radiation detection and measuring instrumentation is adequate for conducting the procedures involved in the authorized uses selected from Group 100 through Group 1,000; and
 - d. The applicant’s radiation safety operating procedures are adequate for handling and disposal of the radioactive material involved in the authorized uses selected from Group 100 through Group 1,000.
2. Any licensee who is authorized to use radioactive material:
 - a. In unsealed form under Groups 100, 200, 300 or 1,000 listed in Exhibit A of this Article, shall do so using radiopharmaceuticals prepared in accordance with R9-7-311(I); or
 - b. In sealed source form under Groups 400, 500, 600, or 1,000 listed in Exhibit A of this Article, shall do so using sealed sources that have been manufactured and distributed in accordance with R9-7-311(K);
 - c. In any form under group 1,000 listed in Exhibit A of this Article, shall do so using sealed and unsealed sources that have been manufactured and distributed in accordance with the specific license issued by the Department.

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3. Any licensee who is licensed according to subsection (C)(1), for one or more of the medical use groups in Exhibit A also is authorized to use radioactive material under the general license in R9-7-306(E) for the specified in vitro uses without filing Form ARRA-9 as required by R9-7-306(E)(2); provided, that the licensee is subject to the other provisions of R9-7-306(E).
- D. In addition to the other license application requirements in this Section, each applicant shall include in the radiation safety program required under subsection (A)(1) a system for ensuring that each syringe and vial that contains unsealed radioactive material is labeled in accordance with R9-7-431(D).

Historical Note

New Section R9-7-703 recodified from R12-1-703 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-704. Provisions for the Protection of Human Research Subjects

- A. A licensee may conduct basic research involving human research subjects and research involving patients receiving investigational new drugs or devices if the licensee only uses the radioactive material specified on the license for the uses authorized on the license.
- B. If research is conducted, funded, supported, or regulated by a federal agency that has implemented the federal Policy for Protection of Human Research Subjects (45 CFR 46, June 23, 2005, which is incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, DC 20408, on file with the Department, and contains no future editions or amendments), the licensee shall:
1. Obtain review and approval of the research from an Institutional Review Board (IRB); and
 2. Obtain informed consent from the human research subject.
- C. If research will not be conducted, funded, supported, or regulated by a federal agency that has implemented the federal policy in subsection (B), a medical licensee shall, before conducting research, apply for and receive a specific amendment to its use license. The amendment request shall include a written commitment that the licensee will, before conducting research:
1. Obtain review and approval of the research from an IRB, as defined and described in the federal policy; and
 2. Obtain informed consent from the human research subject.
- D. Before conducting the research described in subsection (A) the licensee shall apply to the Department for and receive a specific amendment to its medical use license. The amendment request shall include a written commitment that the licensee will, before conducting research:
1. Obtain any review and approval required by this Section, and
 2. Obtain informed consent from the human research subject if applicable.
- E. Nothing in this Section relieves a licensee from complying with the other requirements in this Article.

Historical Note

New Section R9-7-704 recodified from R12-1-704 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-705. Authority and Responsibilities for the Radiation Protection Program

- A. A licensee's management shall appoint in writing a Radiation Safety Officer, who agrees, in writing, to be responsible for implementing the radiation protection program. The licensee,

through the Radiation Safety Officer, shall ensure that radiation safety activities are being performed in accordance with licensee-approved procedures and regulatory requirements. A licensee's management may appoint, in writing, one or more Associate Radiation Safety Officers to support the Radiation Safety Officer. The Radiation Safety Officer, with written agreement of the licensee's management, must assign the specific duties and tasks to each Associate Radiation Safety Officer. These duties and tasks are restricted to the types of use for which the Associate Radiation Safety Officer is listed on a license. The Radiation Safety Officer may delegate duties and tasks to the Associate Radiation Safety Officer but shall not delegate the authority or responsibilities for implementing the radiation protection program. Each time the Radiation Safety Officer is changed, the licensee shall provide to the Department within 30 days an amendment request and a copy of the correspondence between the licensee's management and the candidate, accepting the position of Radiation Safety Officer.

- B. Licensees that are authorized for two or more different types of uses of radioactive material listed in Groups 300, 400, 600, and 1,000, or two or more types of units under group 600 or 1,000, shall establish a Radiation Safety Committee (RSC) to oversee all uses of radioactive material permitted by the license. At a minimum, the RSC shall include an authorized user of each type of use permitted by the license, the Radiation Safety Officer, a representative of the nursing service, and a representative of management who is neither an authorized user nor a Radiation Safety Officer.
- C. If a licensee or applicant is not a health care institution and is unable to meet the RSC membership requirements in subsection (B), the licensee or applicant may request an exemption in accordance with A.R.S. § 30-654(B)(13). The request for exemption shall be made to the Department in writing and list the reasons why the health care institution is unable to meet the requirements.
- D. A licensee shall ensure that the RSC meets, at a minimum, on an annual basis and maintain the RSC meeting minutes for Department review for three years after the date of the RSC meeting.
- E. A licensee shall notify the Department no later than 30 days after:
1. An authorized user, an authorized nuclear pharmacist, a Radiation Safety Officer, an Associate Radiation Safety Officer, an authorized medical physicist, or ophthalmic physicist permanently discontinues performance of duties under the license or has a name change;
 2. The licensee permits an individual qualified to be a Radiation Safety Officer under R9-7-710 to function as a temporary Radiation Safety Officer and to perform the functions of a Radiation Safety Officer;
 3. The licensee's mailing address changes;
 4. The licensee's name changes, but the name change does not constitute a transfer of control of the license as described in R9-7-313(B);
 5. The licensee has added to or changed the areas of use identified in the application or on the license where byproduct material is used in accordance with R9-7-301, if the change does not include addition or relocation of either an area where PET radionuclides are produced or a PET radioactive drug delivery line from the PET radionuclide/PET radioactive drug production area; or
 6. The licensee obtains a sealed source for use in manual brachytherapy from a different manufacturer or with a different model number than authorized by its license for which it did not require a license amendment as provided in R9-7-701. The notification must include the manufac-

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turer and model number of the sealed source, the isotope, and the quantity per sealed source.

Historical Note

New Section R9-7-705 recodified from R12-1-705 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

R9-7-706. Supervision

- A. For purposes of this rule, "supervision" means the exercise of control over or direction of the use of radioactive material in the practice of medicine by an authorized user named on a radioactive material license. Supervision does not require a supervising physician's constant physical presence if the supervising physician can be easily contacted by radio, telephone, or telecommunication.
- B. A physician may use radioactive material if the person is licensed by the Arizona Medical Board or Board of Osteopathic Examiners in Medicine and Surgery and is listed as an authorized user on the Arizona radioactive material license under which the radioactive material is obtained.
- C. A licensee that permits the receipt, possession, use, or transfer of radioactive material by an individual under the supervision of an authorized user, shall:
 1. Instruct the supervised individual in the licensee's written radiation protection procedures, written directive procedures, rules, and license conditions with respect to the use of radioactive material; and
 2. Require the supervised individual to follow the instructions of the supervising authorized user for medical uses of radioactive material, written radiation protection procedures established by the licensee, written directive procedures, rules, and license conditions with respect to the medical use of radioactive material.
- D. A licensee that permits the preparation of radioactive material for medical use by an individual who is supervised by an authorized nuclear pharmacist or a physician, who is an authorized user, shall:
 1. Instruct the supervised individual in the preparation of radioactive material for medical use, as appropriate to that individual's involvement with radioactive material; and
 2. Require the supervised individual to follow the instructions of the supervising authorized user or authorized nuclear pharmacist regarding the preparation of radioactive material for medical use, written radiation protection procedures established by the licensee, the rules, and license conditions.
- E. A licensee that permits supervised activities under subsections (C) and (D) is responsible for the acts and omissions of the supervised individual.
- F. A limited-service nuclear pharmacy licensee shall dispense radiopharmaceuticals only to a physician listed as an authorized user on a valid radioactive material license issued by the Department, an Agreement State, or the NRC. For purposes of this rule "limited-service nuclear pharmacy" is defined in R4-23-110.

Historical Note

New Section R9-7-706 recodified from R12-1-706 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-707. Written Directives

- A. A licensee shall ensure that a written directive is dated and signed by an authorized user before the administration of I-131 sodium iodide greater than 1.11 MBq (30 microcuries (μCi)), any therapeutic dosage of unsealed radioactive material or any

therapeutic dose of radiation from radioactive material. If, because of the emergent nature of the patient's condition, a delay in order to provide a written directive would jeopardize the patient's health, an oral directive is acceptable. The information contained in the oral directive shall be documented as soon as possible in writing in the patient's record. A written directive shall be prepared within 48 hours of the oral directive.

- B. A written directive shall contain the patient or human research subject's name and the following information:
 1. For any administration of quantities greater than 1.11 MBq (30 μCi) of sodium iodide I-131: the dosage;
 2. For an administration of a therapeutic dosage of unsealed radioactive material other than sodium iodide I-131: the radiopharmaceutical, dosage, and route of administration;
 3. For gamma stereotactic radiosurgery: the total dose, treatment site, and values for the target coordinate settings per treatment for each anatomically distinct treatment site;
 4. For teletherapy: the total dose, dose per fraction, number of fractions, and treatment site;
 5. For high dose-rate remote afterloading brachytherapy: the radionuclide, treatment site, dose per fraction, number of fractions, and total dose;
 6. For permanent implant brachytherapy:
 - a. Before implantation: the treatment site, radionuclide, and total strength; and
 - b. After implantation but before the patient leaves the post-treatment recovery area: the treatment site, number of sources implanted, total source strength implanted, and date; or
 7. For all other brachytherapy, including low, medium, and pulsed dose rate remote afterloaders:
 - a. Before implantation: the treatment site, radionuclide, and dose; and
 - b. After implantation but before completion of the procedure: the radionuclide, treatment site, number of sources, total source strength and exposure time (or the total dose), and date.
- C. The licensee shall retain a copy of the written directive for three years after creation of the record.

Historical Note

New Section R9-7-707 recodified from R12-1-707 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

R9-7-708. Procedures for Administrations Requiring a Written Directive

For any administration requiring a written directive, the licensee shall develop, implement, and maintain written procedures to provide high confidence that:

1. The patient's or human research subject's identity is verified before each administration; and
2. Each administration is in accordance with the written directive.

Historical Note

New Section R9-7-708 recodified from R12-1-708 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-709. Sealed Sources or Devices for Medical Use

A licensee may only use:

1. Sealed sources, including teletherapy sources, or devices manufactured, labeled, packaged, and distributed in accordance with a license issued under Article 3 of this Chapter, equivalent regulations of the NRC or equivalent requirements of an Agreement State; or

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2. Sealed sources or devices noncommercially transferred from another medical licensee; or
3. Teletherapy sources manufactured and distributed in accordance with a license issued by the Department, the NRC, or another Agreement State.

Historical Note

New Section R9-7-709 recodified from R12-1-709 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-710. Radiation Safety Officer and Associate Radiation Safety Officer Training

A. A licensee shall require an individual fulfilling the responsibilities of the Radiation Safety Officer, described in R9-7-705, to be an individual who:

1. Is certified by a specialty board whose certification process includes all of the requirements in subsection (A)(2)(a) and (B) and whose certification has been recognized by the Department, the NRC, or an Agreement State. To have its certification process recognized, a specialty board shall require all candidates for certification to:
 - a. Meet the following minimum requirements:
 - i. Hold a bachelor's or graduate degree from an accredited college or university in physical science or engineering or bio-logical science with a minimum of 20 college credits in physical science;
 - ii. Have five or more years of professional experience in health physics (graduate training may be substituted for no more than two years of the required experience) including at least three years in applied health physics; and
 - iii. Pass an examination administered by diplomates of the specialty board, which evaluates knowledge and competence in radiation physics and instrumentation, radiation protection, mathematics pertaining to the use and measurement of radioactivity, radiation biology, and radiation dosimetry; or
 - b. Meet the following minimum requirements:
 - i. Hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university;
 - ii. Have two years of full-time practical training and/or supervised experience in medical physics;
 - (1) Under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the Department, the NRC, or another Agreement State; or
 - (2) In clinical nuclear medicine facilities providing diagnostic and/or therapeutic services under the direction of physicians who meet the requirements for authorized users qualified under subsection (B), R9-7-721, or R9-7-723; and
 - iii. Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in clinical diagnostic radiological or nuclear medicine physics and in radiation safety;
2. Has:
 - a. Completed a structured educational program consisting of both:

- i. 200 hours of didactic and laboratory training in the following areas:
 - (1) Radiation physics and instrumentation;
 - (2) Radiation protection;
 - (3) Mathematics pertaining to the use and measurement of radioactivity;
 - (4) Radiation biology; and
 - (5) Radiation dosimetry; and
 - ii. One year of full-time radiation safety experience under the supervision of the individual identified as the Radiation Safety Officer on a Department, a NRC, or an Agreement State license or permit issued by a NRC master material licensee that authorizes similar type(s) of use(s) of radioactive material involving the following:
 - (1) Shipping, receiving, and performing related radiation surveys;
 - (2) Using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and instruments used to measure radionuclides;
 - (3) Securing and controlling radioactive material;
 - (4) Using administrative controls to avoid mistakes in the administration of radioactive material;
 - (5) Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures;
 - (6) Using emergency procedures to control radioactive material; and
 - (7) Disposing of radioactive material; and
 - b. Obtained written certification, signed by a preceptor Radiation Safety Officer or Associate Radiation Safety Officer, that the individual has satisfactorily completed the requirements in subsection (A)(2)(a) and has achieved a level of radiation safety knowledge sufficient to function independently as a Radiation Safety Officer or as an Associate Radiation Safety Officer for a medical use licensee;
3. Is:
 - a. A medical physicist who has been certified by a specialty board whose certification process has been recognized by the Department, the NRC, or another Agreement State under R9-7-711(A) or equivalent, has experience with radiation safety aspects of similar types of use of radioactive material for which the licensee seeks the approval of the individual as Radiation Safety Officer or an Associate Radiation Safety Officer, and meets the requirements in subsection (B); or
 - b. An authorized user, authorized medical physicist, or authorized nuclear pharmacist identified on the licensee's license and has experience with the radiation safety aspects of similar types of use of radioactive material for which the individual has Radiation Safety Officer responsibilities; or
 4. Has experience with the radiation safety aspects of the types of use of radioactive material for which the individual is seeking simultaneous approval both as the Radiation Safety Officer and the authorized user on the same new medical license and meets the requirements in subsection (B).

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- B.** A licensee shall require an individual fulfilling the responsibilities of the Radiation Safety Officer to have training in the radiation safety, regulatory issues, and emergency procedures for the types of use for which the licensee seeks approval. This training requirement may be satisfied by completing training that is supervised by a Radiation Safety Officer, an Associate Radiation Safety Officer, authorized medical physicist, authorized nuclear pharmacist, or authorized user, as appropriate, who is authorized for the type(s) of use for which the licensee is seeking approval.
- C.** Exceptions.
1. An individual identified as a Radiation Safety Officer or as an Associate Radiation Safety Officer on a Department, a NRC, or another Agreement State license or a permit issued by the NRC or an Agreement State broad scope licensee or master material license permittee or by a master material broad scope license permittee on or before January 14, 2019, need not comply with the training requirements in subsections (A)(1) through (4).
 2. A physician, dentist, or podiatrist identified as an authorized user for the medical use of radioactive material on a license issued by the Department, the NRC, or an Agreement State, a permit issued by a NRC master material licensee, a permit issued by the Department, the NRC, or an Agreement State broad scope licensee, or a permit issued in accordance with a NRC master material broad scope license on or before October 24, 2005, need not comply with the training requirements in this Article.
- D.** The training and experience required in this Section shall be obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.
- E.** Individuals who, under subsection (C), need not comply with training requirements described in this Section may serve as preceptors for, and supervisors of, applicants seeking authorization on Department licenses for the same uses for which these individuals are authorized.
- F.** Records Retention.
1. The licensee shall retain both a copy of the authority, duties, and responsibilities of the Radiation Safety Officer, as required by this Section, and a signed copy of each Radiation Safety Officer's agreement to be responsible for implementing the radiation safety program for the duration of the license. The records must include the signature of the Radiation Safety Officer and licensee management.
 2. For each Associate Radiation Safety Officer appointed under this Section, the licensee shall retain, for five years after the Associate Radiation Safety Officer is removed from the license, a copy of the written document appointing the Associate Radiation Safety Officer, signed by the licensee's management.
- Historical Note**
- New Section R9-7-710 recodified from R12-1-710 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4). Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).
- R9-7-711. Authorized Medical Physicist Training**
- A.** A licensee shall require an authorized medical physicist to be an individual who:
1. Is certified by a specialty board whose certification process includes all of the training and experience requirements in subsections (A)(2)(a) and (B) and whose certification has been recognized by the Department, the NRC, or an Agreement State. To have its certification process recognized, a specialty board shall require all candidates for certification to:
 - a. Hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university;
 - b. Have two years of full-time practical training and/or supervised experience in medical physics:
 - i. Under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the NRC or an Agreement State; or
 - ii. In clinical radiation facilities providing high-energy, external beam therapy (photons and electrons with energies greater than or equal to 1 million electron volts) and brachytherapy services under the direction of physicians who meet the requirements for authorized users in R9-7-710, R9-7-719, R9-7-721, R9-7-723, R9-7-727, R9-7-728, or R9-7-744; and
 - c. Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in clinical radiation therapy, radiation safety, calibration, quality assurance, and treatment planning for external beam therapy, brachytherapy, and stereotactic radiosurgery; or
 2. Meets the following alternative training requirements:
 - a. Holds a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university; and has completed one year of full-time training in medical physics and an additional year of full-time work experience under the supervision of an individual who meets the requirements for an authorized medical physicist for the type(s) of use for which the individual is seeking authorization. This training and work experience must be conducted in clinical radiation facilities that provide high-energy, external beam therapy (photons and electrons with energies greater than or equal to 1 million electron volts) and brachytherapy services and must include:
 - i. Performing sealed source leak tests and inventories;
 - ii. Performing decay corrections;
 - iii. Performing full calibration and periodic spot checks of external beam treatment units, stereotactic radiosurgery units, and remote afterloading units as applicable; and
 - iv. Conducting radiation surveys around external beam treatment units, stereotactic radiosurgery units, and remote afterloading units as applicable; and
 - b. Has obtained written attestation that the individual has satisfactorily completed the requirements in both subsections (A)(2)(a) and (B); and has achieved a level of competency sufficient to function independently as an authorized medical physicist for each type of therapeutic medical unit for which the

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individual is requesting authorized medical physicist status. The written attestation must be signed by a preceptor authorized medical physicist who meets the requirements in this Section, or equivalent Agreement State or NRC requirements for an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status.

- B. A licensee shall require an authorized medical physicist to be an individual who has training for the type(s) of use for which authorization is sought that includes hands-on device operation, safety procedures, clinical use, and the operation of a treatment planning system. This training requirement may be satisfied by satisfactorily completing either a training program provided by the vendor or by training supervised by an authorized medical physicist authorized for the type(s) of use for which the individual is seeking authorization.
- C. Exceptions. An individual identified as a teletherapy or medical physicist on a Department, a NRC, or another Agreement State license or a permit issued by the NRC or another Agreement State broad scope licensee or master material license permittee or by a master material broad scope license permittee on or before January 14, 2019, need not comply with the training requirements in subsection (A).
- D. The training and experience required in this Section shall be obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.
- E. Individuals who, under subsection (C), need not comply with training requirements described in this Section may serve as preceptors for, and supervisors of, applicants seeking authorization on Department licenses for the same uses for which these individuals are authorized.

Historical Note

New Section R9-7-711 recodified from R12-1-711 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4). Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-712. Authorized Nuclear Pharmacist Training

- A. A licensee shall require the authorized nuclear pharmacist to be a pharmacist who:
 - 1. Is certified as a nuclear pharmacist by a specialty board whose certification process has been recognized by the Department, the NRC, or an Agreement State. To have its certification process recognized, a specialty board shall require all candidates for certification to:
 - a. Have graduated from a pharmacy program accredited by the Accreditation Council for Pharmacy Education (ACPE) (previously named the American Council on Pharmaceutical Education), or have passed the Foreign Pharmacy Graduate Examination Committee (FPGEC) examination;
 - b. Hold a current, active license to practice pharmacy in Arizona;
 - c. Provide evidence of having acquired at least 4000 hours of training/experience in nuclear pharmacy practice. Academic training may be substituted for no more than 2000 hours of the required training and experience; and

- d. Pass an examination in nuclear pharmacy administered by diplomates of the specialty board, that assesses knowledge and competency in procurement, compounding, quality assurance, dispensing, distribution, health and safety, radiation safety, provision of information and consultation, monitoring patient outcomes, research and development; or
- 2. Has completed 700 hours in a structured educational program consisting of both:
 - a. 200 hours of classroom and laboratory training in the following areas:
 - i. Radiation physics and instrumentation;
 - ii. Radiation protection;
 - iii. Mathematics pertaining to the use and measurement of radioactivity;
 - iv. Chemistry of radioactive material for medical use; and
 - v. Radiation biology; and
 - b. Supervised practical experience in a nuclear pharmacy involving:
 - i. Shipping, receiving, and performing related radiation surveys;
 - ii. Using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and, if appropriate, instruments used to measure alpha- or beta-emitting radionuclides;
 - iii. Calculating, assaying, and safely preparing dosages for patients or human research subjects;
 - iv. Using administrative controls to avoid medical events in the administration of radioactive material; and
 - v. Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures; and
- 3. Has obtained written attestation, signed by a preceptor authorized nuclear pharmacist, that the individual has satisfactorily completed the requirements in subsection (A)(2) and has achieved a level of competency sufficient to function independently as an authorized nuclear pharmacist.

- B. Exceptions. An individual identified as a nuclear pharmacist on a Department, a NRC, or an Agreement State license or a permit issued by the NRC or an Agreement State broad scope licensee or master material license permittee or by a master material broad scope license permittee on or before January 14, 2019, need not comply with the training requirements in subsections (A)(1) through (A)(3).
- C. The training and experience required in this Section shall be obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.
- D. Individuals who, under subsection (B), need not comply with training requirements described in this Section may serve as preceptors for, and supervisors of, applicants seeking authorization on Department licenses for the same uses for which these individuals are authorized.

Historical Note

New Section R9-7-712 recodified from R12-1-712 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 28 A.A.R.

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3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-713. Determination of Prescribed Dosages, and Possession, Use, and Calibration of Instruments

- A. A licensee shall determine and record the activity of each dosage before medical use.
- B. For a unit dosage, this determination shall be made by:
 1. Direct measurement of radioactivity; or
 2. Decay correction, based on the activity or activity concentration determined by:
 - a. A manufacturer or preparer licensed under R9-7-311 or equivalent NRC or Agreement State requirements; or
 - b. A Department, a NRC, or an Agreement State licensee for use in research in accordance with a Radioactive Drug Research Committee-approved protocol or an Investigational New Drug (IND) protocol accepted by FDA or;
 - c. A PET radioactive drug producer licensed under 1 R9-7-311 or equivalent NRC or Agreement State requirements.
- C. For other than unit dosages, this determination shall be made by:
 1. Direct measurement of radioactivity;
 2. Combination of measurement of radioactivity and mathematical calculations; or
 3. Combination of volumetric measurements and mathematical calculations based on the measurement made by a manufacturer or preparer licensed under R9-7-311, or equivalent NRC or Agreement State requirements.
- D. Unless otherwise directed by the authorized user, a licensee may not use a dosage if the dosage does not fall within the prescribed dosage range or if the dosage differs from the prescribed dosage by more than 20 percent.
- E. A licensee shall retain a record of the dosage determination required by this Section for Department inspection for three years.
- F. For direct measurements performed in accordance with subsection (B)(1), a licensee shall possess and use instrumentation to measure the activity of the dosage before it is administered to each patient or human research subject.
- G. A licensee shall calibrate the instrumentation required in subsection (F) in accordance with nationally recognized standards, the manufacturer's instructions, or the following procedures.
 1. The procedures that may be followed are:
 - a. Check each dose calibrator for constancy with a dedicated check source at the beginning of each day of use;
 - b. Test each dose calibrator for accuracy upon installation and at least annually thereafter by assaying at least two sealed sources containing different radionuclides whose activity the manufacturer has determined within 5 percent of its stated activity, whose activity is at least 10 microcuries for radium-226 and 50 microcuries for any other photon-emitting radionuclide, and at least one of which has a principal photon energy between 100 keV and 500 keV;
 - c. Test each dose calibrator for linearity upon installation and at least quarterly thereafter over a range from the highest dosage that will be administered to a patient or human research subject to 1.1 megabecquerels (30 microcuries);
 - d. Test each dose calibrator for geometry dependence upon installation over the range of volumes and vol-

ume configurations for which it will be used. The licensee shall keep a record of this test for the duration of the use of the dose calibrator;

- e. Perform appropriate checks and tests required by this Section following adjustment or repair of the dose calibrator; and
 - f. Mathematically correct dosage readings for any geometry or linearity error that exceeds 10 percent if the dosage is greater than 10 microcuries and shall repair or replace the dose calibrator if the accuracy or constancy error exceeds 10 percent.
2. A licensee shall maintain the dose calibrator in accordance with this subsection, even though the dose calibrator is only used to "verify" a dosage prepared by a supplier authorized in subsection (B)(2).
 3. A licensee shall maintain on file for Department review nationally recognized standards or manufacturer's instructions used to maintain a dose calibrator and meet the requirements of subsection (G).
- H. A licensee shall calibrate the survey instruments before first use, annually, and following a repair that affects the calibration. A licensee shall:
 1. Calibrate all scales with readings up to 10 mSv (1000 mrem) per hour with a radiation source;
 2. Calibrate two separated readings on each scale or decade that will be used to show compliance; and
 3. Conspicuously note on the instrument the date of calibration.
 - I. A licensee may not use survey instruments if the difference between the indicated exposure rate and the calculated exposure rate is more than 20 percent.
 - J. A licensee shall retain records of instrument calibration for three years following the calibration.

Historical Note

New Section R9-7-713 recodified from R12-1-713 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-714. Authorization for Calibration, Transmission, and Reference Sources

Any person authorized by R9-7-703 for medical use of radioactive material may receive, possess, and use any of the following radioactive material for check, calibration, transmission, and reference use.

1. Sealed sources, not exceeding 1.11 GBq (30 mCi) each, manufactured and distributed by a person licensed under Article 3 of this Chapter or equivalent NRC or Agreement State regulations.
2. Sealed sources, not exceeding 1.11 GBq (30 mCi) each, redistributed by a licensee authorized to redistribute the sealed sources manufactured and distributed by a person licensed under Article 3 of this Chapter, providing the redistributed sealed sources are in the original packaging and shielding and are accompanied by the manufacturer's approved instructions.
3. Any radioactive material with a half-life not longer than 120 days in individual amounts not to exceed 0.56 GBq (15 mCi).
4. Any radioactive material with a half-life longer than 120 days in individual amounts not to exceed the smaller of 7.4 MBq (200 µCi) or 1000 times the quantities in Article 4, Appendix B of this Chapter.
5. Technetium-99m in amounts as needed.
6. A licensee is limited to five sources of radiation authorized under subsections (1) through (3), unless otherwise specified in the licensee's radioactive material license.

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Historical Note

New Section R9-7-714 recodified from R12-1-714 at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-715. Requirements for Possession of Sealed Sources and Brachytherapy Sources

- A. A licensee in possession of any sealed source or brachytherapy source shall follow the radiation safety and handling instructions supplied by the manufacturer.
- B. A licensee in possession of a sealed source shall test the source for leakage in accordance with R9-7-417.
- C. A licensee in possession of sealed sources or brachytherapy sources, except for gamma stereotactic radiosurgery sources, shall conduct a physical inventory every six months of all sources in its possession. During the period of time between the inventories, the licensee shall add each acquired sealed source to the inventory record and remove from the inventory record each source that leaves the licensee's control.
- D. A licensee shall document the inventories conducted under subsection (C) and maintain inventory records in accordance with R9-7-450.

Historical Note

New Section R9-7-715 recodified from R12-1-715 at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-716. Surveys of Ambient Radiation Exposure Rate, Surveys for Contamination, and PET Radiation Exposure Concerns

- A. In addition to the surveys required in Article 4 of this Chapter, a licensee shall survey with a radiation detection survey instrument at the end of each day of use all areas where unsealed radioactive material, requiring a written directive, is prepared for use or administered. In areas of routine use, that are to be released for unrestricted use, a licensee shall perform a survey of the area using an instrument appropriate for detecting contamination before releasing the area for unrestricted use.
- B. A licensee shall obtain the services of a person, experienced in the principles of radiation protection and installation design, to design a PET facility and perform a radiation survey when the facility is ready for patient imaging. The licensee shall provide a copy of the installation radiation survey to the Department within 30 days of imaging the first patient.
- C. The licensee shall use engineering controls or shield each PET use area with protective barriers necessary to comply with the radiation exposure limits in R9-7-408 and R9-7-416.
 - 1. At the time of application for a new license or amendment to an existing license, and before imaging of the first patient, the licensee shall provide to the Department a copy of the installation report signed by the contractor who installed the shielding material recommended by a person meeting the requirements in subsection (B) and a copy of the installation radiation survey required in subsection (B).
 - 2. The licensee shall perform shielding calculations in accordance with *AAPM Task Group 108: PET and PET/CT Shielding Requirements*, in Medical Physics, Vol. 33, No. 1, January 2006, which is incorporated by reference, published by the American Association of Physicists in Medicine, One Physics Ellipse, College Park, MD 20740, and on file with the Department. This incorporation by reference contains no future editions or amendments. In lieu of these procedures, the licensee may use equivalent calculations approved by the Department.
- D. As part of the annual ALARA review required in R9-7-407, the licensee shall document a review of the PET patient workload and associated change, if any, in public exposure resulting

from the installed facility shielding and other public radiation exposure controls in use at the time of the review.

Historical Note

New Section R9-7-716 recodified from R12-1-716 at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-717. Release of Individuals Containing Radioactive Material or Implants Containing Radioactive Material

- A. A licensee may authorize the release from its control of any individual who has been administered unsealed radioactive material or implants containing radioactive material, if the total effective dose equivalent to any other individual from exposure to the released individual is not likely to exceed 5 millisieverts (0.5 rem).
- B. A licensee shall provide the released individual, or the individual's parent or guardian, with instructions, including written instructions, on actions recommended to maintain doses to other individuals as low as is reasonably achievable if the total effective dose equivalent to any other individual is likely to exceed 1 millisievert (0.1 rem). If the total effective dose equivalent to a nursing infant or child could exceed 1 millisievert (0.1 rem) assuming there were no interruption of breast-feeding, the instructions shall also include:
 - 1. Guidance on the interruption or discontinuation of breast-feeding; and
 - 2. Information on the potential consequences, if any, of failure to follow the guidance.
- C. A licensee shall maintain a record of the basis for authorizing the release of an individual and instructions provided to a breast-feeding female for three years from the date of the administration performed under subsection (A). Nothing in this rule relieves the licensee from the personnel exposure requirements in Article 4.

Historical Note

New Section R9-7-717 recodified from R12-1-717 at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-718. Mobile Medical Service

- A. A licensee providing mobile medical service shall:
 - 1. Obtain a letter signed by the management of each client for which services are rendered that permits the use of radioactive material at the client's address and clearly delineates the authority and responsibility of the licensee and the client;
 - 2. Check instruments used to measure the activity of unsealed radioactive material for proper function before medical use at each client's address or on each day of use, whichever is more frequent. At a minimum, the check for proper function required by this subsection shall include a constancy check;
 - 3. Check survey instruments for proper operation with a dedicated check source before use at each client's address; and
 - 4. Before leaving a client's address, survey all areas of use to ensure compliance with the requirements in Article 4 of this Chapter.
- B. A mobile medical service may not have radioactive material delivered from the manufacturer or the distributor to the client unless the client has a license allowing its possession. If applicable, radioactive material delivered to the client shall be received and handled in conformance with the client's license.
- C. A licensee providing mobile medical services shall retain the letter required in subsection (A)(1) and the record of each survey required in subsection (A)(4) for three years from the date of the survey.

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Historical Note

New Section R9-7-718 recodified from R12-1-718 at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-719. Training for Uptake, Dilution, and Excretion Studies

A. Except as provided in R9-7-710, the licensee shall require an authorized user of unsealed radioactive material for the uses authorized under Group 100 in Exhibit A, Medical Use Groups of this Article to be a physician who:

1. Is certified by a medical specialty board whose certification process has been recognized by the NRC or an Agreement State, as specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>, and who meets the requirements in subsection (A)(3). To have its certification process recognized, a specialty board shall require all candidates for certification to:
 - a. Complete 60 hours of training and experience in basic radionuclide handling techniques and radiation safety applicable to the medical use of unsealed radioactive material for uptake, dilution, and excretion studies as described in subsection (A)(3); and
 - b. Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in radiation safety, radionuclide handling, and quality control;
2. Is an authorized user under R9-7-721, R9-7-723, the NRC, or equivalent Agreement State requirements; or
3. Has:
 - a. Completed 60 hours of training and experience, including a minimum of eight hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed radioactive material for uptake, dilution, and excretion studies. The training and experience must include:
 - i. Classroom and laboratory training in the following areas:
 - (1) Radiation physics and instrumentation;
 - (2) Radiation protection;
 - (3) Mathematics pertaining to the use and measurement of radioactivity;
 - (4) Chemistry of radioactive material for medical use; and
 - (5) Radiation biology; and
 - ii. Work experience, under the supervision of an authorized user who meets the requirements in this Article, NRC, or equivalent Agreement State requirements, involving:
 - (1) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;
 - (2) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;
 - (3) Calculating, measuring, and safely preparing patient or human research subject dosages;
 - (4) Using administrative controls to prevent a medical event involving the use of unsealed radioactive material;
 - (5) Using procedures to contain spilled radioactive material safely and using proper decontamination procedures; and
 - (6) Administering dosages of radioactive

drugs to patients or human research subjects; and

- b. Obtained written attestation that the individual has satisfactorily completed the requirements in subsection (A)(1) or subsection (A)(3)(a) and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under Exhibit A, Medical Use Groups of this Article. The attestation must be obtained from either:
 - i. A preceptor authorized user who meets the requirements in this Section, R9-7-721, or R9-7-723, the NRC, or equivalent Agreement State requirements; or
 - ii. A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Section, R9-7-721, or R9-7-723, the NRC, or equivalent Agreement State requirements, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subsection (A)(3)(a).
- B.** The training and experience in subsections (A)(1)(a) or (3)(a) shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.
- C.** Individuals who, under R9-7-710(B), need not comply with training requirements described in this Section may serve as preceptors for, and supervisors of, applicants seeking authorization on Department licenses for the same uses for which these individuals are authorized.

Historical Note

New Section R9-7-719 recodified from R12-1-719 at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

R9-7-720. Permissible Molybdenum-99, Strontium-82, and Strontium-85 Concentrations

- A.** A licensee may not administer to humans a radiopharmaceutical that contains more than 0.15 kilobecquerel of molybdenum-99 per megabecquerel of technetium-99m (0.15 microcurie of molybdenum-99 per millicurie of technetium-99m) or, more than 0.02 kilobecquerel of strontium-82 per megabecquerel of rubidium-82 chloride injection (0.02 microcurie of strontium-82 per millicurie of rubidium-82 chloride); or more than 0.2 kilobecquerel of strontium-85 per megabecquerel of rubidium-82 chloride injection (0.2 microcurie of strontium-85 per millicurie of rubidium-82).
- B.** A licensee that uses molybdenum-99/technetium-99m generators for preparing a technetium-99m radiopharmaceutical shall measure the molybdenum-99 concentration of the first eluate after receipt of a generator to demonstrate compliance with subsection (A).

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- C. A licensee that uses a strontium-82/rubidium-82 generator for preparing a rubidium-82 radiopharmaceutical shall, before the first patient use of the day, measure the concentration of radionuclides strontium-82 and strontium-85 to demonstrate compliance with subsection (A).
- D. A licensee shall maintain a record of each molybdenum-99 concentration measurement or strontium-82 and strontium-85 concentrations measurements for three years following completion of the measurement.
- E. A licensee shall notify by telephone the NRC Operations Center and the distributor of the generator within seven calendar days after discovery that an eluate exceeded the permissible concentration listed in subsection (A) at the time of generator elution. The telephone report to the NRC must include the manufacturer, model number, and serial number (or lot number) of the generator; the results of the measurement; the date of the measurement; whether dosages were administered to patients or human research subjects; when the distributor was notified; and the action taken.

Historical Note

New Section R9-7-720 recodified from R12-1-720 at 24

A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 25 A.A.R.

3561, effective December 3, 2019 (Supp. 19-4).

R9-7-721. Training for Imaging and Localization Studies Not Requiring a Written Directive

Except as provided in R9-7-710, the licensee shall require an authorized user of unsealed radioactive material for the uses authorized under Group 200 in Exhibit A, Medical Use Groups of this Article to be a physician who:

- 1. Is certified by a medical specialty board whose certification process has been recognized by the NRC or an Agreement State, as specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>, and who meets the requirements in subsection (3). To have its certification process recognized, a specialty board shall require all candidates for certification to:
 - a. Complete 700 hours of training and experience in basic radionuclide handling techniques and radiation safety applicable to the medical use of unsealed radioactive material for imaging and localization studies as described in subsection (3); and
 - b. Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in radiation safety, radionuclide handling, and quality control;
- 2. Is an authorized user under R9-7-723, the NRC, or equivalent Agreement State requirements; or
- 3. Has:
 - a. Completed 700 hours of training and experience, including a minimum of 80 hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed radioactive material for imaging and localization studies. The training and experience must include:
 - i. Classroom and laboratory training in the following areas:
 - (1) Radiation physics and instrumentation;
 - (2) Radiation protection;
 - (3) Mathematics pertaining to the use and measurement of radioactivity;
 - (4) Chemistry of radioactive material for medical use; and
 - (5) Radiation biology; and
 - ii. Work experience, under the supervision of an authorized user who meets the requirements in this Section, R9-7-710, or R9-7-723 and in subsection (3)(b)(vii); the requirements of the NRC; or equivalent Agreement State requirements. An authorized nuclear pharmacist who meets the requirements in R9-7-712 may provide the supervised work experience for subsection (3)(a)(ii)(7). Work experience must involve:
 - (1) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;
 - (2) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;
 - (3) Calculating, measuring, and safely preparing patient or human research subject dosages;
 - (4) Using administrative controls to prevent a medical event involving the use of unsealed radioactive material;
 - (5) Using procedures to contain spilled radioactive material safely and using proper decontamination procedures;
 - (6) Administering dosages of radioactive drugs to patients or human research subjects; and
 - (7) Eluting generator systems appropriate for preparation of radioactive drugs for imaging and localization studies, measuring and testing the eluate for radionuclide purity, and processing the eluate with reagent kits to prepare labeled radioactive drugs; and
 - b. Obtained written attestation that the individual has satisfactorily completed the requirements in subsection (3)(a) and is able to independently fulfill the radiation safety-related duties as an authorized user for the medical uses authorized under Group 200 in Exhibit A, Medical Use Groups of this Article. The attestation must be obtained from either:
 - i. A preceptor authorized user who meets the requirements in this Section, R9-7-710, or R9-7-723; NRC requirements; or equivalent Agreement State requirements; or
 - ii. A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Section, R9-7-710, or R9-7-723; NRC requirements; or equivalent Agreement State requirements, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subsection (3)(a).

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Historical Note

New Section R9-7-721 recodified from R12-1-721 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

R9-7-722. Safety Instruction and Precautions for Use of Unsealed Radioactive Material Requiring a Written Directive

- A. A licensee shall provide radiation safety instruction, initially and at least annually, for all personnel caring for the patient or human research subject receiving radiopharmaceutical therapy and hospitalized for compliance with R9-7-717. To satisfy this requirement, the instruction shall describe the licensee's procedures for:
 1. Patient or human research subject control,
 2. Visitor control,
 3. Contamination control, and
 4. Waste control.
- B. For each patient or human research subject who cannot be released under R9-7-717, a licensee shall:
 1. Quarter the patient or the human research subject in a private room with a private sanitary facility;
 2. Visibly post the patient's or the human research subject's room with a "Radioactive Materials" sign;
 3. Note on the door or in the patient's or human research subject's chart where and how long visitors may stay in the patient's or the human research subject's room; and
 4. Monitor material and items removed from the patient's or the human research subject's room to determine that their radioactivity cannot be distinguished from the natural background radiation level with a radiation detection survey instrument set on its most sensitive scale and with no interposed shielding, or handle the material and items as radioactive waste.
- C. A licensee shall notify the Radiation Safety Officer, or his or her designee, and the authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.
- D. A licensee may use any unsealed byproduct material identified in R9-7-723(A)(2)(b)(vi) prepared for medical use and for which a written directive is required that is:
 1. Obtained from:
 - a. A manufacturer or preparer licensed under R9-7-311 or equivalent Agreement State requirements, or
 - b. A PET radioactive drug producer licensed under R9-7-311 or equivalent Agreement State requirements;
 2. Excluding production of PET radionuclides, prepared by:
 - a. An authorized nuclear pharmacist;
 - b. A physician who is an authorized user and who meets the requirements specified R-7-723; or
 - c. An individual under the supervision, as specified in R9-7-712, of the authorized nuclear pharmacist in subsection (D)(2)(a) or the physician who is an authorized user in subsection (D)(2)(b);
 3. Obtained from and prepared by an NRC or Agreement State licensee for use in research in accordance with an Investigational New Drug (IND) protocol accepted by FDA; or
 4. Prepared by the licensee for use in research in accordance with an Investigational New Drug (IND) protocol accepted by FDA.
- E. A licensee shall retain records of instruction and safety procedures performed under this rule for three years from the date of the activity.

Historical Note

New Section R9-7-722 recodified from R12-1-722 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

R9-7-723. Training for Use of Unsealed Radioactive Material Requiring a Written Directive, Including Treatment of Hyperthyroidism, and Treatment of Thyroid Carcinoma

- A. Except as provided in R9-7-710, the licensee shall require an authorized user of unsealed radioactive material for the uses authorized under Group 300 in Exhibit A, Medical Use Groups of this Article to be a physician who:
 1. Is certified by a medical specialty board whose certification process has been recognized by the NRC or an Agreement State, as specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>, and who meets the requirements in subsection (A)(2). To have its certification process recognized, a specialty board shall require all candidates for certification to:
 - a. Successfully complete residency training in a radiation therapy or nuclear medicine training program or a program in a related medical specialty. These residency training programs must include 700 hours of training and experience as described in (A)(2) subsection (A)(2)(a). Eligible training programs must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education, the Royal College of Physicians and Surgeons of Canada, or the Council on Postdoctoral Training of the American Osteopathic Association; and
 - b. Pass an examination, administered by diplomates of the specialty board, which tests knowledge and competence in radiation safety, radionuclide handling, and quality assurance, and clinical use of unsealed radioactive material for which a written directive is required; or
 2. Has:
 - a. Completed 700 hours of training and experience, including a minimum of 200 hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed radioactive material requiring a written directive. The training and experience must include:
 - i. Classroom and laboratory training in the following areas:
 - (1) Radiation physics and instrumentation;
 - (2) Radiation protection;
 - (3) Mathematics pertaining to the use and measurement of radioactivity;
 - (4) Chemistry of radioactive material for medical use; and
 - (5) Radiation biology; and
 - ii. Work experience, under the supervision of an authorized user who meets the requirements in this Article, NRC, or equivalent Agreement State requirements, involving:
 - (1) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;
 - (2) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;
 - (3) Calculating, measuring, and safely prepar-

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- ing patient or human research subject dosages;
- (4) Using administrative controls to prevent a medical event involving the use of unsealed radioactive material;
 - (5) Using procedures to contain spilled radioactive material safely and using proper decontamination procedures;
 - (6) Administering dosages of radioactive drugs to patients or human research subjects involving a minimum of three cases in each of the following categories for which the individual is requesting authorized user status:
 - (a) Oral administration of less than or equal to 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131, for which a written directive is required (Experience with at least three cases in the Category specified in subsection (A)(2)(a)(ii)(6)(b) also satisfies this requirement;
 - (b) Oral administration of greater than 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131;
 - (c) Parenteral administration of any beta emitter, or a photon-emitting radionuclide with a photon energy less than 150 keV, for which a written directive is required; and/or
 - (d) Parenteral administration of any other radionuclide, for which a written directive is required; and
 - b. Obtained written attestation, that the individual has satisfactorily completed the requirements in subsection (A)(2)(a) and is able to independently fulfill the radiation safety-related duties as an authorized user for the medical uses authorized under Group 300 in Exhibit A, Medical Use Groups of this Article for which the individual is requesting authorized user status. The attestation must be obtained from either:
 - i. A preceptor authorized user who meets the requirements in this Section or equivalent Agreement State or NRC requirements and has experience in administering dosages in the same dosage category or categories as the individual requesting authorized user status; or
 - ii. A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Section or equivalent Agreement State or NRC requirements, has experience in administering dosages in the same dosage category or categories as the individual requesting authorized user status, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subsection (A)(2)(a).
 - B. Except as provided in R9-7-710, a licensee shall require an authorized user of iodine-131 for the oral administration of sodium iodide I-131 requiring a written directive in quantities less than or equal to 1.22 gigabecquerels (33 millicuries) to be a physician who has completed the training requirements in 10 CFR 35.392, January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
 - C. Except as provided in R9-7-710, a licensee shall require an authorized user of iodine-131 for the oral administration of sodium iodide I-131 requiring a written directive in quantities greater than 1.22 gigabecquerels (33 millicuries) to be a physician who has completed the training requirements in 10 CFR 35.394, January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
 - D. Except as provided in R9-7-710, a licensee shall require an authorized user for the parenteral administration of unsealed radioactive material requiring a written directive to be a physician who has completed the training requirements in 10 CFR 35.396, January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
 - E. The training and experience shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

Historical Note

New Section R9-7-723 recodified from R12-1-723 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
 Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).
 Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-724. Surveys after Brachytherapy Source Implant and Removal; Accountability

- A. A licensee shall make a survey to locate and account for all sources that have not been implanted immediately after implanting sources in a patient or a human research subject.
- B. A licensee shall make a survey of the patient or the human research subject with a radiation detection survey instrument immediately after removing the last temporary implant source to confirm that all sources have been removed.
- C. A licensee shall maintain accountability at all times for all sources in storage or use.
- D. A licensee shall return brachytherapy sources to a secure storage area as soon as possible after removing sources from a patient or a human research subject.
- E. A licensee shall record the procedures performed in subsections (A) through (D) and retain the records for three years following completion of the record.
- F. A licensee must use only brachytherapy sources:
 1. Approved in the Sealed Source and Device Registry for manual brachytherapy medical use. The manual brachytherapy sources may be used for manual brachytherapy uses that are not explicitly listed in the Sealed Source and Device Registry, but must be used in accordance with the radiation safety conditions and limitations described in the Sealed Source and Device Registry; or
 2. In research to deliver therapeutic doses for medical use in accordance with an active Investigational Device Exemption (IDE) application accepted by the U.S. Food and

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Drug Administration, provided the requirements of R9-7-450(A) are met.

Historical Note

New Section R9-7-724 recodified from R12-1-724 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

R9-7-725. Safety Instructions and Precautions for Brachytherapy Patients that Cannot be Released Under R9-7-717

- A. In addition to the training requirements in Article 10, a licensee shall provide radiation safety instruction, initially and at least annually, to personnel caring for patients or human research subjects who are receiving brachytherapy and cannot be released under R9-7-717. To satisfy this requirement, the instruction shall be commensurate with the duties of the personnel and include the:
 1. Size and appearance of the brachytherapy sources;
 2. Safe handling and shielding instructions;
 3. Patient or human research subject control;
 4. Visitor control, including both:
 - a. Routine visitation of hospitalized individuals in accordance with Article 4 of this Chapter,
 - b. Visitation authorized in accordance with Article 4 of this Chapter, and
 5. Notification of the radiation safety officer, or his or her designee, and an authorized user if the patient or the human research subject has a medical emergency or dies.
- B. For each patient or human research subject who is receiving brachytherapy and cannot be released under R9-7-717, a licensee shall:
 1. Not quarter the patient or the human research subject in the same room as an individual who is not receiving brachytherapy;
 2. Visibly post the patient's or human research subject's room with a "Radioactive Materials" sign; and
 3. Note on the door or in the patient's or human research subject's chart where and how long visitors may stay in the patient's or human research subject's room.
- C. A licensee shall have applicable emergency response equipment available near each treatment room to respond to a source:
 1. Dislodged from the patient; and
 2. Lodged within the patient following removal of the source applicators.
- D. A licensee shall notify the radiation safety officer, or the RSO's designee, and an authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.
- E. A licensee shall record the instructions given under subsection (A) and retain the records for three years after recording the instructions.

Historical Note

New Section R9-7-725 recodified from R12-1-725 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-726. Calibration Measurements of Brachytherapy Sources, Decay of Sources Used for Ophthalmic Treatments, and Computerized Treatment Planning Systems

- A. Before the first medical use of a brachytherapy source after the effective date of this rule, a licensee shall have:
 1. Determined the source output or activity using a dosimetry system that meets the requirements of R9-7-733(A);
 2. Determined source positioning accuracy within applicators; and

3. Used published protocols currently accepted by nationally recognized bodies to meet the requirements of subsections (A)(1) and (A)(2).
- B. A licensee may use measurements provided by the source manufacturer or by a calibration laboratory accredited by the American Association of Physicists in Medicine that are made in accordance with subsection (A).
- C. A licensee shall mathematically correct the outputs or activities determined in subsection (A) for physical decay at intervals consistent with one percent physical decay.
- D. Only an authorized medical physicist shall calculate the activity of each strontium-90 source that is used to determine the treatment times for ophthalmic treatments. The decay shall be based on the activity determined under subsection (A).
- E. A licensee shall perform acceptance testing on the treatment planning system of therapy-related computer systems in accordance with published protocols accepted by nationally recognized bodies. At a minimum, the acceptance testing shall include, as applicable, verification of:
 1. The source-specific input parameters required by the dose calculation algorithm;
 2. The accuracy of dose, dwell time, and treatment time calculations at representative points;
 3. The accuracy of isodose plots and graphic displays; and
 4. The accuracy of the software used to determine sealed source positions from radiographic images.
- F. A licensee shall retain records of each source activity determination and ophthalmic source decay correction, and documentation of the acceptance testing protocol required under subsection (E) for three years after the date of the procedure required in subsections (A) and (D), and for the records created in conjunction with subsection (E), the record shall be maintained for three years from the last date of the protocol's use.

Historical Note

New Section R9-7-726 recodified from R12-1-726 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-727. Training for Use of Manual Brachytherapy Sources and Training for the Use of Strontium-90 Sources for Treatment of Ophthalmic Disease

- A. Except as provided in R9-7-710, the licensee shall require an authorized user of a manual brachytherapy source for the uses authorized under this Article to be a physician who:
 1. Is certified by a medical specialty board whose certification process has been recognized by the NRC or an Agreement State and who meets the requirements in subsection (A)(2). The names of board certifications that have been recognized by the NRC or an Agreement State are specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>. To have its certification process recognized, a specialty board shall require all candidates for certification to:
 - a. Successfully complete a minimum of three years of residency training in a radiation oncology program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association; and
 - b. Pass an examination, administered by diplomates of the specialty board, that tests knowledge and competence in radiation safety, radionuclide handling, treatment planning, quality assurance, and clinical use of manual brachytherapy; or

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2. Has completed a structured educational program in basic radionuclide handling techniques applicable to the use of manual brachytherapy sources that includes:
 - a. 200 hours of classroom and laboratory training in the following areas:
 - i. Radiation physics and instrumentation;
 - ii. Radiation protection;
 - iii. Mathematics pertaining to the use and measurement of radioactivity;
 - iv. Radiation biology;
 - b. 500 hours of work experience, under the supervision of an authorized user who meets the requirements in this Section, or equivalent NRC or Agreement State requirements at a medical institution, involving:
 - i. Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;
 - ii. Checking survey meters for proper operation;
 - iii. Preparing, implanting, and removing brachytherapy sources;
 - iv. Maintaining running inventories of material on hand;
 - v. Using administrative controls to prevent a medical event involving the use of radioactive material;
 - vi. Using emergency procedures to control radioactive material;
 - c. Completing three years of supervised clinical experience in radiation oncology, under an authorized user who meets the requirements in this Section, or equivalent Agreement State requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by subsection (A)(2)(b); and
 - d. Obtaining written attestation that the individual has satisfactorily completed the requirements in subsections (A)(2)(a) through (c) and is able to independently fulfill the radiation safety-related duties as an authorized user of manual brachytherapy sources for the medical uses authorized under Exhibit A, Medical Use Groups of this Article. The attestation must be obtained from either:
 - i. A preceptor authorized user who meets the requirements in this Section or equivalent Agreement State or NRC requirements; or
 - ii. A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Section or equivalent Agreement State or NRC requirements, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subsection (A)(2)(a) and (b).
- B. A licensee who uses strontium-90 for ophthalmic treatments must ensure that certain activities as specified in subsection (C) are performed by either:
 1. An authorized medical physicist; or
 2. An individual who:
 - a. Is identified as an ophthalmic physicist on a:
 - i. Specific medical use license issued by the Department, the NRC, or another Agreement State,
 - ii. Permit issued by an NRC or other Agreement State broad scope medical use licensee,
 - iii. Medical use permit issued by a NRC master material licensee, or
 - iv. Permit issued by a NRC master material license broad scope medical use permittee;
 - b. Holds a master's or doctor's degree in physics, medical physics, other physical sciences, engineering, or applied mathematics from an accredited college or university;
 - c. Has successfully completed one year of full-time training in medical physics and an additional year of full-time work experience under the supervision of a medical physicist; and
 - d. Has documented training in:
 - i. The creation, modification, and completion of written directives;
 - ii. Procedures for administrations requiring a written directive; and
 - iii. Performing the calibration measurements of brachytherapy sources as detailed in R9-7-726.
 - C. The individuals who are identified in subsection (B)(1) or (2) shall:
 1. Calculate the activity of each strontium-90 source that is used to determine the treatment times for ophthalmic treatments. The decay must be based on the activity determined under R9-7-726; and
 2. Assist the licensee in developing, implementing, and maintaining written procedures to provide high confidence that the administration is in accordance with the written directive. These procedures must include the frequencies that the individual meeting the requirements in subsection (B)(2)(a) of this Section will observe treatments, review the treatment methodology, calculate treatment time for the prescribed dose, and review records to verify that the administrations were in accordance with the written directives.
 - D. Licensees shall retain a record of the activity of each strontium-90 source in accordance with R9-7-313.
 - E. The training and experience shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

Historical Note

New Section R9-7-727 recodified from R12-1-727 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
 Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).
 Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-728. Training for Use of Sealed Sources for Diagnosis

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- A.** Except as provided in R9-7-710, the licensee shall require the authorized user of a diagnostic sealed source for use in a device authorized under Group 500 in Exhibit A, Medical Use Groups of this Article to be a physician, dentist, or podiatrist who:
1. Is certified by a medical specialty board whose certification process has been recognized by the NRC or an Agreement State and who meets the requirements in subsections (A)(3) and (B) and whose certification has been recognized by the Department, the NRC, or another Agreement State as specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>;
 2. Is an authorized user for uses listed in Group 200 of Exhibit A, Medical Use Groups of this Article or equivalent NRC or Agreement State requirements; or
 3. Has completed eight hours of classroom and laboratory training in basic radionuclide handling techniques specifically applicable to the use of the device. The training must include:
 - a. Radiation physics and instrumentation;
 - b. Radiation protection;
 - c. Mathematics pertaining to the use and measurement of radioactivity;
 - d. Radiation biology.
- B.** A licensee shall require the authorized user of a diagnostic sealed source for use in a device authorized under Group 500 in Exhibit A, Medical Use Groups of this Article to have completed training in the use of the device for the uses requested.
- C.** The training and experience shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

Historical Note

New Section R9-7-728 recodified from R12-1-728 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

R9-7-729. Surveys of Patients and Human Research Subjects Treated with a Remote Afterloader Unit

- A.** Before releasing a patient or a human research subject from licensee control, a licensee shall survey the patient or the human research subject and the remote afterloader unit with a portable radiation detection survey instrument to confirm that each source has been removed from the patient or human research subject and returned to the safe shielded position.
- B.** A licensee shall make records of these surveys conducted under subsection (A) and retain them for three years from the date of each survey.

Historical Note

New Section R9-7-729 recodified from R12-1-729 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-730. Installation, Maintenance, Adjustment, and Repair of an Afterloader Unit, Teletherapy Unit, or Gamma Stereotactic Radiosurgery Unit

- A.** Only a person specifically licensed by the Department, the NRC, or an Agreement State shall install, maintain, adjust, or repair a remote afterloader unit, teletherapy unit, or gamma stereotactic radiosurgery unit that involves work on any source shielding, the source's driving unit, or other electronic or mechanical component that could expose a source, reduce the shielding around a source, or compromise the radiation safety of a unit or a source.
- B.** Except for low dose-rate remote afterloader units, only a person specifically licensed by the Department, the NRC, or an Agreement State shall install, replace, relocate, or remove a sealed source or source contained in other remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units.
- C.** For a low dose-rate remote afterloader unit, only a person specifically licensed by the Department, the NRC, or an Agreement State or an authorized medical physicist shall install, replace, relocate, or remove a sealed source contained in the unit.
- D.** A licensee shall retain a record of the installation, maintenance, adjustment, and repair of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units for three years from the completion date of the activity listed in this Section.

Historical Note

New Section R9-7-730 recodified from R12-1-730 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-731. Safety Procedures and Instructions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

- A.** A licensee shall:
1. Secure the unit, the console, the console keys, and the treatment room when not in use or unattended;
 2. Permit only individuals approved by the authorized user, Radiation Safety Officer, or authorized medical physicist to be present in the treatment room during treatment with a source;
 3. Prevent dual operation of more than one radiation producing device in a treatment room if applicable; and
 4. Develop, implement, and maintain written procedures for responding to an abnormal situation when the operator is unable to place a source in the shielded position, or remove the patient or human research subject from the radiation field with controls from outside the treatment room. These procedures shall include:
 - a. Instructions for responding to equipment failures and the names of the individuals responsible for implementing corrective actions;
 - b. The process for restricting access to and posting of the treatment area to minimize the risk of inadvertent exposure; and
 - c. The names and telephone numbers of the authorized users, the authorized medical physicist, and the Radiation Safety Officer to be contacted if the unit or console operates abnormally.
- B.** A licensee shall post instructions at the unit console to inform the operator of:
1. The location of the procedures required by subsection (A)(4); and
 2. The names and telephone numbers of the authorized users, the authorized medical physicist, and the Radiation Safety Officer to be contacted if the unit or console operates abnormally.
- C.** A licensee shall provide instruction, initially and at least annually, to all individuals who operate the unit, as appropriate to the individual's assigned duties, in:
1. The procedures identified in subsection (A)(4); and
 2. The operating procedures for the unit.
- D.** A licensee shall ensure that operators, authorized medical physicists, and authorized users participate in drills of the emergency procedures, initially and at least annually.

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- E.** A licensee shall retain a record of individuals receiving instruction required by subsection (C) for three years from the date of the instruction.
- F.** A licensee shall maintain a copy of the procedures required by subsections (A)(4) and (C)(2) for Department review. The copy shall be maintained for three years beyond the termination date of the activities for which the procedures were written.
- G.** Prior to the first use for patient treatment of a new unit or an existing unit with a manufacturer upgrade that affects the operation and safety of the unit, a licensee shall ensure that vendor operational and safety training is provided to all individuals who will operate the unit. The vendor operational and safety training must be provided by the device manufacturer or by an individual certified by the device manufacturer to provide the operational and safety training.
- H.** A licensee shall have each teletherapy unit and gamma stereotactic radiosurgery unit fully inspected and serviced during each source replacement to assure proper functioning of the source exposure mechanism and other safety components. The interval between each full-inspection servicing shall not exceed five years for each teletherapy unit and shall not exceed seven years for each gamma stereotactic radiosurgery unit.
- I.** A licensee shall:
1. Ensure that inspection and servicing are performed only by persons specifically licensed to do so by the Department, the NRC or another Agreement State, and
 2. Keep a record of the inspection and servicing for three years after termination.
- J.** A licensee shall maintain a record of safety instruction required by R9-7-722, R9-7-725 and this Section and the operational and safety instructions for three years after the date of the instruction. The record must include a list of the topics covered, the date of the instruction, the name(s) of the attendee(s), and the name(s) of the individual(s) who provided the instruction.
- Historical Note**
New Section R9-7-731 recodified from R12-1-731 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).
- R9-7-732. Safety Precautions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units**
- A.** A licensee shall control access at each entrance to a treatment room.
- B.** A licensee shall equip each entrance to the treatment room with an electrical interlock system that will:
1. Prevent the operator from initiating the treatment cycle unless each treatment room entrance door is closed;
 2. Cause each source to be shielded when an entrance door is opened; and
 3. Prevent any source from being exposed following an interlock interruption until all treatment room entrance doors are closed and the source's on-off control is reset at the console.
- C.** A licensee shall require any individual entering the treatment room to assure, through the use of appropriate radiation monitors, that radiation levels have returned to ambient levels.
- D.** Except for low-dose remote afterloader units, a licensee shall construct or equip each treatment room with viewing and intercom systems to permit continuous observation of the patient or the human research subject from the treatment console during irradiation.
- E.** For licensed activities where sources are placed within the patient's or human research subject's body, a licensee shall only conduct treatments which allow for expeditious removal of a decoupled or jammed source.
- F.** In addition to the requirements specified in subsections (A) through (E), a licensee shall:
1. For medium dose-rate and pulsed dose-rate remote afterloader units, require:
 - a. An authorized medical physicist and either an authorized user or a physician, under the supervision of an authorized user, who has been trained in the operation and emergency response for the unit, to be physically present during the initiation of all patient treatments involving the unit; and
 - b. An authorized medical physicist and either an authorized user or an individual, under the supervision of an authorized user, who has been trained to remove each source applicator in the event of an emergency involving the unit, to be immediately available during continuation of all patient treatments involving the unit.
 2. For high dose-rate remote afterloader units, require:
 - a. An authorized user and an authorized medical physicist to be physically present during the initiation of all patient treatments involving the unit; and
 - b. An authorized medical physicist and either an authorized user or a physician, under the supervision of an authorized user, who has been trained in the operation and emergency response for the unit, to be physically present during continuation of all patient treatments involving the unit.
 3. For gamma stereotactic radiosurgery units, require an authorized user and an authorized medical physicist to be physically present throughout all patient treatments involving the unit. As used in this provision, physically present means to be within hearing distance of normal voice, and does not include the use of portable communication devices, intercoms, or other devices that could be used to amplify the human voice.
 4. Notify the radiation safety officer, or radiation safety officer's designee, and an authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.
- G.** A licensee shall have applicable emergency response equipment available near each treatment room to respond to a source:
1. Remaining in the unshielded position; or
 2. Lodged within the patient following completion of the treatment.
- Historical Note**
New Section R9-7-732 recodified from R12-1-732 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-733. Dosimetry Equipment**
- A.** Except for low dose-rate remote afterloader sources where the source output or activity is determined by the manufacturer, a licensee shall have a calibrated dosimetry system available for use. To satisfy this requirement, one of the following two conditions shall be met.
1. The system shall have been calibrated using a system or source traceable to the National Institute of Science and Technology (NIST) and published protocols accepted by nationally recognized bodies; or by a calibration laboratory accredited by the American Association of Physicists in Medicine (AAPM). The calibration shall have been

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performed within the previous two years and after any servicing that may have affected system calibration; or

2. The system shall have been calibrated within the previous four years. Eighteen to 30 months after that calibration, the system shall have been intercompared with another dosimetry system that was calibrated within the past 24 months by NIST or by a calibration laboratory accredited by the AAPM. The results of the intercomparison shall indicate that the calibration factor of the licensee's system had not changed by more than two percent. The licensee may not use the intercomparison result to change the calibration factor. When intercomparing dosimetry systems to be used for calibrating sealed sources for therapeutic units, the licensee shall use a comparable unit with beam attenuators or collimators, as applicable, and sources of the same radionuclide as the source used at the licensee's facility.

- B. The licensee shall have a dosimetry system available for use for spot-check output measurements, if applicable. To satisfy this requirement, the system may be compared with a system that has been calibrated in accordance with subsection (A). This comparison shall have been performed within the previous year and after each servicing that may have affected system calibration. The spot-check system may be the same system used to meet the requirement in subsection (A).
- C. The licensee shall retain, for three years from the date of the procedure, a record of each calibration, intercomparison, and comparison.

Historical Note

New Section R9-7-733 recodified from R12-1-733 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-734. Full Calibration Measurements on Teletherapy Units

- A. A licensee authorized to use a teletherapy unit for medical use shall perform full calibration measurements on each teletherapy unit:
 1. Before the first medical use of the unit; and
 2. Before medical use under the following conditions:
 - a. Whenever spot-check measurements indicate that the output differs by more than 5 percent from the output obtained at the last full calibration corrected mathematically for radioactive decay;
 - b. Following replacement of the source or following reinstallation of the teletherapy unit in a new location;
 - c. Following any repair of the teletherapy unit that includes removal of the source or major repair of the components associated with the source exposure assembly; and
 3. At intervals not exceeding one year.
- B. To satisfy the requirement of subsection (A), full calibration measurements shall include determination of:
 1. The output within ± 3 percent for the range of field sizes and for the distance or range of distances used for medical use;
 2. The coincidence of the radiation field and the field indicated by the light beam localizing device;
 3. The uniformity of the radiation field and its dependence on the orientation of the useful beam;
 4. Timer accuracy and linearity over the range of use;
 5. On-off error; and
 6. The accuracy of all distance measuring and localization devices in medical use.
- C. A licensee shall use the dosimetry system described in R9-7-733(A) to measure the output for one set of exposure condi-

tions. The remaining radiation measurements required in subsection (B)(1) may be made using a dosimetry system that indicates relative dose rates.

- D. A licensee shall make full calibration measurements required by subsection (A) in accordance with published protocols accepted by nationally recognized bodies.
- E. A licensee shall mathematically correct the outputs determined in subsection (B)(1) for physical decay for intervals not exceeding one month for cobalt-60, six months for cesium-137, or at intervals consistent with 1 percent decay for all other nuclides.
- F. Full calibration measurements required by subsection (A) and physical decay corrections required by subsection (E) shall be performed by an authorized medical physicist.
- G. A licensee shall retain a record of each calibration for three years from the date it was completed.

Historical Note

New Section R9-7-734 recodified from R12-1-734 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-735. Full Calibration Measurements on Remote Afterloader Units

- A. A licensee authorized to use a remote afterloader unit for medical use shall perform full calibration measurements on each unit:
 1. Before the first medical use of the unit;
 2. Before medical use under the following conditions:
 - a. Following replacement of the source or following reinstallation of the unit in a new location outside the facility; and
 - b. Following any repair of the unit that includes removal of the source or major repair of the components associated with the source exposure assembly; and
 3. At intervals not exceeding one quarter for high dose-rate, medium dose-rate, and pulsed dose-rate remote afterloader units with sources whose half-life exceeds 75 days; and
 4. At intervals not exceeding one year for low dose-rate remote afterloader units.
- B. To satisfy the requirement of subsection (A), full calibration measurements shall include, as applicable, determination of:
 1. The output within ± 5 percent;
 2. Source positioning accuracy to within ± 1 millimeter;
 3. Source retraction with backup battery upon power failure;
 4. Length of the source transfer tubes;
 5. Timer accuracy and linearity over the typical range of use;
 6. Length of the applicators; and
 7. Function of the source transfer tubes, applicators, and transfer tube-applicator interfaces.
- C. A licensee shall use the dosimetry system described in R9-7-733(A) to measure the output.
- D. A licensee shall make full calibration measurements required by subsection (A) in accordance with published protocols accepted by nationally recognized bodies.
- E. In addition to the requirements for full calibrations for low dose-rate remote afterloader units in subsection (B), a licensee shall perform an autoradiograph of the sources to verify inventory and source arrangement at intervals not exceeding one quarter.
- F. For low dose-rate remote afterloader units, a licensee may use measurements provided by the source manufacturer that are made in accordance with subsections (A) through (E).

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- G. A licensee shall mathematically correct the outputs determined in subsection (B)(1) for physical decay at intervals consistent with 1 percent physical decay.
- H. Full calibration measurements required by subsection (A) and physical decay corrections required by subsection (G) shall be performed by an authorized medical physicist.
- I. A licensee shall retain a record of each calibration for three years from the date it was completed.

Historical Note

New Section R9-7-735 recodified from R12-1-735 at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-736. Full Calibration Measurements on Gamma Stereotactic Radiosurgery Units

- A. A licensee authorized to use a gamma stereotactic radiosurgery unit for medical use shall perform full calibration measurements on each unit:
 1. Before the first medical use of the unit;
 2. Before medical use under the following conditions:
 - a. Whenever spot-check measurements indicate that the output differs by more than 5 percent from the output obtained at the last full calibration corrected mathematically for radioactive decay;
 - b. Following replacement of the sources or following reinstallation of the gamma stereotactic radiosurgery unit in a new location; and
 - c. Following any repair of the gamma stereotactic radiosurgery unit that includes removal of the sources or major repair of the components associated with the source assembly; and
 3. At intervals not exceeding one year, with the exception that relative helmet factors need only be determined before the first medical use of a helmet and following any damage to a helmet.
- B. To satisfy the requirement of subsection (A), full calibration measurements shall include determination of:
 1. The output within ± 3 percent;
 2. Relative helmet factors;
 3. Isocenter coincidence;
 4. Timer accuracy and linearity over the range of use;
 5. On-off error;
 6. Trunnion centricity;
 7. Treatment table retraction mechanism, using backup battery power or hydraulic backups with the unit off;
 8. Helmet microswitches;
 9. Emergency timing circuits; and
 10. Stereotactic frames and localizing devices (trunnions).
- C. A licensee shall use the dosimetry system described in R9-7-733(A) to measure the output for one set of exposure conditions. The remaining radiation measurements required in subsection (B)(1) may be made using a dosimetry system that indicates relative dose rates.
- D. A licensee shall make full calibration measurements required by subsection (A) in accordance with published protocols accepted by nationally recognized bodies.
- E. A licensee shall mathematically correct the outputs determined in subsection (B)(1) at intervals not exceeding one month for cobalt-60 and at intervals consistent with 1 percent physical decay for all other radionuclides.
- F. Full calibration measurements required by subsection (A) and physical decay corrections required by subsection (E) shall be performed by an authorized medical physicist.
- G. A licensee shall retain a record of each calibration for three years from the date of the procedure.

Historical Note

New Section R9-7-736 recodified from R12-1-736 at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-737. Periodic Spot-checks for Teletherapy Units

- A. A licensee authorized to use teletherapy units for medical use shall perform output spot-checks on each teletherapy unit once in each calendar month that include determination of:
 1. Timer accuracy, and timer linearity over the range of use;
 2. On-off error;
 3. The coincidence of the radiation field and the field indicated by the light beam localizing device;
 4. The accuracy of all distance measuring and localization devices used for medical use;
 5. The output for one typical set of operating conditions measured with the dosimetry system described in R9-7-733(B); and
 6. The difference between the measurement made in subsection (A)(5) and the anticipated output, expressed as a percentage of the anticipated output.
- B. A licensee shall perform measurements required by subsection (A) in accordance with written procedures established by an authorized medical physicist. That individual need not actually perform the spot-check measurements.
- C. A licensee shall have an authorized medical physicist review the results of each spot-check within 15 days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.
- D. A licensee authorized to use a teletherapy unit for medical use shall perform safety spot-checks of each teletherapy facility once in each calendar month and after each source installation to assure proper operation of:
 1. Electrical interlocks at each teletherapy room entrance;
 2. Electrical or mechanical stops installed for the purpose of limiting use of the primary beam of radiation (restriction of source housing angulation or elevation, carriage or stand travel and operation of the beam on-off mechanism);
 3. Source exposure indicator lights on the teletherapy unit, on the control console, and in the facility;
 4. Viewing and intercom systems;
 5. Treatment room doors from inside and outside the treatment room; and
 6. Electrically assisted treatment room doors with the teletherapy unit electrical power turned off.
- E. If the results of the checks required in subsection (D) indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.
- F. A licensee shall retain a record of each spot-check required by subsections (A) and (D) for three years from the date of the procedure, and a copy of the procedures required by subsection (B) until licensee terminates all medical activities involving the teletherapy unit.

Historical Note

New Section R9-7-737 recodified from R12-1-737 at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-738. Periodic Spot-checks for Remote Afterloader Units

- A. A licensee authorized to use a remote afterloader unit for medical use shall perform spot-checks of each remote afterloader facility and on each unit:

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1. Before the first use of a high dose-rate, medium dose-rate, or pulsed dose-rate remote afterloader unit on a given day;
2. Before each patient treatment with a low dose-rate remote afterloader unit; and
3. After each source installation.
- B.** A licensee shall perform the measurements required by subsection (A) in accordance with written procedures established by an authorized medical physicist. That individual need not actually perform the spot-check measurements.
- C.** A licensee shall have an authorized medical physicist review the results of each spot-check within 15 days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.
- D.** To satisfy the requirements of subsection (A), spot-checks shall, at a minimum, assure proper operation of:
 1. Electrical interlocks at each remote afterloader unit room entrance;
 2. Source exposure indicator lights on the remote afterloader unit, on the control console, and in the facility;
 3. Viewing and intercom systems in each high dose-rate, medium dose-rate, and pulsed dose-rate remote afterloader facility;
 4. Emergency response equipment;
 5. Radiation monitors used to indicate the source position;
 6. Timer accuracy;
 7. Clock (date and time) in the unit's computer; and
 8. Decayed source activity in the unit's computer.
- E.** If the results of the checks required in subsection (D) indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.
- F.** A licensee shall retain a record of each spot-check required by subsections (A) and (D) for three years from the date of the procedure, and a copy of the procedures required by subsection (B) until licensee terminates all medical activities involving the afterloader unit.
- d. Stereotactic frames and localizing devices (trunnions).
2. Determine:
 - a. The output for one typical set of operating conditions measured with the dosimetry system described in R9-7-733(B);
 - b. The difference between the measurement made in subsection (C)(2)(a) and the anticipated output, expressed as a percentage of the anticipated output;
 - c. Source output against computer calculation;
 - d. Timer accuracy and linearity over the range of use;
 - e. On-off error; and
 - f. Trunnion centricity.
- D.** To satisfy the requirements of subsections (A)(2) and (A)(3), spot-checks shall assure proper operation of:
 1. Electrical interlocks at each gamma stereotactic radiosurgery room entrance;
 2. Source exposure indicator lights on the gamma stereotactic radiosurgery unit, on the control console, and in the facility;
 3. Viewing and intercom systems;
 4. Timer termination;
 5. Radiation monitors used to indicate room exposures; and
 6. Emergency off buttons.
- E.** A licensee shall arrange for the repair of any system identified in subsection (C) that is not operating properly as soon as possible.
- F.** If the results of the checks required in subsection (D) indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.
- G.** A licensee shall retain a record of each check required by subsections (C) and (D) for three years from the date of the procedure, and a copy of the procedures required by subsection (B) until licensee terminates all medical activities involving the radiosurgery unit.

Historical Note

New Section R9-7-738 recodified from R12-1-738 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-739. Periodic Spot-checks for Gamma Stereotactic Radiosurgery Units

- A.** A licensee authorized to use a gamma stereotactic radiosurgery unit for medical use shall perform spot-checks of each gamma stereotactic radiosurgery facility and on each unit:
 1. Monthly;
 2. Before the first use of the unit on a given day; and
 3. After each source installation.
- B.** A licensee shall:
 1. Perform the measurements required by subsection (A) in accordance with written procedures established by an authorized medical physicist. That individual need not actually perform the spot-check measurements.
 2. Have the authorized medical physicist review the results of each spot-check within 15 days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.
- C.** To satisfy the requirements of subsection (A)(1), spot-checks shall, at a minimum:
 1. Assure proper operation of:
 - a. Treatment table retraction mechanism, using backup battery power or hydraulic backups with the unit off;
 - b. Helmet microswitches;
 - c. Emergency timing circuits; and

Historical Note

New Section R9-7-739 recodified from R12-1-739 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-740. Additional Requirements for Mobile Remote Afterloader Units

- A.** A licensee providing mobile remote afterloader service shall:
 1. Check survey instruments before medical use at each address of use or on each day of use, whichever is more frequent; and
 2. Account for all sources before departure from a client's address of use.
- B.** In addition to the periodic spot-checks required by R9-7-738, a licensee authorized to use mobile afterloaders for medical use shall perform checks on each remote afterloader unit before use at each address of use. At a minimum, checks shall be made to verify the operation of:
 1. Electrical interlocks on treatment area access points;
 2. Source exposure indicator lights on the remote afterloader unit, on the control console, and in the facility;
 3. Viewing and intercom systems;
 4. Applicators, source transfer tubes, and transfer tube-applicator interfaces;
 5. Radiation monitors used to indicate room exposures;
 6. Source positioning (accuracy); and
 7. Radiation monitors used to indicate whether the source has returned to a safe shielded position.
- C.** In addition to the requirements for checks in subsection (B), a licensee shall ensure overall proper operation of the remote

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afterloader unit by conducting a simulated cycle of treatment before use at each address of use.

- D. If the results of the checks required in subsection (B) indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.
- E. A licensee shall retain a record of each check required by subsection (B) for three years from the date of the procedure.

Historical Note

New Section R9-7-740 recodified from R12-1-740 at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-741. Additional Radiation Surveys of Sealed Sources used in Radiation Therapy

- A. In addition to the survey requirement in Article 4 of this Chapter, a person licensed to use sealed sources in the practice of radiation therapy shall make surveys to ensure that the maximum radiation levels and average radiation levels from the surface of the main source safe with each source in the shielded position do not exceed the levels stated in the Sealed Source and Device Registry.
- B. A licensee shall make the survey required by subsection (A) at installation of a new source and following repairs to any source shielding, a source's driving unit, or other electronic or mechanical component that could expose the source, reduce the shielding around a source, or compromise the radiation safety of the unit or the source.
- C. A licensee shall retain a record of the radiation surveys required by subsection (A) for three years from the date of each survey.

Historical Note

New Section R9-7-741 recodified from R12-1-741 at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-742. Five-year Inspection for Teletherapy and Gamma Stereotactic Radiosurgery Units

- A. A licensee shall have each teletherapy unit and gamma stereotactic radiosurgery unit fully inspected and serviced during source replacement or at intervals not to exceed five years, whichever comes first, to assure proper functioning of the source exposure mechanism.
- B. This inspection and servicing may only be performed by persons specifically licensed to do so by the Department, the NRC, or an Agreement State.
- C. A licensee shall keep a record of each five-year inspection for three years from the date of the inspection, if the inspection determined that service was unnecessary, and three years from the date of the completed service if the inspection determined that service was needed.

Historical Note

New Section R9-7-742 recodified from R12-1-742 at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-743. Therapy-related Computer Systems

The licensee shall perform acceptance testing on the treatment planning system of therapy-related computer systems in accordance with published protocols accepted by nationally recognized bodies. At a minimum, the acceptance testing shall include, as applicable, verification of:

- 1. The source-specific input parameters required by the dose calculation algorithm;
- 2. The accuracy of dose, dwell time, and treatment time calculations at representative points;
- 3. The accuracy of isodose plots and graphic displays;

- 4. The accuracy of the software used to determine sealed source positions from radiographic images; and
- 5. The accuracy of electronic transfer of the treatment delivery parameters to the treatment delivery unit from the treatment planning system.

Historical Note

New Section R9-7-743 recodified from R12-1-743 at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-744. Training for Use of Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

- A. Except as provided in R9-7-710, a licensee shall require an authorized user of a sealed source for a use authorized under Group 600 in Exhibit A, Medical Use Groups of this Article to be a physician who:

- 1. Is certified by a medical specialty board whose certification process has been recognized by the Department, the NRC or another Agreement State and who meets the requirements in subsection (A)(2)(e). The names of board certifications that have been recognized by the Department, the NRC or another Agreement State are specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>. To have its certification process recognized, a specialty board shall require all candidates to:
 - a. Successfully complete a minimum of three years of residency training in a radiation therapy program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association; and
 - b. Pass an examination, administered by diplomates of the specialty board, which tests knowledge and competence in radiation safety, radionuclide handling, treatment planning, quality assurance, and clinical use of stereotactic radiosurgery, remote after-loaders and external beam therapy; or
- 2. Has completed a structured educational program in basic radionuclide techniques applicable to the use of a sealed source in a therapeutic medical unit that includes:
 - a. 200 hours of classroom and laboratory training in the following areas:
 - i. Radiation physics and instrumentation;
 - ii. Radiation protection;
 - iii. Mathematics pertaining to the use and measurement of radioactivity;
 - iv. Chemistry of radioactive material for medical use; and
 - v. Radiation biology;
 - b. 500 hours of work experience, under the supervision of an authorized user who meets the requirements in this Section, or equivalent Agreement State or NRC requirements at a medical institution, involving:
 - i. Reviewing full calibration measurements and periodic spot-checks;
 - ii. Preparing treatment plans and calculating treatment doses and times;
 - iii. Using administrative controls to prevent a medical event involving the use of radioactive material;
 - iv. Implementing emergency procedures to be followed in the event of the abnormal operation of the medical unit or console;

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- v. Checking and using survey meters; and
- vi. Selecting the proper dose and how it is to be administered;
- c. Completing three years of supervised clinical experience in radiation therapy, under an authorized user who meets the requirements in this Section, or equivalent Agreement State or NRC requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by subsection (A)(2)(b); and
- d. Obtaining written attestation that the individual has satisfactorily completed the requirements in subsections (A)(2)(a) through (c) and (B), and is able to independently fulfill the radiation safety-related duties as an authorized user of each type of therapeutic medical unit for which the individual is requesting authorized user status. The written attestation must be obtained from either:
 - i. A preceptor authorized user who meets the requirements in this Section, NRC requirements, or equivalent Agreement State requirements for the type(s) of therapeutic medical unit for which the individual is requesting authorized user status; or
 - ii. A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Section, NRC requirements, or equivalent Agreement State requirements, for the type(s) of therapeutic medical unit for which the individual is requesting authorized user status, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subsection (A)(2)(a) through (c).
- B. A licensee shall require an authorized user of a sealed source for a use authorized under Group 600 in Exhibit A, Medical Use Groups of this Article to receive training in device operation, safety procedures, and clinical use for the type(s) of use for which authorization is sought. This training requirement may be satisfied by satisfactory completion of a training program provided by the vendor for new users or by receiving training supervised by an authorized user or authorized medical physicist, as appropriate, who is authorized for the type(s) of use for which the individual is seeking authorization.
- C. The training and experience shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

Historical Note

New Section R9-7-744 recodified from R12-1-744 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-745. Report and Notification of a Medical Event

- A. A licensee shall report any "medical" event, except for an event that results from patient intervention, in which the administration of radioactive material or radiation from radioactive material results in:
 - 1. A dose that differs from the prescribed dose or dose that would have resulted from the prescribed dosage by more than 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin; and
 - a. The total dose delivered differs from the prescribed dose by 20 percent or more;
 - b. The total dosage delivered differs from the prescribed dosage by 20 percent or more or falls outside the prescribed dosage range; or
 - c. The fractionated dose delivered differs from the prescribed dose, for a single fraction, by 50 percent or more.
 - 2. A dose that exceeds 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin from any of the following:
 - a. An administration of a wrong radiopharmaceutical containing radioactive material;
 - b. An administration of a radiopharmaceutical containing radioactive material by the wrong route of administration;
 - c. An administration of a dose or dosage to the wrong individual or human research subject;
 - d. An administration of a dose or dosage delivered by the wrong mode of treatment; or
 - e. A leaking sealed source.
 - 3. A dose to the skin or an organ or tissue other than the treatment site that exceeds by 0.5 Sv (50 rem) to an organ or tissue and 50 percent or more of the dose expected from the administration defined in the written directive (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site).
- B. A licensee shall report any event resulting from intervention of a patient or human research subject in which the administration of radioactive material or radiation from radioactive material results or will result in unintended permanent functional damage to an organ or a physiological system, as determined by a physician.
- C. The licensee shall notify by telephone the Department no later than the next calendar day after discovery of the medical event.
- D. The licensee shall submit a written report to the Department within 15 days after discovery of the medical event.
 - 1. The written report shall include:
 - a. The licensee's name;
 - b. The name of the prescribing physician;
 - c. A brief description of the event;
 - d. Why the event occurred;
 - e. The effect, if any, on each individual who received the administration;

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- f. What actions, if any, have been taken or are planned to prevent recurrence; and
 - g. Certification that the licensee notified each individual (or the individual's responsible relative or guardian), and if not, why not.
- 2. The report may not contain an individual's name or any other information that could lead to identification of the individual.
- E. The licensee shall provide notification of the event to the referring physician and also notify the individual who is the subject of the medical event no later than 24 hours after its discovery, unless the referring physician personally informs the licensee either that he or she will inform the individual or that, based on medical judgment, telling the individual would be harmful. The licensee is not required to notify the individual without first consulting the referring physician. If the referring physician or the affected individual cannot be reached within 24 hours, the licensee shall notify the individual as soon as possible thereafter. The licensee may not delay any appropriate medical care for the individual, including any necessary remedial care as a result of the medical event, because of any delay in notification. To meet the requirements of this subsection, the notification of the individual who is the subject of the medical event may be made instead to that individual's responsible relative or guardian. If a verbal notification is made, the licensee shall inform the individual, or appropriate responsible relative or guardian, that a written description of the event can be obtained from the licensee upon request. The licensee shall provide such a written description if requested.
- F. Aside from the notification requirement, nothing in this Section affects any rights or duties of licensees and physicians in relation to each other, to individuals affected by the medical event, or to that individual's responsible relatives or guardians.
- G. A licensee shall:
 - 1. Annotate a copy of the report provided to the Department with the:
 - a. Name of the individual who is the subject of the event; and
 - b. Identification number or, if no other identification number is available, the Social Security number of the individual who is the subject of the event; and
 - 2. Provide a copy of the annotated report to the referring physician, if other than the licensee, no later than 15 days after the discovery of the event.
- 2. Has resulted in unintended permanent functional damage to an organ or a physiological system of the child, as determined by a physician.
- C. The licensee shall notify the Department by telephone no later than the next calendar day after discovery of a dose to the embryo, fetus, or nursing child that requires a report in subsections (A) or (B).
- D. The licensee shall submit a written report to the Department within 15 days after discovery of a dose to the embryo, fetus, or nursing child that requires a report in subsections (A) or (B). The written report shall include:
 - 1. The licensee's name;
 - 2. The name of the prescribing physician;
 - 3. A brief description of the event;
 - 4. Why the event occurred;
 - 5. The effect, if any, on the embryo/fetus or the nursing child;
 - 6. What actions, if any, have been taken or are planned to prevent recurrence; and
 - 7. Certification that the licensee notified the pregnant individual or mother (or the mother's or child's responsible relative or guardian), and if not, why not.
- E. The report, required in subsection (D), shall not contain the individual's or child's name or any other information that could lead to identification of the individual or child.
- F. The licensee shall provide notification of the event to the referring physician and also notify the pregnant individual or mother, both here-after referred to as the mother, no later than 24 hours after discovery of an event that would require reporting under subsections (A) or (B), unless the referring physician personally informs the licensee either that he or she will inform the mother or that, based on medical judgment, telling the mother would be harmful. The licensee is not required to notify the mother without first consulting with the referring physician. If the referring physician or mother cannot be reached within 24 hours, the licensee shall make the appropriate notifications as soon as possible thereafter. The licensee shall not delay any appropriate medical care for the embryo, fetus, or for the nursing child, including any necessary remedial care as a result of the event, because of any delay in notification. To meet the requirements of this subsection, the notification may be made to the mother's or child's responsible relative or guardian instead of the mother. If a verbal notification is made, the licensee shall inform the mother, or the mother's or child's responsible relative or guardian, that a written description of the event can be obtained from the licensee upon request. The licensee shall provide the written description upon request.
- G. A licensee shall:
 - 1. Make a copy of the report provided to the Department and include with it the:
 - a. Name of the pregnant individual or the nursing child who is the subject of the event; and
 - b. Identification number or, if no other identification number is available, the Social Security number of the pregnant individual or the nursing child who is the subject of the event; and
 - 2. Provide the copy of the information required in subsection (G)(1) to the referring physician, if other than the licensee, no later than 15 days after the discovery of the event.

Historical Note

New Section R9-7-745 recodified from R12-1-745 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
 Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-746. Report and Notification of a Dose to an Embryo, Fetus, or Nursing Child

- A. A licensee shall report any dose to an embryo/fetus that is greater than 50 mSv (5 rem) dose equivalent that is a result of an administration of radioactive material or radiation from radioactive material to a pregnant individual unless the dose to the embryo/fetus was specifically approved, in advance, by the authorized user.
- B. A licensee shall report any dose to a nursing child that is a result of an administration of radioactive material to a breast-feeding individual that:
 - 1. Is greater than 50 mSv (5 rem) total effective dose equivalent; or

Historical Note

New Section R9-7-746 recodified from R12-1-746 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
 Amended by final expedited rulemaking at 28 A.A.R.

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3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

Exhibit A. Medical Use Groups**Group 100**

Included is the use of any unsealed radioactive material for use in uptake, dilution, or excretion studies and not requiring a written directive: The radioactive material in this group shall be:

1. Obtained from a manufacturer or preparer licensed under R9-7-703(C)(2)(a), or equivalent NRC or Agreement State requirements; or
2. Obtained from a PET radioactive drug producer licensed under R9-7-703 or equivalent NRC or an Agreement State license excluding production of PET radionuclides prepared by an authorized nuclear pharmacist who meets the requirements in R9-7-712, a physician who is an authorized user and who meets the requirements specified in R9-7-721, or R9-7-723 and R9-7-721(3)(b)(vii), or an individual under the supervision of either as specified in R9-7-706; or
3. If a research protocol:
 - a. Obtained from and prepared by an Agreement State or NRC licensee for use in research in accordance with a Radioactive Drug Research Committee-approved protocol or an Investigational New Drug (IND) protocol accepted by FDA; or
 - b. Prepared by the licensee for use in research in accordance with a Radioactive Drug Research Committee-approved application or an Investigational New Drug (IND) protocol accepted by FDA.

Group 200

Included is the use of any unsealed radioactive material for use in imaging and localization not requiring a written directive. PET radiopharmaceuticals may be used if the licensee meets the requirements in R9-7-716. The radioactive material in this group shall be:

1. Obtained from a manufacturer or preparer licensed under R9-7-703(C)(2)(a), or equivalent NRC or Agreement State requirements; or
2. Obtained from a PET radioactive drug producer licensed under R9-7-703 or an equivalent NRC or Agreement State license excluding production of PET radionuclides prepared by an authorized nuclear pharmacist who meets the requirements in R9-7-712, a physician who is an authorized user and who meets the requirements specified in R9-7-721, or R9-7-723 and R9-7-721(3)(b)(vii), or an individual under the supervision of either as specified in R9-7-706; or
3. If a research protocol:
 - a. Obtained from and prepared by an Agreement State or NRC licensee for use in research in accordance with a Radioactive Drug Research Committee-approved application or an Investigational New Drug (IND) protocol accepted by FDA; or
 - b. Prepared by the licensee for use in research in accordance with a Radioactive Drug Research Committee-approved application or an Investigational New Drug (IND) protocol accepted by FDA.

Group 300

Included is the use of any unsealed radioactive material for medical use (radiopharmaceutical) for which a written directive is required. The radioactive material in this group shall be:

1. Obtained from a manufacturer or preparer licensed under R9-7-703(C)(2)(a) or equivalent NRC or Agreement State requirements; or

2. Obtained from a PET radioactive drug producer licensed under R9-7-703 or equivalent NRC or an Agreement State license excluding production of PET radionuclides prepared by an authorized nuclear pharmacist who meets the requirements in R9-7-712, a physician who is an authorized user and who meets the requirements specified in R9-7-721 or R9-7-723, or an individual under the supervision of either as specified in R9-7-706; or
3. If a research protocol:
 - a. Obtained from and prepared by an Agreement State or NRC licensee for use in research in accordance with an Investigational New Drug (IND) protocol accepted by FDA; or
 - b. Prepared by the licensee for use in research in accordance with an Investigational New Drug (IND) protocol accepted by FDA.

Group 400

Included is the use of any brachytherapy source for therapeutic medical use that is manufactured in accordance with R9-7-703(C)(2)(b) and:

1. Approved for therapeutic use in the Sealed Source and Device Registry; or
2. Part of a research protocol that is approved for therapeutic use under an active Investigational Device Exemption (IDE) application accepted by the FDA, and meets the requirements of R9-7-709.

Group 500

Included is the use of any sealed source that is manufactured in accordance with R9-7-703(C)(2)(b), and is approved for diagnostic use in the Sealed Source and Device Registry.

Group 600

Included is the use of sealed sources in photon emitting remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units that are manufactured in accordance with R9-7-703(C)(2)(b) and:

1. Approved for therapeutic use in the Sealed Source and Device Registry; or
2. Part of a research protocol that is approved for therapeutic use under an active Investigational Device Exemption (IDE) application accepted by the FDA and meets the requirements of R9-7-709.

Group 1000

A licensee may use radioactive material or a radiation source approved for medical use which is not specifically addressed in R9-7-309(4) if:

1. The applicant or licensee has submitted the information required by this Article; and
2. The applicant or licensee has received written approval from the Department in a license or license amendment and uses the material in accordance with the rules and specific conditions the Department considers necessary for the medical use of the material.

Historical Note

New Article 7, Exhibit A recodified from 12 A.A.C. 1., Article 7, Exhibit A at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Exhibit A, Group 100, Group 200, and Group 1000 amended by final exempt rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

ARTICLE 8. RADIATION SAFETY REQUIREMENTS FOR ANALYTICAL X-RAY OPERATIONS**R9-7-801. Scope**

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The rules in this Article establish requirements for the use of analytical x-ray equipment by persons registered under R9-7-204. The provisions of this Article supplement other applicable provisions of this Chapter.

Historical Note

New Section R9-7-801 recodified from R12-1-801 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-802. Definitions

“Analytical x-ray equipment” means devices or machines used for x-ray diffraction or x-ray induced fluorescence analysis.

“Analytical x-ray system” means a group of components utilizing x-rays to determine the elemental composition or to examine the microstructure of materials.

“Enclosed beam x-ray system” means an analytical x-ray system constructed in such a way that access to the interior of the enclosure housing the x-ray source is precluded during operation except through bypassing of interlocks or other safety devices to perform maintenance or servicing.

“Fail-safe characteristic” means a design feature which causes beam port shutters to close, or otherwise prevents emergence of the primary beam, upon the failure of a safety or warning device.

“Local component” means part of an analytical x-ray system and includes each area that is struck by x-rays, such as radiation source housings, port and shutter assemblies, collimators, sample holders, cameras, goniometers, detectors and shielding, but does not include power supplies, transformers, amplifiers, readout devices, and control panels.

“Normal operating procedures” means instructions or procedures including, but not limited to, sample insertion and manipulation, equipment alignment, routine maintenance by the registrant, and data recording procedures which are related to radiation safety.

“Open beam x-ray system” means an analytical x-ray system which permits an individual to place some body part in the primary beam path during normal operation.

“Primary beam” means radiation which passes through an aperture of the source housing on a direct path from the x-ray tube.

Historical Note

New Section R9-7-802 recodified from R12-1-802 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-803. Enclosed-beam X-ray Systems

- A.** Enclosed beam x-ray systems are exempt from other equipment requirements contained in this Article provided the enclosed beam x-ray systems are designed and constructed so that radiation levels measured at 5 cm from any accessible surface of the enclosure housing the x-ray source do not exceed 5 μ Sv (0.5 mrem) in one hour.
- B.** A registrant using enclosed beam x-ray systems shall comply with applicable provisions R9-7-804(A), R9-7-805(B), and 9 A.A.C. 7, Article 4.
- C.** A person who maintains or services analytical x-ray systems, shall:
 1. Obtain permission in advance from the radiation safety officer before bypassing interlocks or other safety devices,
 2. Label equipment as “out of service” until maintenance or service is completed,
 3. Wear extremity personnel monitoring devices, and

4. Ensure that interlocks or other safety devices are operating upon completion of maintenance or service.

Historical Note

New Section R9-7-803 recodified from R12-1-803 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-804. Open-beam X-ray Systems

- A.** A registrant shall label open beam x-ray systems with a readily discernible sign or signs bearing the radiation symbol and the words:
 1. “CAUTION -- HIGH INTENSITY X-RAY BEAM,” or a similar warning, on the x-ray source housing; and
 2. “CAUTION RADIATION -- THIS EQUIPMENT PRODUCES RADIATION WHEN ENERGIZED” or a similar warning, near any switch that energizes an x-ray tube if the radiation source is an x-ray tube.
- B.** A registrant shall ensure that an open beam x-ray system has all of the following warning devices:
 1. X-ray tube status (On-Off) indicator in systems where the primary beam is controlled in this fashion;
 2. Shutter status (Open-Closed) indicators near each port on the radiation housing for systems which control the primary beam; and
 3. A clearly visible warning light labeled with the words “X-RAY ON,” or a similar warning located near any switch that energizes an x-ray tube, illuminated only when the tube is energized; and
 4. The warning devices in subsections (B)(1) through (3) shall be labeled so that their purpose is easily identified.
- C.** A registrant shall ensure that any apparatus utilized in beam alignment procedures is designed in such a way that excessive radiation will not strike the operator. Particular attention shall be given to viewing devices, in order to ascertain that lenses and other transparent components attenuate the beam to an acceptable level.
- D.** A registrant shall provide an interlock device which prevents entry of any portion of an individual’s body into the primary beam or causes the primary beam to be shut off upon entry into its path on all open-beam x-ray systems. A registrant may apply to the Department for an exemption from the requirements of a safety device. An application for exemption shall include:
 1. A description of the various safety devices that have been evaluated;
 2. The reason each device cannot be used; and
 3. A description of the alternative methods that will be used to minimize accidental exposure, including procedures to assure that operators and others in the area will be informed of the absence of safety devices.
- E.** A registrant shall use only systems constructed so that:
 1. Each x-ray tube housing is equipped with an interlock that automatically shuts off the tube if the tube is removed from the radiation source housing or the housing is disassembled; and
 2. With all shutters closed, radiation measured at a distance of 5 centimeters from the surface of the system is not capable of producing a dose that exceeds 25 Sv (2.5 mRem) in one hour for the specified tube rating of the x-ray tube.
- F.** A registrant shall supply each x-ray generating system with a protective cabinet that limits leakage radiation measured at a distance of 5 cm (2 in) from the cabinet surface, so that the system is not capable of producing a dose equivalent that exceeds 25 μ Sv (2.5 mrem) in one hour.
- G.** A registrant shall ensure that the local components of an analytical x-ray system are located and arranged and have suffi-

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cient shielding or access control for the specified tube rating to prevent the radiation level in any area adjacent to the local component group from exceeding the dose limits in R9-7-416.

- H. A registrant shall perform a radiation survey of the local component group of each analytical x-ray system to demonstrate compliance with subsection (G) upon:
 1. Installation,
 2. Change in configuration, or
 3. Maintenance that affects the radiation level in any area adjacent to the local component group.
- I. A registrant shall maintain a record of each survey for three years or until the analytical x-ray system is no longer used, whichever period is shorter.

Historical Note

New Section R9-7-804 recodified from R12-1-804 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-805. Administrative Responsibilities

- A. A registrant shall designate a radiation safety officer who shall:
 1. Establish and maintain operational procedures so that the radiation exposure of each worker is kept ALARA;
 2. Instruct all personnel who work with or near radiation producing machines in safety practices;
 3. Maintain a system of personnel monitoring;
 4. Establish radiation control areas, including placement of appropriate radiation warning signs or devices;
 5. Provide a radiation safety inspection of radiation producing machines on a routine basis;
 6. Review modifications to x-ray systems, including x-ray tube housing, cameras, diffractometers, shielding, and safety interlocks;
 7. Investigate and report proper authorities any case of excessive exposure to personnel and take remedial action; and,
 8. Be familiar with all applicable rules for control of ionizing radiation.
- B. An individual shall not be permitted to operate or maintain an open beam analytical x-ray system unless the individual has received instruction in and demonstrated competence in all of the following:
 1. Identification of radiation hazards associated with the use of the equipment;
 2. Significance of all radiation warning and safety devices, interlocks incorporated into the equipment, or the reasons that devices or interlocks have not been installed on certain pieces of equipment and the extra precautions required in lieu of these precautions;
 3. Proper operating procedures for the equipment;
 4. Recognition of symptoms of acute localized radiation exposure; and
 5. Proper procedure for reporting an actual or suspected exposure.
- C. A registrant shall maintain records of instruction and competence for Department inspection for three years from the date of course completion or demonstration.

Historical Note

New Section R9-7-805 recodified from R12-1-805 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-806. Operating Requirements

- A. A radiation safety officer shall establish written emergency procedures and post the procedures in a conspicuous location. The procedures shall include the telephone number of the radiation safety officer.

- B. A registrant shall ensure that written operating procedures are available for all analytical x-ray equipment workers. An individual shall not operate analytical x-ray equipment in any manner other than that specified in the procedures unless the individual obtains the radiation safety officer's written approval.
- C. An individual shall not bypass a safety device or interlock unless the individual has obtained Radiation Safety Officer approval. The approval shall be for a specific period of time. When a safety device or interlock has been bypassed, the Radiation Safety Officer shall place a readily discernible sign on the radiation source housing, warning the reader of the unsafe condition. A registrant shall maintain the written record of the bypass approval for three years after the approval expires.
- D. Except as authorized in subsection (C), an individual shall not perform an operation involving removal of covers, shielding materials, or tube housings or modification of shutters, collimators, or beam stops without ascertaining that the tube is off and that it will remain off until all protective devices have been restored to the normal operating condition. An individual repairing analytical x-ray equipment shall use the main switch, rather than interlocks, for routine shutdown in preparation for repairs.
- E. A registrant shall ensure that unused ports on radiation source housings are closed and secured against unauthorized access to the radiation source.
- F. Finger or wrist personnel monitoring devices shall be used by:
 1. Operators of open beam analytical x-ray equipment not equipped with a safety device; and
 2. Personnel performing maintenance procedures that require the presence of a primary x-ray beam when any local component is disassembled or removed.
- G. A registrant shall ensure that each safety and warning device is tested for proper operation at intervals that do not exceed one month and maintain a record of each test for three years from the date the test is completed.

Historical Note

New Section R9-7-806 recodified from R12-1-806 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-807. Surveys

- A. To ensure that personnel exposure does not result in a dose to an individual that exceeds the dose limits specified in Article 4, a registrant shall perform a radiation survey upon:
 1. Installation of the equipment and at least once each year after installation;
 2. Change in the initial arrangement, number, or type of local components in the system;
 3. Maintenance that involves disassembly or removal of a local component in the system;
 4. Maintenance that involves alignment, if alignment requires the generation of the primary x-ray beam while any local component of the system is disassembled or removed;
 5. A visual inspection of the local components in the system that reveals an abnormal condition; or
 6. Determination that personnel are being exposed to radiation in excess of established levels recorded in monitoring records for personnel during previous monitoring periods or the occupational dose limits specified in Article 4.
- B. The radiation surveys in subsection (A) are not required if the registrant demonstrates that the local components of an analytical x-ray system are located and arranged, and have sufficient shielding or access control, to limit personnel exposure to a

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level that is ALARA and below the occupational dose limits in Article 4. The Department shall determine ALARA radiation levels based on the specified x-ray tube rating.

Historical Note

New Section R9-7-807 recodified from R12-1-807 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-808. Posting

A registrant shall conspicuously post each area or room that contains analytical x-ray equipment with a sign or signs that bear the radiation symbol and the words "CAUTION – X-RAY EQUIPMENT" or words with a similar meaning.

Historical Note

New Section R9-7-808 recodified from R12-1-808 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-809. Training

A registrant shall not allow an individual to operate or maintain analytical x-ray equipment unless the individual has received training and demonstrated competence in:

1. Identifying radiation hazards associated with use of the equipment;
2. Recognizing and using radiation warning and safety devices, including interlocks that are incorporated into the equipment, and understanding why these devices are sometimes not installed;
3. Taking precautions associated with use of the equipment;
4. Recognizing symptoms of an acute localized exposure; and
5. Following proper procedure for reporting a suspected personnel exposure.

Historical Note

New Section R9-7-809 recodified from R12-1-809 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 9. PARTICLE ACCELERATORS**R9-7-901. Purpose and Scope**

- A. This Article establishes procedures and requirements for the registration and the use of particle accelerators.
- B. In addition to the requirements of this Article, all registrants are subject to the requirements of Articles 1, 2, 4 and 10. Registrants engaged in industrial radiographic operations are subject to the requirements of Article 11, and registrants engaged in the healing arts are subject to the requirements of Article 6 of this Chapter. Registrants using a particle accelerator for the production of radioactive material are subject to the requirements of Article 3, and if the radioactive material is used for medical purposes, Article 7.

Historical Note

New Section R9-7-901 recodified from R12-1-901 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-902. Definitions

The following definitions apply in this Article, unless the context otherwise requires:

"Added filter" (See R9-7-602).

"Arc therapy" means radiation therapy that uses electrons to treat large, superficial volumes that follow curved surfaces, as in post-mastectomy patients.

"Authorized medical physicist" means an individual who meets the requirements in R9-7-711. For purposes of ensuring that personnel are adequately trained, an authorized medical physicist is a "qualified expert" as defined in Article 1.

"Beam-limiting device" (See R9-7-602)

"Beam-monitoring system" means a set of devices that will monitor the useful beam, as defined in R9-7-602, during irradiation and terminate irradiation when a preselected number of monitor units has been accumulated.

"Collimator" (See R9-7-602)

"Control panel" (See R9-7-602)

"Full beam detector" means a radiation detector of such size that the total cross section of the maximum size useful beam is intercepted.

"Gantry" means that part of a linear accelerator that supports the radiation source so that it can rotate about a horizontal axis.

"General supervision" means that a radiation therapy technologist is furnished with a procedure for performing therapy under an authorized user's overall direction and control, and the authorized user is responsible for ensuring that the procedure is followed, but the authorized user's presence is not required in a medical institution during the performance of the procedure.

"Intensity-Modulated Radiation Therapy (IMRT)" means an advanced mode of high-precision radiotherapy that uses computer-controlled linear accelerators to deliver precise radiation doses to a tumor or specific areas within the tumor.

"Isocenter" means the point of intersection of the collimator axis and the axis of rotation of the gantry.

"Monitor unit" means a unit response from the beam monitoring system from which the absorbed dose can be calculated.

"Moving beam therapy" means radiation therapy in which there is displacement of the useful beam relative to the patient. Moving beam therapy includes arc therapy, skip therapy, and rotational beam therapy.

"Radiation therapy technologist" means an individual certified according to 9 A.A.C. 16, Article 6, whose scope of practice is specified according to A.A.C. R9-16-608(D).

"Rotational beam therapy" means radiation therapy that is administered to a patient from a radiation source that rotates around the patient's body or the patient is rotated while the beam is held fixed.

"Skip therapy" means rotational beam therapy that is administered in a way that maximizes the dose to an area of interest and minimizes the dose to surrounding healthy tissue.

"Special procedure" means a type of therapy through which radiation is delivered to a patient through five or fewer fractions or with a dose per fraction greater than 6 Gy.

"Spot check" (See R9-7-602)

"Stationary beam therapy" means radiation therapy that involves a beam from a radiation source that is aimed at the patient from different directions. The distance of the source from the isocenter remains constant irrespective of the beam direction.

"Virtual source" means a point from which radiation appears to originate.

Historical Note

New Section R9-7-902 recodified from R12-1-902 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 30 A.A.R.

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385 (March 1, 2024), with an immediate effective date of February 8, 2024 (Supp. 24-1).

R9-7-903. General Registration Requirements

- A. The requirements in this Section supplement the registration requirements in 9 A.A.C. 7, Article 2.
- B. The Department shall approve a registration application for use of a particle accelerator only if the Department determines that:
 1. The applicant is qualified by training and experience to use the accelerator for the purpose in the application submitted to the Department under Article 2;
 2. The applicant's proposed equipment, facilities, and operating and emergency procedures are adequate to protect public health;
 3. The applicant satisfies any other applicable requirements in this Section; and
 4. The applicant has appointed a radiation safety officer.

Historical Note

New Section R9-7-903 recodified from R12-1-903 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-904. Registration of Particle Accelerators Used in the Practice of Medicine or Human Research

- A. The requirements in this Section supplement the registration requirements in R9-7-903.
- B. An applicant that is a "medical institution," as defined in Article 7 of this Chapter, and performing human research shall appoint a radiation safety committee that:
 1. Consists of at least four individuals including:
 - a. An authorized user of each type of use permitted by the registration,
 - b. The Radiation Safety Officer,
 - c. A representative of the nursing service,
 - d. A representative of management who is neither an authorized user nor a Radiation Safety Officer, and
 - e. Any other members the registrant selects;
 2. Meets at least once in each 12-month period, unless otherwise specified by registration condition;
 3. Only conducts business if at least 50 percent of the membership of the committee are present including the Radiation Safety Officer and the management representative;
 4. Includes in the minutes of each radiation safety committee meeting a reference to any discussion or documents related to the review required in R9-7-407(C);
 5. Reviews the radiation safety program for all sources of radiation as required in R9-7-407(C);
 6. Establishes a table that contains investigational levels for occupational and public dose that, when exceeded, will initiate an investigation and consideration of actions by the Radiation Safety Officer; and
 7. Establishes the safety objectives of the quality management program required by subsection (E).
- C. The applicant shall ensure that an individual designated as an authorized user is an Arizona licensed physician, approved by the radiation safety committee, if applicable, who has documentation that the individual is either:
 1. Certified in radiation oncology by the:
 - a. American Board of Radiology;
 - b. American Osteopathic Board of Radiology; or
 - c. Royal College of Physicians and Surgeons of Canada; or
 2. Engaged in the active practice of therapeutic radiology and has completed:
 - a. At least 200 hours of instruction in basic techniques applicable to the use of a particle accelerator, includ-

ing classroom and laboratory training in all of the following subjects:

- i. Radiation physics and instrumentation,
 - ii. Radiation protection,
 - iii. Mathematics pertaining to the use and measurement of radiotherapy, and
 - iv. Radiation biology;
- b. At least 500 hours of supervised work experience under the supervision of an authorized user at a medical institution, including:
 - i. Reviewing full calibration measurements and periodic spot checks,
 - ii. Preparing treatment plans and calculating treatment times,
 - iii. Using administrative controls to prevent misadministration,
 - iv. Implementing emergency procedures to be followed in the event of the abnormal operation of a particle accelerator, and
 - v. Checking and using survey meters;
 - c. A minimum of three years of supervised clinical experience:
 - i. Consisting of:
 - (1) At least one year in a formal training program approved by the Residency Review Committee for Radiology of the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association, and
 - (2) At least an additional two years of clinical experience in therapeutic radiology under the supervision of an authorized user at a medical institution; and
 - ii. Including:
 - (1) Examining individuals and reviewing their case histories to determine their suitability for treatment, noting any limitations or contraindications;
 - (2) Selecting the proper dose and how it is to be administered;
 - (3) Calculating the therapy doses and collaborating with the authorized user in the review of patients' or human research subjects' progress and consideration of the need to modify originally prescribed doses, as warranted by patients' or human research subjects' reaction to radiation; and
 - (4) Post-administration follow up and review of case histories; and
 - d. Is qualified to independently act as an authorized user, signed by the individual supervising the clinical experience in subsection (C)(2)(c).
- D. With the application the applicant shall provide the name of each authorized user to the Department so the names can be listed on the registration form, and so that the Department can determine whether the authorized user's training and experience satisfies the requirements in subsection (C).
 - E. Each registrant shall establish and maintain a written quality management program to provide high confidence that the radiation produced by the particle accelerator will be administered as directed by an authorized user. The quality management program shall include, at minimum, the tests and checks listed in Appendix A.

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- F.** Each registrant shall ensure that a particle accelerator is calibrated by an authorized medical physicist who meets the training and experience qualifications in R9-7-711.
- G.** At the time of application for registration or when a therapy program is expanded to multiple sites, each applicant or registrant shall provide the Department with:
1. A description of the quality management program, developed, maintained, and implemented according to the American Society for Radiation Oncology's 2019 "Safety is No Accident: A Framework for Quality Radiation Oncology Care," incorporated by reference, available under R9-7-101, and containing no future editions;
 2. A listing of the professional staff assigned to the facility; and
 3. The expected ratio of patient workload to staff member.
- H.** If the staffing ratio exceeds the recommended levels in the document incorporated by reference in subsection (G)(1), the applicant shall provide to the Department for approval the justification for the larger ratio and the safety considerations that have been addressed in establishing the program.
- I.** A registrant shall ensure that:
1. Two radiation therapy technologists are at the treatment console for all procedures;
 2. An authorized user and authorized medical physicist are:
 - a. At the treatment console for all single fraction special procedures, such as stereotactic radiosurgery (SRS), a method of external beam radiotherapy that delivers a precisely targeted high dose of radiation in a single session;
 - b. At the treatment console for the first fraction of all special procedures using multiple fractions, such as:
 - i. Stereotactic radiotherapy (SRT), a method of external beam radiotherapy in which radiotherapy is delivered from many different angles around the body of a patient, with the beams meeting at the tumor in such a manner that the tumor receives a high dose of radiation and the tissues around the tumor receive a much lower dose; or
 - ii. Stereotactic body radiation therapy (SBRT), a method of external beam radiotherapy that delivers a precisely targeted high dose of radiation to an extracranial target in five or fewer fractions; and
 - c. On-site and within range for patient care access for subsequent fractions of the special procedures specified in subsection (I)(2)(b);
 3. For all Intensity-Modulated Radiation Therapy (IMRT), the planned doses are verified by direct measurement;
 4. Except as provided in subsection (J), an authorized user is on-site and available for consultation about patient care; and
 5. The health and safety of a patient are maintained.
- J.** If a registrant meets the requirements of a Critical Access Hospital, according to 42 CFR, Part 485, Subpart F, Conditions of Participation: Critical Access Hospitals, the registrant may allow a radiation therapy technologist to perform a procedure under general supervision if the registrant ensures that:
1. The registrant or an authorized user:
 - a. Has established a written protocol for the application of radiation to a patient for each procedure that may be conducted by a radiation therapy technologist under the general supervision of an authorized user, including follow-up instructions for the patient;
 - b. Reviews and, as necessary, revises the written protocols in subsection (J)(1)(a) at least annually; and
 - c. Documents the review in subsection (J)(1)(b) with a signature and date of signature;
 2. The procedure is not a special procedure;
 3. A radiation therapy technologist follows the applicable written protocol established according to subsection (J)(1)(a) when delivering radiation to a patient; and
 4. At least every six months, an authorized user:
 - a. Observes each radiation therapy technologist, while the radiation therapy technologist is performing a procedure, for adherence to the applicable written protocol in subsection (J)(1)(a); and
 - b. Documents the observation and the assessment in subsection (J)(4)(a);
 5. An authorized user is on-site and available for consultation about patient care at least once every five working days, as shown in documentation maintained by the registrant; and
 6. The health and safety of a patient are maintained.
- K.** A registrant that uses the general supervision in compliance with subsection (J) shall develop, maintain, and implement policies and procedures to monitor:
1. The performance of a procedure by a radiation therapy technologist under general supervision, and
 2. The quality of patient care.

Historical Note

New Section R9-7-904 recodified from R12-1-904 at 24

A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4). Amended by final expedited rulemaking at 30 A.A.R. 385 (March 1, 2024), with an immediate effective date of February 8, 2024 (Supp. 24-1).

R9-7-905. Medical Particle Accelerator Equipment, Facility and Shielding, and Spot Checks**A. Equipment**

1. Leakage radiation
 - a. X-ray leakage radiation from the source housing assembly shall not exceed 0.1 percent of the maximum dose equivalent rate of the unattenuated useful beam.
 - b. Neutron leakage radiation from the source housing assembly shall not exceed 0.5 percent of the maximum dose equivalent rate of the unattenuated useful beam.
 - c. Leakage radiation measurements made at any point 1 meter from the path of the charged particle between its point of origin and the target, window or scattering foil shall meet the requirements of subsection (A)(1)(a) and (b) when computed as a percentage of the dose rate equivalent of the unattenuated useful beam measured at 1 meter from the virtual source. Leakage radiation measurements at each point shall be averaged over an area up to but not exceeding 100 square centimeters (15.5 square inches).
 - d. The registrant shall maintain, for inspection by the Department, records that show leakage radiation measurements for the life of the operation.
2. Beam limiting devices (not to include blocks or wedges). Adjustable or interchangeable beam limiting devices shall be provided and shall transmit no more than 2 percent of the useful beam for the portion of the useful beam that is to be attenuated by the beam limiting device. The neutron component of the useful beam shall not be

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- included in this requirement. Measurements shall be averaged over an area up to but not exceeding 100 square centimeters (15.5 square inches) at the normal treatment distance.
3. Filters. The following requirements apply to systems that use a system of wedge filters, interchangeable field flattening filters, or interchangeable beam scattering filters:
 - a. Irradiation shall not be possible until a selection of a filter has been made at the treatment control panel;
 - b. An interlock system shall be provided to prevent irradiation if the filter selected is not in the correct position;
 - c. An indication of the wedge filter orientation with respect to the treatment field shall be provided at the control panel, by direct observation, or by electronic means, when wedge filters are used;
 - d. A display shall be provided at the treatment control panel showing the filter or filters in use;
 - e. Each filter that is removable from the system shall be clearly identified as to that filter's material of construction, thickness, and the nominal wedge angle for wedge filters, or a record tracing these factors for each filter shall be maintained at the system console; and
 - f. An interlock shall be provided to prevent irradiation if any filter selection operation carried out in the treatment room does not agree with the filter selection operation carried out at the treatment control panel.
 4. Beam monitor. Equipment installed after the effective date of this Section shall be provided with at least one radiation detector in the radiation head. This detector shall be incorporated into a primary system so that all of the following criteria are met:
 - a. Each primary system shall have a detector that is a transmission detector and a full beam detector and that is placed on the patient side of any fixed added filters other than a wedge filter;
 - b. The detectors shall be removable only with tools and shall be interlocked to prevent incorrect positioning;
 - c. Each detector shall be capable of independently monitoring and controlling the useful beam;
 - d. Each detector shall form part of a dose-monitoring system from which the absorbed dose can be calculated at a reference point in the treatment volume;
 - e. Each dose monitoring system shall have a legible display at the treatment control panel that:
 - i. Maintains a reading until intentionally reset to zero;
 - ii. Has only one scale and no scale multiplying factors in replacement equipment; and
 - iii. Utilizes a design such that increasing dose is displayed by increasing numbers and is designed so that, in the event of an overdosage of radiation, the absorbed dose may be accurately determined under all nominal conditions of use or foreseeable failures;
 - f. In the event of power failure, the dose monitoring information required in subsection (A)(4) displayed at the control panel at the time of failure shall be retrievable in at least one system; and
 - g. Selection and display of dose monitor units;
 - i. Irradiation shall not be possible until a selection of dose monitor units has been made at the treatment control panel.
 - ii. Each primary system shall terminate irradiation when the preselected number of dose monitor units has been detected by the system.
 - iii. Each secondary system shall terminate irradiation when 110 percent of the preselected number of dose monitor units has been detected by the system.
 - iv. It shall be possible to interrupt irradiation and equipment movements at any time from the operator's position at the treatment control panel. Following an interruption, it shall be possible to restart irradiation by operator action without any reselection of operating conditions. If any change is made of a preselected value during an interruption the equipment shall go to termination condition.
 - v. It shall be possible to terminate irradiation and equipment movements, or go from an interruption condition to termination conditions at any time from the operator's position at the treatment control panel.
 5. Beam monitoring system. All accelerator systems shall be provided with a beam monitoring system in the radiation head capable of monitoring and terminating irradiation.
 - a. Each beam monitoring system shall have a display at the treatment control panel that registers the accumulated monitor units.
 - b. The beam monitoring system shall terminate irradiation if the preselected number of monitor units has been detected by the system.
 - c. For units with a secondary beam monitoring system, the primary beam monitoring system shall terminate irradiation if the preselected number of monitor units has been detected. The secondary beam monitoring system shall terminate irradiation if the primary system fails.
 - d. In the event of a power failure, the display information required in subsection (A)(5)(a) shall be retained in at least one system following the power failure.
 - e. An interlock device shall prevent irradiation if any beam monitoring system is inoperable.
 - f. For purposes of this rule:
 - i. "Beam monitoring system" means a system of devices that will monitor the useful beam during irradiation and will terminate irradiation if a preselected number of monitor units is accumulated.
 - ii. "Monitor unit" means a unit response from the beam monitoring system from which the absorbed dose can be calculated.
 6. Treatment beam mode selection. In equipment capable of both x-ray and electron therapy:
 - a. Irradiation shall not be possible until a selection of radiation type is made at the treatment control panel;
 - b. An interlock system shall be provided to prevent irradiation if any selected operations carried out in the treatment room do not agree with the selected operations indicated at the treatment control panel;
 - c. An interlock system shall be available and in operating condition on a therapy machine, and shall be used to prevent unwanted x-ray or electron irradiation when preparing for, or performing radiation therapy procedures. The interlock system need not

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- be available for use, if the therapy machine is only used to make an image of an inanimate object; and
- d. The radiation type selected shall be displayed at the treatment control panel before and during irradiation.
7. Treatment beam energy selection. Equipment capable of generating radiation beams of different energies shall meet all of the following requirements:
 - a. Irradiation shall not be possible until a selection of energy is made at the treatment control panel;
 - b. An interlock system shall be provided to ensure that the equipment can emit only the energy of radiation that is selected;
 - c. An interlock system shall be provided to prevent irradiation if any selected operations carried out in the treatment room do not agree with the selected operations indicated at the treatment control panel; and
 - d. The energy selected shall be displayed at the treatment control panel before and during irradiation.
 8. Selection of stationary or moving beam therapy. Equipment capable of both stationary and moving beam therapy modes shall meet all of the following requirements:
 - a. Irradiation shall not be possible until a selection of stationary beam therapy or moving beam therapy is made at the treatment control panel;
 - b. An interlock system shall be provided to ensure that the equipment can operate only in the mode that is selected;
 - c. An interlock system shall be provided to prevent irradiation if any selected operations carried out in the treatment room do not agree with the selected operations indicated at the treatment control panel;
 - d. An interlock system shall be provided to terminate irradiation if the movement stops during moving beam therapy;
 - e. Moving beam therapy shall be so controlled that the required relationship between the number of dose monitor units and movement is obtained; and
 - f. The mode of operation shall be displayed at the treatment control panel.
 9. Focal spot location and beam orientation. The registrant shall determine, or obtain from the manufacturer, the location in reference to an accessible point on the radiation head of all of the following:
 - a. The x-ray target or the virtual source of x-rays,
 - b. The electron window or the scattering foil, and
 - c. All possible orientations of the useful beam.
 10. System checking facilities. Capabilities shall be provided for checking of all safety interlock systems.
- B. Facility and shielding requirements.**
1. In addition to protective barriers sufficient to ensure compliance with R9-7-907, all of the following design requirements apply:
 - a. Except for entrance doors or beam interceptors, all the required barriers shall be fixed barriers;
 - b. The treatment control panel shall be located outside the treatment room;
 - c. Windows, mirrors, operable closed-circuit television, or other equivalent viewing systems shall be provided to permit continuous observation of the patient during irradiation and shall be so located that the operator may observe the patient from the treatment control panel;
 - d. Provision shall be made for two-way oral communication between the patient and the operator at the treatment control panel;
 - e. Each point of entry into the treatment room shall be provided with warning lights that will indicate when the useful beam is "on" in a readily observable position outside of the room; and
 - f. Interlocks shall be provided and shall result in all entrance doors being closed before treatment can be initiated or continued. If the radiation beam is interrupted by any door opening, it shall be possible to restore the machine to operation only by closing the door and reinitiating exposure by manual action at the control panel.
 2. An authorized medical physicist, trained and experienced in the principles of radiation protection, shall perform a radiation protection survey on all installations before human use and after any change in an installation that might produce a radiation hazard. The authorized medical physicist shall provide the survey results in writing to the individual in charge of the installation and transmit a copy of the survey results to the Department.
 3. Calibrations.
 - a. Calibration of the therapy system, including radiation output calibration, shall be performed before placing new installations into operation for the purpose of irradiation of patients. Subsequent calibrations shall be made at intervals not to exceed 12 months, and after any change that may cause the calibration of the therapy system to change.
 - b. Calibration of the radiation output of the therapy beam shall be performed with an instrument that has been calibrated using a method that is traceable to the National Institute of Standards and Technology (NIST), within the preceding two years.
 - c. Calibration of a particle accelerator shall be performed by, or under the supervision of an authorized medical physicist who meets the qualification requirements specified in R9-7-711, and a copy of the calibration report shall be maintained by the registrant for inspection by the Department.
 - d. Calibration of the therapy beam shall include, but not necessarily be limited to, all of the following determinations:
 - i. Verification that the equipment is operating within the design specifications concerning the light localizer, the side light and back pointer alignment with the isocenter, when applicable, variation in the axis of rotation for the table, gantry and jaw system, and beam flatness and symmetry at specific depths;
 - ii. The exposure rate or dose rate in air or at various depths of water for the range of field sizes used for each effective energy, and for each treatment distance used for radiation therapy;
 - iii. The congruence between the radiation field and the field defined by the localizing device;
 - iv. The uniformity of the radiation field and its dependency upon the direction of the useful beam; and
 - v. The calibration determinations above shall be provided in sufficient detail, to allow the absorbed dose to tissue in the useful beam to be calculated to within plus or minus 5 percent.

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- e. Records of calibrations shall be maintained for three years following the date the calibration was performed.
- f. A copy of the current calibration report shall be available in the therapy facility for use by the operator, and the report shall contain the following information:
 - i. The action taken by the authorized medical physicist performing the calibration if it indicates a change has occurred since the last calibration,
 - ii. A listing of the persons informed of the change in calibration results, and
 - iii. A statement as to the effect the change in calibration has had on the therapy doses prior to the current calibration finding.

C. Spot checks.

- 1. The spot check procedures shall be in writing and shall have been developed by an authorized medical physicist trained and experienced in performing calibrations.
- 2. The measurements taken during spot checks shall demonstrate the degree of consistency of the operating characteristics which can affect the radiation output of the system or the radiation dose delivered to a patient during a therapy procedure.
- 3. The written spot check procedure shall indicate the frequency at which tests or measurements are to be performed, not to exceed monthly.
- 4. The spot check procedure shall note conditions that require recalibration of the therapy system before further human irradiation.
- 5. Records of spot checks shall be maintained and available for inspection by the Department for three years following the spot check measurements. Records of spot checks not performed by an authorized medical physicist shall be signed by an authorized medical physicist within 15 days of the spot check.

D. Operating procedures.

- 1. Only the patient shall be in the treatment room during irradiation.
- 2. If a patient must be held in position during treatment only, mechanical supporting or restraining devices shall be used for this purpose.

Historical Note

New Section R9-7-905 recodified from R12-1-905 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-906. Limitations**A. A registrant shall not permit an individual to act as:**

- 1. A particle accelerator operator of any type unless the individual:
 - a. Has received copies of and instruction in this Article and the registrant's operating and emergency procedures,
 - b. Demonstrates an understanding of the material, and
 - c. Has demonstrated competence in the use the particle accelerator, related equipment, and survey instruments that will be employed during the operation of the particle accelerator;
- 2. A medical particle accelerator operator unless the individual is certified as required in A.R.S. § 32-2811 or the operator meets the requirements in R9-7-603(B); or
- 3. An industrial particle accelerator operator unless the individual has been instructed in radiation safety.

B. A registrant shall provide either the Radiation Safety Committee or the Radiation Safety Officer with the authority to terminate

operations at a particle accelerator facility if this is necessary to protect health and safety or property.

C. If equipment is capable of both stationary and moving beam therapy, the registrant shall ensure that:

- 1. Irradiation is not possible unless either stationary or moving beam therapy has been selected at the control panel,
- 2. An interlock is provided to ensure that the machine will operate only in the mode that has been selected,
- 3. An interlock is provided that terminates irradiation if the gantry fails to move properly during moving beam therapy,
- 4. A means is provided to prevent movement during stationary therapy, and
- 5. The mode of operation is displayed at the control panel.

Historical Note

New Section R9-7-906 recodified from R12-1-906 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-907. Shielding and Safety Design

- A.** An authorized medical physicist experienced in the principles of radiation protection and installation design shall be consulted in the design of a particle accelerator installation and called upon to perform a radiation survey when the accelerator is first capable of producing radiation. The registrant shall provide a copy of the installation radiation survey to the Department before a Department inspection conducted according to R9-7-914.
- B.** The registrant shall shield each particle accelerator installation with the primary and secondary protective barriers necessary to comply with R9-7-408 and R9-7-416.
- C.** At the time of application for registration and before treatment of the first patient, the applicant shall provide to the Department a copy of an installation report, signed by the contractor who installed required shielding material recommended by the authorized medical physicist who performed the shielding calculations for the particle accelerator facility.
- D.** As part of the annual radiation protection program review required in R9-7-407(C), the registrant shall document installed facility shielding and other radiation exposure controls, review patient workload, and note associated changes, if any, in public exposure that are the result of installed facility shielding, increased workload, and other radiation exposure controls in use at the time of the review.

Historical Note

New Section R9-7-907 recodified from R12-1-907 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-908. Particle Accelerator Controls and Interlock Systems

A registrant shall ensure that:

- 1. Instrumentation, readouts and controls on the particle accelerator control panel are clearly identified and easily discernible;
- 2. All entrances into the area that contains the particle accelerator room, target room, or other high radiation area, are provided with interlocks that shut down the machine if an entrance door is opened;
- 3. If an interlock system connected to an entrance door that provides access to the therapy suite has been tripped, it is not possible to resume operation of the particle accelerator by resetting the interlock switch at the entrance where it had been tripped;
- 4. Each safety interlock is on a circuit that allows it to operate independently of all other safety interlocks;

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5. If possible, the interlock system is fail-safe in design, so that any defect or component failure in the interlock system prevents operation of the particle accelerator; and
6. A scram button or other emergency power cutoff switch is located and easily identifiable in the area that contains the particle accelerator. The registrant shall ensure that the scram button prevents persons from restarting the particle accelerator at the accelerator control panel without resetting the button or switch.

Historical Note

New Section R9-7-908 recodified from R12-1-908 at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-909. Warning Systems

A registrant shall ensure that:

1. High radiation areas and entrances to the high radiation areas in medical facilities are equipped with a continuously-operating warning light system that operates when, and only when, radiation is produced;
2. High radiation areas and entrances to the high radiation areas in nonmedical facilities are equipped with an easily-observable flashing or rotating warning light system that operates when, and only when, radiation is produced;
3. High radiation areas associated with nonmedical particle accelerators have an audible warning device that is activated for 15 seconds before creation of the high radiation area; and the warning device is clearly discernible in all high radiation areas and all radiation areas; and
4. High radiation areas associated with any particle accelerator are posted according to R9-7-428 and R9-7-429.

Historical Note

New Section R9-7-909 recodified from R12-1-909 at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-910. Operating Procedures

- A. A registrant shall secure from use a particle accelerator when it is not being used to prevent unauthorized use.
- B. A particle accelerator operator shall use the switch on the control panel to turn the accelerator beam on and off during normal operations. The safety interlock system may be used to turn off the accelerator beam in emergencies.
- C. A registrant shall ensure that all safety and warning systems, including interlocks, are tested for proper operation at intervals not to exceed three months, and maintain a record of each test for Department inspection for at least three years from the date of the test.
- D. A registrant shall keep current electrical circuit diagrams of a particle accelerator and the associated interlock systems, and maintain the diagrams for inspection by the Department.
- E. A registrant shall not bypass an interlock unless the by-pass is:
 1. Authorized in writing by the Radiation Safety Committee or Radiation Safety Office,
 2. Recorded in a permanent log with a notice of the by-pass posted at any affected interlock and at the control panel, and
 3. Terminated as soon as possible.
- F. A registrant shall maintain a copy of the current operating and emergency procedures at the particle accelerator control panel.

Historical Note

New Section R9-7-910 recodified from R12-1-910 at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-911. Radiation Surveys

- A. The registrant shall ensure that a portable survey instrument is available at all times in a particle accelerator facility.
- B. An authorized medical physicist shall:
 1. Check the operation of the portable survey instrument required in subsection (A), using a known radiation source, before each use;
 2. Perform and document a radiation protection survey when changes have been made in shielding, operation, equipment, or occupancy of adjacent areas;
 3. For particle accelerator facilities greater than 30 Mev, establish a program of radiation protection surveys that will evaluate the airborne radiation hazards, and ensure that the particulate radioactivity present in the accelerator facility will not result in personnel exposure that exceeds the limits in Article 4; and
 4. Perform radiation protection surveys, including smear surveys of the particle accelerator facility, as prescribed in the written procedures established by the Radiation Safety Officer of the particle accelerator facility and approved by the Department at the time of application for registration.

1. Check the operation of the portable survey instrument required in subsection (A), using a known radiation source, before each use;
 2. Perform and document a radiation protection survey when changes have been made in shielding, operation, equipment, or occupancy of adjacent areas;
 3. For particle accelerator facilities greater than 30 Mev, establish a program of radiation protection surveys that will evaluate the airborne radiation hazards, and ensure that the particulate radioactivity present in the accelerator facility will not result in personnel exposure that exceeds the limits in Article 4; and
 4. Perform radiation protection surveys, including smear surveys of the particle accelerator facility, as prescribed in the written procedures established by the Radiation Safety Officer of the particle accelerator facility and approved by the Department at the time of application for registration.
- C. The registrant shall maintain the following records:
1. Radiation protection surveys required in subsection (B)(2), and the associated facility description, required in R9-7-202, until the registration is terminated; and
 2. Records of the surveys required in subsections (B)(3) and (4) for three years following the measurement.

Historical Note

New Section R9-7-911 recodified from R12-1-911 at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-912. Reserved**Historical Note**

Section R9-7-912 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-913. Misadministration

- A. For purposes of this rule "misadministration" means:
 1. A therapeutic radiation dose from a machine:
 - a. Delivered to the wrong patient;
 - b. Delivered using the wrong mode of treatment;
 - c. Delivered to the wrong treatment site; or
 - d. Delivered in one week to the correct patient, using the correct mode, to the correct therapy site, but greater than 130 percent of the prescribed weekly dose; or
 2. A therapeutic radiation dose from a machine with errors in the calibration, time of exposure, or treatment geometry that result in a calculated total treatment dose differing from the final, prescribed total treatment dose by more than 20 percent, except for treatments given in 1 to 3 fractions, in which case a difference of more than 10 percent constitutes a misadministration.
- B. Reports of therapy misadministration
 1. Within 24 hours after discovery of a misadministration, a registrant shall notify the Department by telephone. The registrant shall also notify the referring physician of the affected patient and the patient or a responsible relative or guardian, unless the referring physician personally informs the registrant either that he or she will inform the patient, or that in his or her medical judgment, telling the patient or the patient's responsible relative or guardian would be harmful to one or the other, respectively. If the referring physician or the patient's responsible relative or guardian cannot be reached within 24 hours, the registrant shall notify them as soon as practicable. The registrant shall not delay medical care for the patient because of notification problems.

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2. Within 15 days following the verbal notification to the Department, the registrant shall report, in writing, to the Department and individuals notified under subsection (B)(1). The written report shall include the registrant's name, the referring physician's name, a brief description of the event, the effect on the patient, the action taken to prevent recurrence, whether the registrant informed the patient or the patient's responsible relative or guardian, and if not, why not. The report shall not include the patient's name or other information that could lead to identification of the patient.
3. Each registrant shall maintain records of all misadministrations for Department inspection. The records shall:
 - a. Contain the names of all individuals involved in the event, including:
 - i. The physician,
 - ii. The allied health personnel,
 - iii. The patient,
 - iv. The patient's referring physician,
 - v. The patient's identification number if one has been assigned,
 - vi. A brief description of the event,
 - vii. The effect on the patient, and
 - viii. The action taken to prevent recurrence.
 - b. Be maintained for three years beyond the termination date of the affected registration.

Historical Note

New Section R9-7-913 recodified from R12-1-913 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-914. Initial Inspections of Particle Accelerators Used in the Practice of Medicine

The Department shall inspect a particle accelerator, used in the practice of medicine, before its initial use to treat human disease.

Historical Note

New Section R9-7-914 recodified from R12-1-914 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Appendix A. Quality Control Program

- A. Mechanical Tests**
 1. Patient support assembly motions,
 2. Gantry angle indicators,
 3. Optical distance indicators,
 4. Alignment lights,
 5. Congruence of radiation beam and light field,
 6. Accuracy of field size indicators,
 7. Mechanical isocenter-gantry and collimator,
 8. Mechanical interlocks.
- B. Radiation Beam Tests**
 1. Machine operating parameters,
 2. Dose per monitor unit for x-ray and electron beams,
 3. Dose per degree for moving beam therapy,
 4. Radiation isocenter,
 5. Flatness and symmetry,
 6. Wedge transmission factors,
 7. Shadow tray transmission factors,
 8. Energy check on central axis,
 9. Radiation output versus field size.
- C. Control Panel Checks**
 1. Radiation "ON" condition,
 2. Indicator lamp check,
 3. Computer control of accelerator,
 4. Interlock display,
 5. Digital display,
 6. Analog display,
 7. Status display,

8. Reset display.
- D. Facility Checks**
 1. Patient audio-visual communication,
 2. Entrance door interlock,
 3. Warning lights,
 4. Emergency off button.
- E. Dose Output Check**
 1. Each registrant shall use the services of a third party authorized medical physicist or third party TLD system to verify the accelerator's radiation output every two years.
 2. If the output check is not within plus or minus 5 percent of the calibrated output, the accelerator shall be recalibrated and the discrepancy investigated.
 3. Records of output checks shall be maintained for three years.
- F. Patient Dosimetry Calculation Checks**
 1. Calculation of patient treatment times,
 2. Computer calculation of patient treatment times.

Historical Note

New Article 9, Appendix A recodified from 12 A.A.C. 1, Article 9, Appendix A, 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 10. NOTICES, INSTRUCTIONS, AND REPORTS TO RADIATION WORKERS; INSPECTIONS**R9-7-1001. Purpose and Scope**

This Article establishes requirements for notices, instructions, and reports by licensees or registrants to individuals working for a licensee or registrant. This Article explains the options available to these individuals in connection with Department inspections of licensees or registrants regarding radiological working conditions. The rules in this Article apply to all persons who receive, possess, use, own, or transfer sources of radiation licensed or registered by the Department.

Historical Note

New Section R9-7-1001 recodified from R12-1-1001 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1002. Posting of Notices for Workers

- A.** Each licensee or registrant shall post current copies of the following documents:
 1. The rules in this Chapter;
 2. The license, certificate of registration, conditions, or documents incorporated into the license or registration by reference, and any amendments to the license or registration;
 3. The operating procedures applicable to work under the license or registration;
 4. Any notice of violation involving radiological working conditions, proposed imposition of a civil penalty, or order issued under 9 A.A.C. 7, Article 12, and any response from the licensee or registrant.
- B.** If posting of a document specified in subsections (A)(1), (2) and (3) is not practicable, the licensee or registrant may post a notice which describes the document and states where it may be examined.
- C.** Form ARRA-6 (shown following R9-7-1008), "Notice to Employees" shall be posted by each licensee or registrant wherever individuals work in or frequent any portion of a restricted area.
- D.** Each licensee or registrant shall post documents, notices, or forms, as required by this Section, so that they are conspicuous and appear in a sufficient number of places to permit individuals engaged in work under the license or registration to observe them on the way to or from any particular work loca-

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tion to which the document applies and shall replace any document if it is defaced or altered.

- E. Department documents posted as required in subsection (A)(4) shall be posted within two working days after receipt of the documents from the Department; the licensee's or registrant's response, if any, shall be posted within two working days after dispatch from the licensee or registrant. The documents shall remain posted for a minimum of five working days or until action correcting the violation has been completed, whichever is later.

Historical Note

New Section R9-7-1002 recodified from R12-1-1002 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1003. Instructions for Workers

- A. A licensee or registrant shall ensure that each individual who, in the course of employment, is likely to receive in a year an occupational dose in excess of 1 mSv (100 mrem), receives instruction in all of the following subjects:
1. Storage, transfer, or use of radiation and radioactive material;
 2. Health protection problems associated with exposure to radiation or radioactive material, precautions or procedures to minimize exposure, and purposes and functions of protective devices;
 3. Applicable provisions in Department rules, licenses, and registrations that protect of personnel from exposure to radiation or radioactive material, with an emphasis on the duties of workers;
 4. The duty to promptly report to the licensee or registrant any condition that may lead to or cause a violation of a provision in a Department rule, license, or registration or unnecessary exposure to radiation or radioactive material;
 5. Correct response to warnings in the event of any unusual occurrence or malfunction that may involve exposure to radiation or radioactive material; and
 6. Radiation exposure reports that a worker may request according to R9-7-1004.
- B. In determining whether subsection (A) applies to an individual, a licensee or registrant shall take into consideration assigned activities during normal and abnormal situations that involve exposure to radiation or radioactive material and could reasonably be expected to occur during the life of a facility. The licensee or registrant shall provide instruction that is commensurate with potential radiological health protection problems present in the work place.

Historical Note

New Section R9-7-1003 recodified from R12-1-1003 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1004. Notifications and Reports to Individuals

- A. A licensee or registrant shall report radiation exposure data for an individual and the results of any measurements, analyses, and calculations of radioactive material deposited or retained in the body to the individual as specified in this Section. The information reported shall include data and results obtained under Department rules, orders, or license conditions, as shown in records maintained by the licensee or registrant. Each notification and report shall be in writing; include appropriate identifying data, such as the name of the licensee or registrant, the name of the individual, and the individual's Social Security number; include the individual's exposure information; and contain the following statement:
- "This report is furnished to you under the provisions of 9 A.A.C. 7. You should preserve this report for future reference."

- B. Each licensee or registrant shall make dose information available to workers as shown in records maintained by the licensee or registrant under the provisions of Article 4. Each licensee or registrant shall provide annual notification of exposure to radiation or radioactive material for each worker, as shown in records maintained by the licensee or registrant under R9-7-419(E) if:
1. The individual's occupational dose exceeds 1 mSv (100 mrem) TEDE or 1 mSv (100 mrem) to any individual organ or tissue; or
 2. The individual requests his or her annual dose report.
- C. At the request of a worker formerly engaged in work controlled by the licensee or the registrant, each licensee or registrant shall furnish to the worker a report of the worker's exposure to radiation or radioactive material. The report shall be furnished within 30 days from the time the request is made, or within 30 days after the exposure of the individual has been determined by the licensee or registrant, whichever is later; the report shall cover, within the period of time specified in the request, each calendar quarter in which the worker's activities involved exposure to radiation from radioactive material licensed by, or radiation machines registered with, the Department; and the report shall include the dates and locations of work under the license or registration in which the worker participated during this period.
- D. Reports to individuals of their exposure to radiation shall be made according to R9-7-446.

Historical Note

New Section R9-7-1004 recodified from R12-1-1004 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1005. Licensee, Registrant, and Worker Representation During Department Inspection

- A. As a condition of licensure or registration, each licensee or registrant shall afford to the Department, at all reasonable times and without undue delay, an opportunity to inspect materials, machines, activities, facilities, premises, and records.
- B. During an inspection, the licensee or registrant shall permit Department inspectors to consult privately with workers as specified in R9-7-1006. The licensee or registrant may accompany Department inspectors during other phases of an inspection.
- C. A worker authorized to consult with an Department inspector under R9-7-1006 may authorize another individual to represent the worker's interests during the Department inspection. The licensee or registrant shall notify the inspectors of the worker's authorization and give the worker's representative an opportunity to accompany the inspectors during the inspection of physical working conditions.
- D. Each worker's representative shall be routinely engaged in work under control of the licensee or registrant or shall have received instructions under R9-7-1003.
- E. Different representatives of licensees or registrants and workers may accompany the inspectors during different phases of an inspection if there is no resulting interference with the inspection. However, only one worker's representative at a time may accompany the inspectors.
- F. With the approval of the licensee or registrant and the worker's representative an individual who is not routinely engaged in work under control of the licensee or registrant, for example, a consultant to the licensee or registrant or to the worker's representative, shall be afforded the opportunity to accompany Department inspectors during the inspection of physical working conditions.
- G. Notwithstanding the other provisions of this Section, Department inspectors are authorized to refuse to permit accompani-

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ment by any individual who deliberately interferes with a fair and orderly inspection. With regard to any area containing proprietary information the worker's representative for that area shall be an individual previously authorized by the licensee or registrant to enter that area. With regard to areas containing information classified by an agency of the U.S. Government in the interest of national security, any individual who accompanies an inspector may have access to such information only if authorized by the classifying agency.

Historical Note

New Section R9-7-1005 recodified from R12-1-1005 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1006. Consultation with Workers During Inspections

- A. A licensee or registrant shall afford Department inspectors talking to a licensee or registrant representative the opportunity to consult privately with workers concerning matters of occupational radiation protection and other matters related to applicable provisions of Department rules, licenses, and registrations to the extent the inspectors deem consultation necessary for conducting an effective and thorough inspection.
- B. During the course of an inspection, any worker may privately bring to the attention of the inspectors, either orally or in writing, any past or present condition which the worker has reason to believe may have contributed to or caused any violation of the Act, these rules, or a license or registration condition, or any unnecessary exposure of an individual to radiation from licensed radioactive material or a registered radiation machine under the licensee's or registrant's control. If this notification is in writing, the worker shall comply with the requirements of R9-7-1007(A).
- C. The provisions of subsection (B) shall not be interpreted as authorization to disregard instructions required by R9-7-1003.

Historical Note

New Section R9-7-1006 recodified from R12-1-1006 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-1007. Inspection Requests by Workers

- A. Any worker or representative of workers who believes that a violation of the Act, these rules, license, or registration condi-

tions exists, or has occurred with regard to radiological working conditions in which the worker is engaged, may request an inspection of the facility by the Department. Any request shall be in writing, addressed to the Director, set forth the specific grounds for the request, and be signed by the worker or representative of the workers. The Department shall provide a copy to the licensee or registrant no later than at the time of inspection except that, upon the request of the worker, the Department shall protect the worker's name and the name of individuals referred to in the request to the extent authorized by law, except for good cause shown.

- B. If, upon receipt of a request for inspection, the Department Director determines that there are reasonable grounds to believe that the alleged violation exists or has occurred, the Director shall initiate an inspection as soon as practicable, to determine if the alleged violation exists or has occurred. Inspections performed under this subsection need not be limited to matters referred to in the complaint.
- C. A licensee or registrant shall not discharge or in any manner discriminate against any worker because the worker has filed any complaint or caused to be instituted any proceeding under these rules or has testified or is about to testify in the instituted proceeding or because the worker exercises on behalf of the worker or others, any option afforded by this Article.

Historical Note

New Section R9-7-1007 recodified from R12-1-1007 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1008. Inspection not Warranted; Review

If the Department determines, with respect to a complaint under R9-7-1007, that an inspection is not warranted or there are no reasonable grounds to believe that a violation exists or has occurred, the Department shall notify the complainant in writing of the determination. The complainant may obtain review of the determination by submitting a written request for hearing to the Department. The Department shall provide for a hearing before the Radiation Regulatory Hearing Board under 9 A.A.C. 7, Article 12 and A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

New Section R9-7-1008 recodified from R12-1-1008 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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Exhibit A. Form ARRA-6 (2012) Notice to Employees

ARRA-6 (2012) Arizona Department of Health Services, Bureau of Radiation Control

NOTICE TO EMPLOYEES**STANDARDS FOR PROTECTION AGAINST RADIATION;
NOTICES, INSTRUCTIONS, AND REPORTS TO WORKERS;
INSPECTIONS**

In Article 4 of the Arizona Department of Health Services, Bureau of Radiation Control rules for the Control of Radiation, the Arizona Department of Health Services, Bureau of Radiation Control has established standards for your protection against radiation hazards. In Article 10 of the rules for the Control of Radiation, the Arizona Department of Health Services, Bureau of Radiation Control has established certain provisions for the options of workers engaged in work under a license or registration issued by the Arizona Department of Health Services, Bureau of Radiation Control.

YOUR EMPLOYER'S RESPONSIBILITY

Your employer is required to -

1. Apply these rules to work involving sources of radiation.
2. Post or otherwise make available to you a copy of the Arizona Department of Health Services, Bureau of Radiation Control rules, licenses, and operating procedures which apply to work you are engaged in, and explain their provisions to you.
3. Post notice of violation involving radiological working conditions, proposed imposition of civil penalties, and orders.

YOUR RESPONSIBILITY AS A WORKER

You should familiarize yourself with those provisions of the Arizona Department of Health Services, Bureau of Radiation Control rules and the operating procedures which apply to the work you are engaged in. You should observe their provisions for your own protection and protection of your co-workers.

WHAT IS COVERED BY THESE RULES

1. Limits on exposure to radiation and radioactive material in restricted and unrestricted areas;
2. Measures to be taken after accidental exposure;
3. Personnel monitoring, surveys, and equipment;
4. Caution signs, labels, and safety interlock equipment;
5. Exposure records and reports;
6. Options for workers regarding inspections by the Arizona Department of Health Services, Bureau of Radiation Control; and
7. Related matters.

REPORTS ON YOUR RADIATION EXPOSURE HISTORY

1. The Arizona Department of Health Services, Bureau of Radiation Control rules require that your employer give you a written report if you receive an exposure in excess of any applicable limit set forth in the rules or in the

license. The basic limits for exposure to employees are set forth in Article 4 of the rules. These Sections specify limits on exposure to radiation and exposure to concentrations of radioactive material in air and water.

2. If you work where personnel monitoring is required, and if you request information on your radiation exposures,
 - a. Your employer must give you a written report, upon termination of your employment, of your radiation exposures; and
 - b. Your employer must advise you annually of your exposure to radiation.

INSPECTIONS

All licensed or registered activities are subject to inspection by representatives of the Arizona Department of Health Services, Bureau of Radiation Control. In addition, any worker or representative of workers who believes that there is a violation of the regulations issued thereunder, or the terms of the employer's license or rules with regard to radiological working conditions in which the worker is engaged, may request an inspection by sending a notice of the alleged violation to the Arizona Department of Health Services, Bureau of Radiation Control. The request must set forth the specific grounds for the notice and must be signed by the worker on his own behalf or as a representative of the workers. During inspections, inspectors of the Arizona Department of Health Services, Bureau of Radiation Control may confer privately with workers, and any worker may bring to the attention of the inspectors any past or present condition which he believes contributed to or caused any violation as described above.

INQUIRIES

Inquiries dealing with the matters outlined above can be sent to the:

**ARIZONA DEPARTMENT OF HEALTH SERVICES,
BUREAU OF RADIATION CONTROL**

POSTING REQUIREMENT

IN ACCORDANCE WITH A.A.C. R9-7-1002, COPIES OF THIS NOTICE SHALL BE POSTED IN SUCH A MANNER TO PERMIT EMPLOYEES WORKING IN OR FREQUENTING ANY PORTION OF A RESTRICTED AREA, USED FOR ACTIVITIES LICENSED OR REGISTERED PURSUANT TO ARTICLE 2 OR ARTICLE 3 OF THE ARIZONA DEPARTMENT OF HEALTH SERVICES, BUREAU OF RADIATION CONTROL'S RULES, TO OBSERVE A COPY OR COPIES ON THE WAY TO OR FROM THEIR WORK AREA.

Historical Note

New Article 10, Exhibit A recodified from 12 A.A.C.1, Article 10, Exhibit A at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 11. INDUSTRIAL USES OF X-RAYS, NOT INCLUDING ANALYTICAL X-RAY SYSTEMS**R9-7-1101. Reserved****Historical Note**

Section R9-7-1101 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1102. Definitions

"Access point" means any door or cover that is designed to be removed or opened for maintenance or service purposes, opened using tools, and used to provide access to the interior of a cabinet x-ray unit.

"Annual refresher safety training" means a review provided by the registrant for its employees on radiation safety aspects of industrial radiography. The review shall include, as applicable, the results of internal inspections, new procedures or equip-

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ment, new or revised statutes or rules, accidents, or errors that have occurred, and provide opportunities for employees to ask safety questions.

“Aperture” means any opening in the outside surface of a cabinet x-ray unit, other than a port, which remains open during generation of x-radiation.

“Door” means any barrier that is designed to be movable or opened for routine operation purposes, rather than opened using tools, and used to provide access to the interior of the cabinet x-ray unit.

“Ground fault” means an accidental electrical grounding of an electrical conductor.

“Hands-on experience” means the accumulation of knowledge or skill in any area relevant to radiography.

“Port” means any opening in the outside surface of a cabinet x-ray unit that is designed to remain open, during generation of x-rays, for conveying material that is being irradiated into and out of the cabinet, or for partial insertion of an object for irradiation if the dimensions of the object do not permit complete insertion into the cabinet x-ray unit.

“Practical examination” means a demonstration, through practical application of safety rules and principles of industrial radiography, which includes use of all radiography equipment and tests knowledge of radiography procedures.

“Radiographic operations” means all activities associated with use of a radiographic x-ray system. This includes performing surveys to confirm the adequacy of boundaries, setting up equipment, and conducting any activity inside restricted area boundaries.

Historical Note

New Section R9-7-1102 recodified from R12-1-1102 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1103. Reserved**Historical Note**

Section R9-7-1103 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1104. Registration Requirements

- A. The Department shall review an application for registration of a radiation machine for use in industrial radiography and approve the registration if an applicant meets all of the following requirements:
 1. The applicant satisfies the general requirements in Article 2 and any special requirements contained in this Article,
 2. The applicant submits a program for training radiographer’s assistants that complies with R9-7-1146, and
 3. The applicant submits procedures for verifying and documenting the certification status of each radiographer and for ensuring that the certification remains valid.
- B. An applicant shall submit written operating and emergency procedures, as prescribed in R9-7-1128.
- C. An applicant shall submit a description of a program for review of job performance of each radiographer and radiographer’s assistant at intervals that do not exceed six months, as prescribed in R9-7-1146(E).
- D. An applicant shall submit a description of the applicant’s overall organizational structure as it applies to radiation safety responsibilities in industrial radiography, including specified delegation of authority and responsibility.
- E. An applicant shall submit and list the qualifications of each individual designated as an RSO under R9-7-1120 and indi-

cate which designee is responsible for ensuring that the registrant’s radiation safety program is implemented.

- F. If an applicant intends to perform “in-house” calibrations of survey instruments, the applicant shall describe each calibration method to be used, the relevant experience of each person who will perform a calibration, and procedures to ensure that all calibrations are performed according to the procedures prescribed in R9-7-1108.
- G. An applicant shall identify and describe the location of all field stations and permanent radiographic installations.
- H. An applicant shall identify each location where records required by this Chapter will be maintained.

Historical Note

New Section R9-7-1104 recodified from R12-1-1104 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1105. Reserved**Historical Note**

Section R9-7-1105 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1106. Equipment Performance

A registrant shall ensure that each x-ray machine has a lock or other security system designed to prevent unauthorized use or accidental production of radiation and is secured against unauthorized use at all times, except when under the direct surveillance of a radiographer or radiographer’s assistant.

Historical Note

New Section R9-7-1106 recodified from R12-1-1106 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1107. Reserved**Historical Note**

Section R9-7-1107 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1108. Radiation Survey Instruments

- A. A registrant shall maintain at least two calibrated and operable radiation survey instruments at each location where sources of radiation are present to make radiation surveys required by this Article and Article 4 of this Chapter. Instrumentation required by this Section shall be capable of measuring a range from 0.02 millisieverts (2 millirems) per hour through 0.01 sievert (1 rem) per hour.
- B. A registrant shall ensure that each radiation survey instrument required under subsection (A) is calibrated:
 1. At intervals that do not exceed six months, and after instrument servicing, except for battery changes;
 2. For linear scale instruments, at two points located approximately one-third and two-thirds of full-scale on each scale; for logarithmic scale instruments, at mid-range of each decade, and at two points of at least one decade; and for digital instruments, at 3 points between 0.02 and 10 millisieverts (2 and 1000 millirems) per hour; and
 3. So that an accuracy within plus or minus 20% of the calibration source can be demonstrated at each point checked.
- C. A registrant shall make a record each time a radiation survey instrument is calibrated, and maintain each record for three years after it is made.

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Historical Note

New Section R9-7-1108 recodified from R12-1-1108 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1109. Reserved**Historical Note**

Section R9-7-1109 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1110. Quarterly Inventory

- A. A registrant shall conduct a quarterly physical inventory to account for all x-ray machines received and possessed under the registration.
- B. A registrant shall maintain a record of the quarterly inventory required under subsection (A) for three years after it is made.
- C. The record required by subsection (B) shall include the date of the inventory, name of the individual who conducted the inventory, location of each x-ray machine, and manufacturer, model, and serial number of each x-ray machine.

Historical Note

New Section R9-7-1110 recodified from R12-1-1110 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1111. Reserved**Historical Note**

Section R9-7-1111 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1112. Utilization Logs

- A. A registrant shall maintain for each x-ray machine a utilization log that provides all of the following information:
 1. A description, including the make, model, and serial number of each x-ray machine;
 2. The identity and signature of the radiographer using the machine; and
 3. The plant or site where the machine is used and dates of use, including each date when the machine is removed from or returned to storage.
- B. A registrant shall retain a log required by subsection (A) for three years after the log is made.

Historical Note

New Section R9-7-1112 recodified from R12-1-1112 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1113. Reserved**Historical Note**

Section R9-7-1113 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1114. Inspection and Maintenance of Radiation Machines, Survey Instruments, and Associated Equipment

- A. A registrant shall perform visual and operability checks on survey instruments and radiation machines before use on each day the equipment is to be used to ensure that the equipment is in good working condition and required labeling is present. Survey instrument operability checks shall be performed using check sources or other authorized means. If equipment problems are found, the registrant shall remove the equipment from service until it is repaired.
- B. A registrant shall have written inspection and maintenance procedures for radiation machines and survey instruments that require inspection and maintenance, at intervals that do not exceed three months or before first use of the equipment and to ensure the proper functioning of components important to safety. Replacement components shall meet design specifications. If equipment problems are discovered, the registrant

shall remove the equipment from service until the equipment is repaired.

- C. A registrant shall maintain records of equipment problems found in daily checks and quarterly inspections and retain each record for three years after it is made. The record shall include the date of the check or inspection, name of the inspector, equipment involved, any problems found, and any repair or needed maintenance performed.

Historical Note

New Section R9-7-1114 recodified from R12-1-1114 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1115. Reserved**Historical Note**

Section R9-7-1115 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1116. Surveillance

During each radiographic operation a radiographer, or the radiographer's assistant as permitted by R9-7-1118, shall maintain continuous direct visual surveillance of the operation to protect against unauthorized entry into a high radiation area, except at permanent radiographic installations where all entrances are locked and the registrant is in compliance with R9-7-1136.

Historical Note

New Section R9-7-1116 recodified from R12-1-1116 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1117. Reserved**Historical Note**

Section R9-7-1117 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1118. Industrial Radiographic Operations

- A. If industrial radiography is performed at a location other than a permanent radiographic installation, a registrant shall ensure that the radiographer is accompanied by at least one other radiographer or radiographer's assistant, qualified under R9-7-1146. The additional radiographer or radiographer's assistant shall observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. The registrant shall not allow industrial radiography if only one qualified individual is present.
- B. A registrant shall ensure that each industrial radiographic operation is conducted at a location of use authorized on the registration of a permanent radiographic installation, unless another permanent location is specifically authorized by the Department.

Historical Note

New Section R9-7-1118 recodified from R12-1-1118 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1119. Reserved**Historical Note**

Section R9-7-1119 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1120. Radiation Safety Officer (RSO)

- A. A registrant shall have a radiation safety officer (RSO) who is responsible for implementing procedures and regulatory requirements in the daily operation of the radiation safety program.
- B. A registrant shall ensure that the RSO has satisfied the following minimum requirements:
 1. The training and testing requirements in R9-7-1146;

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2. Two thousand hours of hands-on experience as a qualified radiographer for an industrial radiographic operation; and
3. Formal training in the establishment and maintenance of a radiation safety program.

C. A registrant may use an individual in the position of RSO who does not have the training and experience required in subsection (B), if the registrant provides the Department with a description of the individual's training and experience in the field of ionizing radiation and training with respect to the establishment and maintenance of a radiation safety protection program.

D. The specific duties and authorities of the RSO include, but are not limited to:

1. Establishing and overseeing operating, emergency, and ALARA procedures as required in Article 4 of this Chapter, and reviewing the procedures every year to ensure that they conform to current Department rules and registration conditions;
2. Overseeing and approving all phases of the training program for radiographic personnel, ensuring that appropriate and effective radiation protection practices are taught;
3. Overseeing radiation surveys and associated documentation to ensure that the surveys are performed in accordance with the rules and taking corrective measures if levels of radiation exceed established action limits;
4. Overseeing the personnel monitoring program to ensure that monitoring devices are calibrated and used properly by occupationally exposed personnel and ensuring that records are kept of the monitoring results and timely notifications are made as required in R9-7-444; and
5. Overseeing operations to ensure that they are conducted safely and instituting corrective actions, which may include ceasing operations if necessary.

Historical Note

New Section R9-7-1120 recodified from R12-1-1120 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1121. Reserved**Historical Note**

Section R9-7-1121 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1122. Expired**Historical Note**

New Section R9-7-1122 recodified from R12-1-1122 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Section R9-7-1122 expired under A.R.S. § 41-1056(J) at 24 A.A.R. 3240, effective September 28, 2018 (Supp. 18-4).

R9-7-1123. Reserved**Historical Note**

Section R9-7-1123 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1124. Reserved**Historical Note**

Section R9-7-1124 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1125. Reserved**Historical Note**

Section R9-7-1125 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1126. Posting

A registrant shall post any area in which industrial radiography is being performed as required by R9-7-429. Exceptions listed in R9-7-430 do not apply to industrial radiographic operations.

Historical Note

New Section R9-7-1126 recodified from R12-1-1126 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1127. Reserved**Historical Note**

Section R9-7-1127 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1128. Operating and Emergency Procedures

A. A registrant shall have operating and emergency procedures that include, at minimum, instructions in the following, as applicable:

1. Use of radiation machines, so that persons are not exposed to radiation that exceeds the limits in Article 4 of this Chapter;
2. Methods and occasions for conducting radiation surveys;
3. Methods for controlling access to radiographic areas;
4. Methods and occasions for locking and securing a radiation machine;
5. Personnel monitoring and associated equipment;
6. Inspection, maintenance, and operability checks of a radiation machine and survey instruments;
7. Actions to be taken immediately by radiography personnel if a pocket dosimeter is found to be off-scale or an alarm rate meter sounds an alarm;
8. Procedures for identifying and reporting defects and non-compliance, as required by R9-7-448;
9. The procedure for notifying the RSO and the Department in the event of an accident;
10. Minimizing exposure of persons in the event of an accident, and
11. Maintenance of records.

B. The registrant shall maintain copies of current operating and emergency procedures until the Department terminates the registration. Superseded procedures shall be maintained for three years after a change is made. Additionally, records shall be maintained in accordance with R9-7-1138.

Historical Note

New Section R9-7-1128 recodified from R12-1-1128 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1129. Reserved**Historical Note**

Section R9-7-1129 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1130. Personnel Monitoring

A. An individual shall not act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, the individual wears, on the trunk of the body, a direct reading dosimeter, an operating alarm rate meter, and either a film badge, a TLD, or an optically stimulated luminescence (OSL) dosimeter. At permanent radiography installations where other required alarm or warning devices are in routine use, an alarm rate meter is not required.

1. A registrant shall provide pocket dosimeters that have a range from zero to 2 millisieverts (200 millirems) and

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ensure that the dosimeters are recharged at the start of each shift. Electronic personnel dosimeters are permitted in place of ion-chamber pocket dosimeters.

2. The registrant shall assign a film badge, TLD, or OSL dosimeter to one individual, who shall wear the assigned equipment.
 3. The registrant shall replace film badges at least monthly and replace TLDs or OSL dosimeters at least quarterly.
 4. After replacement, the registrant shall ensure that each film badge or TLD is processed as soon as possible.
- B.** A radiographer or radiographer's assistant shall record exposures noted from direct reading dosimeters, such as pocket dosimeters or electronic personnel dosimeters, at the beginning and end of each shift.
- C.** A registrant shall check each pocket dosimeter or electronic personnel dosimeter at least yearly for correct response to radiation, and discontinue use of a dosimeter if it is not accurate within plus or minus 20% of the true radiation exposure.
- D.** If an individual's pocket dosimeter has an off-scale reading, or the electronic personnel dosimeter reads greater than 2 millisieverts (200 millirems), and radiation exposure cannot be ruled out as the cause, a registrant shall send the individual's film badge, TLD, or OSL dosimeter for processing within 24 hours. The registrant shall not allow the individual to work with a radiation machine until the individual's radiation exposure is determined. Using the information from the badge or dosimeter, the RSO or the RSO's designee shall calculate the affected individual's cumulative radiation exposure, as prescribed in Article 4 of this Chapter and include the results in records maintained in accordance with subsection (G).
- E.** If an individual's monitoring device is lost or damaged, the individual shall cease work immediately until the registrant provides a replacement film badge, TLD, or OSL dosimeter and the RSO or the RSO's designee calculates the exposure for the time period from issuance to discovery of a lost or damaged film badge, TLD, or OSL dosimeter. The registrant shall include the calculated exposure and the time period for which the film badge, TLD, or OSL dosimeter was lost or damaged in the records maintained in accordance with subsection (G).
- F.** For each alarm rate meter a registrant shall ensure that:
1. At the start of a shift each individual with an alarm rate meter checks that the alarm functions (sounds) before using the device;
 2. Each device is set to give an alarm signal at a preset dose rate of 5 mSv/hr (500 mrem/hr) with an accuracy of plus or minus 20% of the true radiation dose rate;
 3. A special means is necessary to change the preset alarm function on the device; and
 4. Each device is calibrated at periods that do not to exceed 12 months for correct response to radiation
- G.** Each registrant shall maintain the following personnel monitoring records:
1. Each dosimeter reading and the yearly operability check required by subsections (B) and (C) for three years after each record is made;
 2. A record of each alarm rate meter calibration for three years after the record is made;
 3. Any report received from the film badge, TLD, or OSL processor. The registrant shall maintain these records until the Department terminates the registration; and
 4. Any estimation of an exposure evidenced by an off-scale personnel direct-reading dosimeter or a lost or damaged film badge, TLD, or OSL dosimeter. The records shall be maintained until the Department terminates the registration.

Historical Note

New Section R9-7-1130 recodified from R12-1-1130 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1131. Reserved**Historical Note**

Section R9-7-1131 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1132. Supervision of a Radiographer's Assistant

If a radiographer's assistant uses a radiation machine or conducts a radiation survey required by R9-7-1134(B), the registrant shall ensure that the assistant is under the personal supervision of a radiographer. For purposes of this Section "personal supervision" means:

1. The radiographer is physically present at the site where the radiation machine is being used;
2. The radiographer is available to give immediate assistance if required; and
3. The radiographer is able to observe directly the assistant's performance.

Historical Note

New Section R9-7-1132 recodified from R12-1-1132 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1133. Reserved**Historical Note**

Section R9-7-1133 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1134. Radiation Surveys

- A.** A registrant shall conduct surveys with a calibrated and operable radiation survey instrument that meets the requirements of R9-7-1108.
- B.** A registrant shall conduct a survey of a radiographic machine any time the machine is placed in storage to ensure that the machine will not expose personnel to radiation.
- C.** A registrant shall maintain a record of each exposure survey conducted before a machine is placed in storage under subsection (B), if that survey is the last one performed during the workday. Each record shall be maintained for three years after it is made.

Historical Note

New Section R9-7-1134 recodified from R12-1-1134 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1135. Reserved**Historical Note**

Section R9-7-1135 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1136. Permanent Radiographic Installations

- A.** If a registrant maintains a permanent radiographic installation that does not fall within the definition of "enclosed radiography" in R9-7-102, the registrant shall ensure that each entrance used for personnel access to the high radiation area has either:
1. An entrance control device of the type described in R9-7-420(A)(1), which reduces the radiation level upon entry into the area, or
 2. Both conspicuous visible and audible alarm signals to warn of the presence of radiation. The registrant shall ensure that the visible signal is actuated by radiation if the x-ray tube is energized and the audible signal is actuated if a person attempts to enter the installation while the x-ray tube is energized.

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- B.** A registrant shall test the alarm system for proper operation with a radiation source each day before the installation is used for radiographic operations. The test shall include a check of both the visible and audible signals. The registrant shall test each device referenced in subsection (A)(1) monthly. If an entrance control device or alarm signal is operating improperly, the registrant shall immediately label the device or signal as “defective” and repair the device or signal within seven calendar days. The registrant may continue to use the facility during this seven-day period, if the registrant implements continuous surveillance requirements of R9-7-1116 and uses an alarm rate meter.
- C.** A registrant shall maintain each record of alarm system and entrance control device tests for three years after the record is made.

Historical Note

New Section R9-7-1136 recodified from R12-1-1136 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1137. Reserved**Historical Note**

Section R9-7-1137 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1138. Location of Documents and Records

- A.** A registrant shall maintain a copy of each record required by this Article and other applicable Articles of this Chapter at the location specified on the registration application.
- B.** A registrant shall maintain a copy of the following at each field station and temporary job site:
1. The registration that authorizes use of a radiation machines;
 2. A copy of Articles 4, 10, and 11 of this Chapter;
 3. Utilization logs for each radiation machine dispatched from that location, as required by R9-7-1112;
 4. Records of equipment problems identified in daily checks of equipment, as required by R9-7-1114;
 5. Records of alarm system and entrance control device checks, as required by R9-7-1136;
 6. Records of direct-reading dosimeters such as pocket dosimeters and electronic personnel dosimeters, as required by R9-7-1130;
 7. Operating and emergency procedures, as required by R9-7-1128;
 8. A report on the most recent calibration of the radiation survey instruments in use at the site, as required by R9-7-1108;
 9. A report on the most recent calibration of each alarm rate meter and operability check of each pocket dosimeter, or electronic personnel dosimeter, as required by R9-7-1130;
 10. Most recent survey record, as required by R9-7-1134; and
 11. If a registrant is operating in the state under R9-7-207, a copy of the out-of-state machine registration and a written authorization from the Department to operate in the state.

Historical Note

New Section R9-7-1138 recodified from R12-1-1138 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1139. Reserved**Historical Note**

Section R9-7-1139 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1140. Enclosed Radiography

- A.** The Department has determined that any certified or certifiable cabinet x-ray system, as defined in Article 1, is exempt from the requirements of Article 11, provided that both of the following conditions are met:
1. The registrant makes, or causes to be made, an evaluation of each certified and certifiable cabinet x-ray system, at intervals that do not exceed 12 months, to determine whether the system conforms to the standards for certified and certifiable cabinet x-ray systems defined in Article 1. Records of each evaluation shall be maintained for three years from the date the record is created; and
 2. The registrant performs a physical radiation survey with a survey instrument calibrated within the preceding 12 months and designed for the energy range and levels of radiation that will be assessed.
- B.** A registrant with a cabinet x-ray system that is not exempt under subsection (A) shall comply with the recordkeeping requirements of this Article and the following special requirements. The registrant shall:
1. Ensure that radiation levels measured at 5 centimeters (2 inches) from any accessible exterior surface of the enclosure do not exceed 50 microsievert (0.5 milliroentgen) in one hour for any combination of technical factors (i.e., mA, kVp);
 2. Ensure that access to the interior of the enclosure is possible only through interlocked doors or panels that prevent production of radiation unless all interlocked doors or panels are securely closed. The registrant shall ensure that opening a door or panel results in immediate termination of radiation production and subsequent reactivation of the x-ray tube is only possible at the control panel;
 3. Provide visible warning signals, activated only during production of radiation, at the control panel and at each access point to the interior of the enclosure;
 4. Before using an x-ray system make, or cause to be made, an initial evaluation of the x-ray system to determine compliance with this Article, and subsequently evaluate the x-ray system at intervals that do not exceed three months. The registrant shall maintain a record of each evaluation for two years, and
 5. Using instrumentation that complies with R9-7-1108, perform a physical radiation survey to satisfy the requirements of subsection (B)(4).
- C.** A registrant with a shielded room x-ray systems shall comply with the recordkeeping requirements of this Article and the following special requirements. The registrant shall:
1. Shield each x-ray room so that every location on the exterior meets the requirements for an “unrestricted area” as specified in R9-7-416;
 2. Provide access to the interior of a shielded x-ray room only through doors or panels that are interlocked. The registrant shall ensure that radiation production is possible only when all interlocked doors and panels are securely closed, opening of any interlocked door or panel results in immediate termination of radiation production; and subsequent reactivation of the x-ray tube is only possible at the control panel;
 3. Provide each access point with two interlocks, each on a separate circuit, so that failure of one interlock will not affect the performance of the other interlock;

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4. Provide visible warning signals, activated only during production of radiation at the control panel and each access point to the shielded room;
 5. Make, or cause to be made, an initial evaluation of each shielded room x-ray system to determine compliance with this Article, and subsequently evaluate the x-ray system at intervals that do not exceed three months. The registrant shall maintain a record of each evaluation for two years;
 6. Perform radiation surveys to determine exposure with an instrument that meets the requirements of R9-7-1108;
 7. Inspect electrical interlocks and warning devices for correct operation before each use, and maintain a record of each inspection for two years;
 8. Not permit an individual to operate an x-ray machine for shielded room radiography unless the individual has received a copy of, and instruction in, the operating procedures and demonstrated competence in the safe use of the equipment;
 9. Ensure that an individual does not occupy the interior of any shielded room x-ray system during production of radiation;
 10. Provide personnel monitoring devices that meet the requirements of R9-7-1130 to each shielded room x-ray machine operator, and require that each operator use the devices;
 11. Maintain records of:
 - a. Quarterly inventories for mobile systems, as prescribed in R9-7-1110; and
 - b. Utilization logs for all systems, as prescribed in R9-7-1112; and
 12. Maintain records for three years from the date of the quarterly inventory or utilization log.
- D.** A registrant shall connect an enclosed radiography machine to the electrical system in a manner that will prevent a ground fault from generating x-radiation.

Historical Note

New Section R9-7-1140 recodified from R12-1-1140 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1141. Reserved**Historical Note**

Section R9-7-1141 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1142. Baggage and Package Inspection Systems

- A.** For x-ray systems designed to screen carry-on baggage or packages at airlines, railroads, bus terminals, package inspection facilities, or similar facilities, a registrant shall ensure the x-ray system has an operator present at the control area in a position that permits surveillance of the ports and doors during generation of x-radiation to prevent exposure to passengers and other members of the public.
- B.** For an exposure or preset succession of exposures of one-half second or greater duration, a registrant shall use a system that enables the operator to terminate the exposure or preset succession of exposures at any time.
- C.** For an exposure or preset succession of exposures of less than one-half second duration, a registrant shall use a system that allows the operator to complete the exposure in progress, but prevent additional exposures.
- D.** A registrant shall operate a baggage or package inspection system according to the manufacturer's instructions.
- E.** A registrant shall not disconnect or otherwise tamper with the safety systems of a baggage or package inspection system, except for maintenance purposes.

- F.** In addition to the requirements in this Section, a registrant using a baggage or package inspection system shall meet the requirements in R9-7-1140(A), (B), and (D).

Historical Note

New Section R9-7-1142 recodified from R12-1-1142 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1143. Reserved**Historical Note**

Section R9-7-1143 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1144. Reserved**Historical Note**

Section R9-7-1144 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1145. Reserved**Historical Note**

Section R9-7-1145 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1146. Training

- A.** A registrant shall not allow an individual to act as a radiographer until the individual has received training in the subjects in subsection (G), has participated in a minimum of two months of on-the-job training, and is certified through a radiographer certification program by an independent certifying organization in accordance with the criteria specified in Appendix A.
 1. A registrant shall provide the Department with proof of an individual's certification upon request.
 2. A registrant shall maintain proof of an individual's certification at the job site where the individual is performing field radiography.
 3. A registrant that employs a certified radiographer in Arizona shall ensure that:
 - a. The radiographer has obtained initial certification or recertification within the last five years; and
 - b. An uncertified radiographer works only as a radiographer's assistant until certified.
 4. A radiographer shall recertify every five years by:
 - a. Taking an approved radiography certification examination in accordance with this subsection; or
 - b. Providing written evidence that the radiographer is active in the practice of industrial radiography and has participated in continuing education during the previous five-year period.
 5. If an individual cannot provide the written evidence required in subsection (4)(b), the individual shall retake the certification examination.
 6. A radiographer shall provide the registrant with proof of certification in the form of a card issued by the certifying organization that contains:
 - a. A picture of the certified radiographer,
 - b. The radiographer's certification number,
 - c. The date the certification expires, and
 - d. The radiographer's signature.
- B.** A registrant shall not allow an individual to act as a radiographer until the individual:
 1. Receives copies of and instruction in the requirements of this Article, applicable Sections of Articles 4 and 10 and R9-7-107, the Department registration or registrations under which the individual will perform industrial radiography, and the registrant's operating and emergency procedures;

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2. Demonstrates an understanding of the registrant's registration and operating and emergency procedures by successful completion of a written or oral examination that covers the relevant material;
 3. Receives training in:
 - a. Use of the registrant's radiation machine,
 - b. Daily inspection of the radiation machine, and
 - c. Use of radiation survey instruments; and
 4. Demonstrates an understanding of the use of the radiation machines and survey instruments described in subsection (B)(3) by successful completion of a practical examination covering this material.
- C.** A registrant shall not allow an individual to act as a radiographer's assistant until the individual:
1. Receives copies of and instruction in the requirements of this Article, applicable Sections of Articles 4 and 10 and R9-7-107, the Department registration or registrations under which the radiographer will perform industrial radiography, and the registrant's operating and emergency procedures;
 2. Develops competence to use, under the personal supervision of the radiographer, the registrant's radiation machine and radiation survey instruments; and
 3. Demonstrates understanding of the instructions provided under subsection (C)(1) by successfully completing a written test on the subjects covered and demonstrates competence using the hardware described in subsection (C)(2) by successfully completing a practical examination.
- D.** A registrant shall provide refresher safety training for each radiographer and radiographer's assistant at intervals that do not exceed 12 months.
- E.** Except where an individual serves both as a radiographer and an RSO, the RSO or the RSO's designee shall design and implement an inspection program to examine the job performance of each radiographer and radiographer's assistant and ensure that the Department's rules and registration requirements, and the registrant's operating and emergency procedures, are followed. The inspection program shall:
1. Include observation of the performance of each radiographer and radiographer's assistant during an actual industrial radiographic operation, at intervals that do not exceed six months; and
 2. Provide that, if a radiographer or a radiographer's assistant has not participated in an industrial radiographic operation for more than six months since the last inspection, each radiographer shall demonstrate knowledge of the training requirements in subsection (B)(3) and each radiographer's assistant shall demonstrate knowledge of the training requirements of subsection (C)(2) by a practical examination before these workers can participate in a radiographic operation.
- F.** A registrant shall maintain records of the training required in this Section, including certification documents, written and practical examinations, refresher safety training documents, and inspection documents, in accordance with subsection (I).
- G.** A registrant shall include the following subjects in the training required under subsection (A):
1. Fundamentals of radiation safety, including:
 - a. Characteristics of x-ray radiation;
 - b. Units of radiation dose and quantity of radioactivity;
 - c. Hazards of exposure to radiation;
 - d. Levels of radiation from x-ray machines; and
 - e. Methods of controlling radiation dose (time, distance, and shielding);
 2. Radiation detection instruments, including:
 - a. Use, operation, calibration, and limitations of radiation survey instruments;
 - b. Survey techniques; and
 - c. Use of personnel monitoring equipment;
 3. Equipment topics, including:
 - a. Operation and control of radiation machines; and
 - b. Inspection and maintenance of each radiation machine and survey instrument;
 4. The requirements of pertinent Department rules; and
 5. Case histories of accidents in radiography.
- H.** A registrant shall maintain records of radiographer certification in accordance with subsection (I)(1) and provide proof of certification as required in subsection (A)(1).
- I.** A registrant shall maintain the following records for three years after each record is made:
1. Records of training for each radiographer and each radiographer's assistant. For radiographers, the records shall include radiographer certification documents and verification of certification status. All records shall include copies of written tests, dates of oral and practical examinations, and names of individuals who conducted and took the oral and practical examinations; and
 2. Records of annual refresher safety training and semi-annual inspections of job performance for each radiographer and each radiographer's assistant. The records for the annual refresher safety training shall list topics discussed during training, the date of training, and names of each instructor and attendee. For inspections of job performance, the records shall include a list of items checked during the inspection and any non-compliance observed by the RSO.

Historical Note

New Section R9-7-1146 recodified from R12-1-1146 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Appendix A. Standards for Organizations that Provide Radiography Certification

Note: For purposes of this Article an "independent certifying organization" means an organization that meets all of the criteria in this Appendix.

I. Requirements for an Organization that Provides Radiographer Certification

To qualify to provide radiography certification, an organization shall:

- A.** Be a society or association, with members who participate in, or have an interest in, the field of industrial radiography;
- B.** Not restrict membership because of race, color, religion, sex, age, national origin, or disability;
- C.** Have a certification program that is open to nonmembers, as well as members;
- D.** Be an incorporated, nationally recognized organization that is involved in setting national standards of practice within its fields of expertise;
- E.** Have a staff comparable to other nationally recognized organizations, a viable system for financing its operations, and a policy-and decision-making review board;
- F.** Have a set of written, organizational by-laws and policies that address conflicts of interest and provide a system for monitoring and enforcing the by-laws and policies;
- G.** Have a committee, with members who can carry out their responsibilities impartially, review and approve the certification guidelines and procedures, and advise the organization's staff in implementing the certification program;

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- H. Have a committee, with members who can carry out their responsibilities impartially, review complaints against certified individuals, and determine sanctions;
- I. Have written procedures that describe all aspects of the organization's certification program;
- J. Maintain records of the current status of each individual's certification and administration of the certification program;
- K. Have procedures to ensure that certified individuals are provided due process with respect to administration of the certification program, including a process for becoming certified and a process for imposing sanctions against certified individuals;
- L. Have procedures for proctoring examinations and qualifying proctors. The organization, through these procedures, shall ensure that an individual who proctors an examination is not employed by the same company or corporation (or a wholly-owned subsidiary of the company or corporation) that employs an examinee;
- M. Exchange information about certified individuals with the Department, other independent certifying organizations, the NRC, or Agreement States and allow periodic review of its certification program and related records; and
- N. Provide a description to the Department of its procedures for choosing examination sites and providing a favorable examination environment.

II. Requirements for a Certification Program

An independent certifying organization shall ensure that its certification program:

- A. Requires an applicant for certification to:
 1. Obtain training in the subjects listed in R9-7-1146(G), and
 2. Satisfactorily complete a written examination that covers these subjects;
- B. Require an applicant for certification to provide documentation demonstrating that the applicant has:
 1. Received training in the subjects listed in R9-7-1146(G);
 2. Satisfactorily completed the on-the-job training required in R9-7-1146(A); and
 3. Received verification from a registrant that the applicant has demonstrated the capability of independently working as a radiographer;
- C. Provides procedures that protect examination questions from disclosure;
- D. Provides procedures for denying certification to an applicant and revoking, suspending, and reinstating a certificate;
- E. Provides a certification period that is not less than three years or more than five years, procedures for renewing certifications and, if the procedures allow renewals without examination, a system for assessing evidence of recent full-time employment and annual refresher training; and
- F. Provides a timely response to inquiries, by telephone or letter, from members of the public, about an individual's certification status.

III. Requirements for a Written Examination

An independent certifying organization shall ensure that its examination:

- A. Is designed to test an individual's knowledge and understanding of the subjects listed in R9-7-1146(G) or equivalent NRC or Agreement State requirements;
- B. Is written in a multiple-choice format; and
- C. Has psychometrically valid questions drawn from a question bank and based on the material in R9-7-1146(G).

Historical Note

New Article 11, Appendix A, recodified from 12 A.A.C.

1, Article 11, Appendix A at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 12. ADMINISTRATIVE PROVISIONS**R9-7-1201. Timeliness**

- A. Any application, request, response, or report required by any rule, order, application, or letter shall be considered timely if it is postmarked on or before the due date, or hand-delivered to the Department office before 5:00 p.m. on the due date. If the due date falls on a Saturday, a Sunday, or a legal holiday, the due date is extended to the end of the next day that is not a Saturday, a Sunday, or legal holiday.
- B. As used in this Article, "working days" are all days other than Saturdays, Sundays, or legal holidays prescribed in A.R.S. § 1-301.

Historical Note

New Section R9-7-1201 recodified from R12-1-1201 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1202. Administrative Hearings

- A. All hearings shall be governed by Title 41, Chapter 6, Article 10.
- B. If the Radiation Regulatory Hearing Board is conducting a hearing, all motions and rulings shall be in writing, except those made during the hearing may be oral. The Board shall ensure that any agreements reached during a conference are incorporated in the record, and that all hearings are recorded.
- C. If it is necessary for an administrative law judge or the Board to visit the site of an alleged violation or activity that is regulated by the Department in order to supplement testimonial or documentary evidence presented at the hearing, the party that proposed the visit shall enter the purpose of the visit and all pertinent observations into the record.

Historical Note

New Section R9-7-1202 recodified from R12-1-1202 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1203. Expired**Historical Note**

New Section R9-7-1203 recodified from R12-1-1203 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Section R9-7-1203 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1204. Expired**Historical Note**

New Section R9-7-1204 recodified from R12-1-1204 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Section R9-7-1204 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1205. Expired**Historical Note**

New Section R9-7-1205 recodified from R12-1-1205 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Section R9-7-1205 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1206. Reserved**Historical Note**

Section R9-7-1206 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1207. Expired**Historical Note**

New Section R9-7-1207 recodified from R12-1-1207 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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Section R9-7-1207 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1208. Reserved**Historical Note**

Section R9-7-1208 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1209. Expired**Historical Note**

New Section R9-7-1209 recodified from R12-1-1209 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Section R9-7-1209 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1210. Expired**Historical Note**

New Section R9-7-1210 recodified from R12-1-1210 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Section R9-7-1210 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1211. Expired**Historical Note**

New Section R9-7-1211 recodified from R12-1-1211 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Section R9-7-1211 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1212. Expired**Historical Note**

New Section R9-7-1212 recodified from R12-1-1212 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Section R9-7-1212 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1213. Severity Levels of Violations**A.** The following violations are classified as severity level I violations:

1. Any failure, malfunction, or insufficiency of a safety system which may result in
 - a. Radiation exposure to a person,
 - b. A concentration of radionuclides; or
 - c. A radiation level, in excess of 10 times the limits specified in 9 A.A.C. 7, or 10 times the prescribed therapeutic patient dose.
2. Any inaccurate or incomplete information that is intentionally provided by a licensee or registrant official, and if the information had been complete and accurate at the time it was provided, would have likely resulted in action such as an immediate order required to protect the public health and safety.
3. Any information that the Department requires be kept by a licensee or registrant that is incomplete or inaccurate because of falsification by or with the knowledge of a licensee or registrant official, and if the information had been complete and accurate at the time it was reviewed by the Department, would have likely resulted in action such as an immediate order required to protect the public health and safety.
4. Any concealment or attempted concealment of a severity level I violation of the Act, 9 A.A.C. 7, or a license condition. This is a separate violation in addition to the original violation.
5. Any concealment or attempted concealment of a severity level II violation of the Act, 9 A.A.C. 7, or a license con-

dition. This violation shall increase the severity level of the original violation by one level.

6. For the purposes of subsections (A)(2) and (3) above the term "licensee or registrant official" means the owner, a partner, a corporate officer, a radiation safety officer, the individual signing an application for a license or registration, or the chairman of any radiation safety committee supervising the radiation safety program of the licensee or registrant.

B. The following violations are classified as severity level II violations:

1. Any failure, malfunction, or insufficiency of a safety system which may result in:
 - a. Radiation exposure to a person,
 - b. A concentration of radionuclides, or
 - c. A radiation level, in excess of two times the limits specified in 9 A.A.C. 7, or two times the prescribed therapeutic patient dose.
2. Any attempt to prevent a Department inspection.
3. Any concealment or attempted concealment of a severity level III violation of the Act, 9 A.A.C. 7, or a license condition by a licensee or registrant official as defined in subsection (A)(6). This violation shall increase the severity level of the original violation by one level.
4. Significant information provided and designated by a licensee or registrant and not previously provided to the Department because of careless disregard on the part of a licensee official or registrant.

C. The following violations are classified as severity level III violations:

1. Any failure, malfunction, or insufficiency of a safety system, or loss of control over a radiation source, which may result in:
 - a. Radiation exposure to a person,
 - b. A concentration of radionuclides, or
 - c. A radiation level in excess of the limits specified in 9 A.A.C. 7, or 20% higher than the prescribed therapeutic patient dose.
2. Any concealment or attempted concealment of a severity level IV or V violation of the Act, 9 A.A.C. 7, or a registration or license condition. This violation shall increase the severity level of the original violation by one level.
3. Any violation of the safety requirements for the use, storage, disposal, or the preparation for transportation of sources of radiation, as prescribed in the Act, 9 A.A.C. 7, or in a license or registration condition, provided the violation does not meet the criteria for a severity level I or II violation and the licensee or registrant does not maintain a radiation protection program meeting the requirements of R9-7-407.
4. Any factually incorrect statement upon which the Department relied or would have relied in consideration of any action.
5. Any unlawful attempt to interfere with the progress of an inspection by the Department.
6. The acquisition of any source of radiation without the applicable current registration or license, unless otherwise authorized by these rules; or use of the source outside the scope of the current registration or license.
7. The continued use of sources of radiation after April 1, if the annual fee has not been paid for the current year.

D. The following violations are classified as severity level IV violations:

1. Any violation of R9-7-407;
2. Any violation of the safety requirements for the use, storage, disposal, or preparation for transportation of sources

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of radiation, prescribed in the Act, 9 A.A.C. 7, or in a license or registration condition, provided the violation does not meet the criteria for a severity level I, II or III violation;

3. Failure to maintain records of mammography quality control tests required in R9-7-614.
4. Any failure to comply with the reporting requirements in the Act or 9 A.A.C. 7.

E. The following violations are classified as severity level V violations:

1. Failure of a registrant or a licensee to comply with the recordkeeping requirements of:
 - a. The Act;
 - b. 9 A.A.C. 7; or
 - c. A registration or facility certification, or license condition, provided that all safety requirements prescribed in the Act, 9 A.A.C. 7, or in a license or registration condition are met or otherwise demonstrated.
2. If compliance with all safety requirements cannot be demonstrated by the registrant or licensee the failure to comply with the recordkeeping requirements is classified as a level IV violation.

Historical Note

New Section R9-7-1213 recodified from R12-1-1213 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1214. Mitigating Factors

A. The Department may refrain from issuing a Notice of Violation for Severity Level IV or V violations identified by the registrant or licensee provided the severity level IV or V violations are identified in an inspection report, the report includes a brief description of the corrective action, and the violation meets all of the following criteria:

1. It was identified by the licensee, as a result of an event discovered by the licensee or registrant;
2. It was not a violation that could reasonably be expected to have been prevented by the licensee's or registrant's corrective action for a previous violation or a previous licensee or registrant finding;
3. It was or will be corrected within a reasonable time, by specific corrective action committed to by the registrant or licensee by the end of the inspection. The corrective action shall include comprehensive measures that will prevent reoccurrence;
4. It was not a willful violation or, if it was willful:
 - a. The violation was reported to the Department;
 - b. The violation appears to be the isolated action of an employee without management involvement and the violation was not caused by lack of management oversight;
 - c. Significant remedial action was taken by the licensee or registrant, demonstrating the seriousness of the violation to all affected personnel.

B. The Director may:

1. Reduce the scheduled civil penalty, including any augmentation, by 50% for the discovery, remedy, and voluntary reporting of a severity level I or II violation by the registrant or licensee; or
2. Waive the scheduled civil penalty, including augmented civil penalties, for the discovery, remedy, and voluntary reporting of a severity level III, IV, or V violation by the registrant or licensee. For the purposes of this rule, "voluntary reporting" means that the registrant or licensee has notified the Department of a violation, the reporting of which may or may not be required under 9 A.A.C. 7.

Historical Note

New Section R9-7-1214 recodified from R12-1-1214 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1215. License and Registration Divisions

A. Each registrant or license type is classified into one of three administrative sanction divisions.

1. Division I licenses and registrations:
 - a. Broad Academic Class A,
 - b. Broad Academic Class B,
 - c. Broad Academic Class C,
 - d. Broad Industrial Class A,
 - e. Broad Medical,
 - f. Class C Laser Facility,
 - g. Distribution,
 - h. Fixed Gauge Class A,
 - i. Industrial Radiography Class A,
 - j. Low Level Radioactive Waste Disposal Site,
 - k. Major Accelerator Facility,
 - l. Medical Materials Class A,
 - m. Medical Teletherapy,
 - n. NORM Commercial Disposal Site,
 - o. Nuclear Laundry,
 - p. Nuclear Pharmacy,
 - q. Open Field Irradiator,
 - r. Secondary Uranium Recovery,
 - s. Waste Processor Class A,
 - t. Well Logging,
 - u. X-Ray Machine Class A.
2. Division II licenses and registrations:
 - a. Broad Industrial Class B,
 - b. Broad Industrial Class C,
 - c. Class B Industrial Radiofrequency Facility,
 - d. Class B Laser Facility,
 - e. Class C Industrial Radiofrequency Facility,
 - f. Fixed Gauge Class B,
 - g. Health Physics Class A,
 - h. Industrial Radiation Machine,
 - i. Industrial Radiography Class B,
 - j. Laser Light Show,
 - k. Limited Academic,
 - l. Medical Imaging Facility,
 - m. Medical Laser,
 - n. Medical Materials Class B,
 - o. Medical Radiofrequency Device Facility,
 - p. NORM Commercial Disposal Site,
 - q. Research and Development,
 - r. Self Shielded Irradiator,
 - s. Tanning Facility,
 - t. Waste Processor Class B,
 - u. X-Ray Machine Class B.
3. Division III licenses and registrations:
 - a. Class A Industrial Radiofrequency Facility,
 - b. Class A Laser Facility,
 - c. Gas Chromatograph,
 - d. General Depleted Uranium,
 - e. General Industrial,
 - f. General Medical,
 - g. General Veterinary Medicine,
 - h. Health Physics Class B,
 - i. Laboratory,
 - j. Leak Detector,
 - k. Limited Industrial,
 - l. Medical Materials Class C,
 - m. Other Ionizing Radiation Machine,
 - n. Other Nonionizing Radiation Machine,

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- o. Portable Gauge,
 - p. Possession Only,
 - q. Radioactive waste transfer-for-disposal,
 - r. Unclassified,
 - s. Veterinary Medicine,
 - t. X-ray Machine Class C,
 - u. Class A Medical (non-cosmetic) Radiofrequency Facility,
 - v. Class B Medical (non-cosmetic) Radiofrequency Facility,
 - w. Class C Medical (non-cosmetic) Radiofrequency Facility,
 - x. Class D Medical (non-cosmetic) Radiofrequency Facility.
- B.** Any person required by the Act to register the use of a general license with the Department, or to obtain a specific license from the Department, is considered a licensee of the appropriate type notwithstanding the failure of the person to register or obtain a license.
- C.** The Department shall classify each person that possesses an out-of-state specific license for the use of radioactive material and operates in Arizona under reciprocal recognition, as prescribed in R9-7-320 and authorized in R9-7-1302(D)(16), by placing the person into the administrative sanction division listed in subsection (A) that best defines the out-of-state, licensed activities.
- D.** For administrative purposes, the following persons are classified with the Division III licensees and registrants in subsection (A)(3):
- 1. Any person not required to register the use of a general license,
 - 2. Any person not required to obtain a specific license,
 - 3. Any person not required to register a source of radiation who violates the Act or 9 A.A.C. 7, and
 - 4. Any person registered to provide x-ray machine service.

Historical Note

New Section R9-7-1215 recodified from R12-1-1215 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1216. Civil Penalties

- A.** Except as augmented by R9-7-1217, the schedule of civil penalties is as follows:
- 1. Severity level I violations:
 - a. Division I registration or license -- \$4,000;
 - b. Division II registration or license -- \$3,000;
 - c. Division III registration or license -- \$2,000.
 - 2. Severity level II violations:
 - a. Division I registration or license -- \$3,000;
 - b. Division II registration or license -- \$2,000;
 - c. Division III registration or license -- \$1,000.
 - 3. Severity level III violations:
 - a. Division I registration or license -- \$2,000;
 - b. Division II registration or license -- \$1,000;
 - c. Division III registration or license -- \$500.
 - 4. Severity level IV violations:
 - a. Division I registration or license -- \$1,000;
 - b. Division II registration or license -- \$500;
 - c. Division III registration or license -- \$250.
 - 5. Severity level V violations:
 - a. Division I registration or license -- \$500,
 - b. Division II registration or license -- \$250,
 - c. Division III registration or license -- \$125.
- B.** Payment of civil penalties for severity level I and severity level II violations may not be avoided merely by rectifying the condition; however, the Board may mitigate or waive the penalty upon determining a violation meets all of the following:
- 1. It was not a violation that could reasonably be expected to have been prevented by the licensee's or registrant's corrective action for a previous violation or a previous licensee or registrant finding;
 - 2. It was or will be corrected within the time given for corrections, by specific corrective action committed to by the licensee or registrant by the end of the inspection, which includes immediate and comprehensive measures to prevent recurrence;
 - 3. It was not a willful violation.
- C.** The Director or Board shall waive payment of penalties for severity level III through severity level V violations provided:
- 1. The violation is not subject to augmentation under R9-7-1217; and
 - 2. The registrant or licensee submits a timely and adequate response to the notice; rectifies the conditions which appear to have caused the violation; and complies with the Act, 9 A.A.C. 7, registration, and license conditions.

Historical Note

New Section R9-7-1216 recodified from R12-1-1216 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1217. Augmentation of Civil Penalties

- A.** A continuing violation, for the purposes of calculating the proposed civil penalty, is considered a separate violation for each day it continues. The second (or successive) day of a continuing violation is not considered a repeat violation of the violation occurring on the first day.
- B.** If a second severity level I violation is committed within five years, the Department shall increase the base civil penalty by 100%, provided the registration or license is not revoked under R9-7-1219.
- C.** If a second severity level II violation is committed within a period of five years, the Department shall increase the base civil penalty by 50%, provided the registration or license is not revoked under R9-7-1219.
- D.** If a severity level III violation is repeated within five years, the Department shall increase the base civil penalty by 50%. If the same severity level III violation is repeated a second time within five years, the base civil penalty shall be increased by 100%, provided the registration or license is not revoked under R9-7-1219.
- E.** If a severity level IV violation is repeated within five years, the Department shall propose the base civil penalty.
- 1. If the same violation occurs three times within five years, the Department shall increase the base civil penalty by 50%.
 - 2. If the same violation occurs four times within five years, the Department shall increase the base civil penalty by 100%, provided the registration or license is not revoked under R9-7-1219.
- F.** If more than three severity level V violations are observed during two consecutive inspections, the Department shall impose a civil penalty for each violation. The base civil penalty for each violation is the base civil penalty assessed for a severity level V violation. If the inspection shows repetition of a violation the base civil penalty for each repeat violation is the base civil penalty assessed for a severity level IV violation. Subsection (E) does not apply to penalties under this subsection.
- G.** Other rights and procedures are not affected by the repeat nature of a violation.
- H.** A person may avoid the penalties in subsections (D) and (E) by demonstrating to the Director in the response to the penalty that the violation meets all of the following criteria:

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1. It was not a violation that could reasonably be expected to have been prevented by the licensee's or registrant's corrective action for a previous violation or a previous licensee or registrant finding;
 2. It was or will be corrected within the time given for correction, by specific corrective action committed to by the licensee or registrant by the end of the inspection, which includes immediate and comprehensive measures to prevent recurrence;
 3. It was not a willful violation.
- I.** Notwithstanding any other provision of this Section, the Department shall not impose a penalty that exceeds a maximum of \$5,000 for each violation for each day up to a maximum of \$25,000 for any 30-day period.

Historical Note

New Section R9-7-1217 recodified from R12-1-1217 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1218. Expired**Historical Note**

New Section R9-7-1218 recodified from R12-1-1218 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Section R9-7-1218 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1219. Additional Sanctions-Show Cause

- A.** If a severity level I violation is repeated or if any second severity level I violation is committed within 10 years, the Department shall require the registrant or licensee to show cause why the registration or license should not be suspended or revoked.
- B.** If any second severity level II violation is committed within five years, or if a severity level II violation involving radioactive effluent releases, excessive radiation levels, or radiation overexposure to an individual is committed within five years of a similar severity level I violation, the Department shall require the registrant or licensee to show cause why the registration or license should not be suspended or revoked.
- C.** If repeated or different severity level III violations are committed on three separate occasions within any five year period, the Department may require the registrant or licensee to show cause why the registration or license should not be suspended or revoked.

Historical Note

New Section R9-7-1219 recodified from R12-1-1219 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1220. Escalated Enforcement

- A.** The Director may issue an order to suspend, revoke, or modify a registration or license, or impound a radiation source for:
 1. Any severity level I violation; or
 2. Any of the following occurring within a five-year period:
 - a. A repeat severity level II violation,
 - b. A different second severity level II violation, or
 - c. A severity level II violation after a severity level I violation.
- B.** The Director may issue an order impounding the radiation source or suspending, revoking, or modifying the registration or license upon determining that conditions exist which cause a potential for a severity level I or severity level II violation.
- C.** The Department shall hold hearings according to A.R.S. § 30-688.
- D.** An order to impound a radiation source, or an order to suspend, revoke, or modify a registration or a license shall remain in effect until the order is suspended or modified by the Board according to A.R.S. § 30-688.

Historical Note

New Section R9-7-1220 recodified from R12-1-1220 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1221. Reserved**Historical Note**

Section R9-7-1221 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1222. Expired**Historical Note**

New Section R9-7-1222 recodified from R12-1-1222 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Section R9-7-1222 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1223. Registration and Licensing Time-frames

The Department shall perform an administrative completeness review and substantive review of an application for a new or renewal license or registration; or an amendment to a license or registration within the time-frames in Table A. The Department shall review an application for an amendment to an existing license or registration that changes the license category listed in R9-7-1306, using the time-frames specified for the requested category.

Historical Note

New Section R9-7-1223 recodified from R12-1-1223 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Table A. Registration and Licensing Time-frames**REGISTRATION AND LICENSING TIME-FRAMES**

| License or Registration category in R9-7-1306 | Administrative Completeness Review Time-frame, in days | Substantive Review Time-frame, in days | Overall Time-frame, in days |
|-----------------------------------------------|--------------------------------------------------------|----------------------------------------|-----------------------------|
| A1 | 90 | 30 | 120 |
| A2 | 90 | 30 | 120 |
| A3 | 90 | 30 | 120 |
| A4 | 60 | 30 | 90 |
| B1 | 90 | 30 | 120 |
| B2 | 90 | 30 | 120 |
| B3 | 90 | 30 | 120 |
| B4 | 90 | 30 | 120 |
| B5 | 90 | 30 | 120 |

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| | | | |
|-----|------|-----|------|
| B6 | 40 | 20 | 60 |
| C1 | 60 | 30 | 90 |
| C2 | 60 | 30 | 90 |
| C3 | 60 | 30 | 90 |
| C4 | 60 | 30 | 90 |
| C5 | 60 | 30 | 90 |
| C6 | 60 | 30 | 90 |
| C7 | 60 | 30 | 90 |
| C8 | 90 | 30 | 120 |
| C9 | 60 | 30 | 90 |
| C10 | 40 | 20 | 60 |
| C11 | 90 | 30 | 120 |
| C12 | 90 | 30 | 120 |
| C13 | 90 | 30 | 120 |
| C14 | 90 | 30 | 120 |
| C15 | 90 | 30 | 120 |
| C16 | 90 | 30 | 120 |
| C17 | 90 | 30 | 120 |
| D1 | 90 | 30 | 120 |
| D2 | 90 | 30 | 120 |
| D3 | 90 | 30 | 120 |
| D4 | 40 | 20 | 60 |
| D5 | 40 | 20 | 60 |
| D6 | 90 | 30 | 120 |
| D7 | 40 | 20 | 60 |
| D8 | 60 | 30 | 90 |
| D9 | 90 | 30 | 120 |
| D10 | 90 | 30 | 120 |
| D11 | 1095 | 365 | 1460 |
| D12 | 730 | 180 | 910 |
| D13 | 365 | 90 | 455 |
| D14 | 90 | 30 | 120 |
| D15 | 40 | 20 | 60 |
| D16 | 20 | 10 | 30 |
| D17 | 40 | 20 | 60 |
| D18 | 90 | 30 | 120 |
| D19 | 365 | 120 | 485 |
| E1 | 40 | 20 | 60 |
| E2 | 40 | 20 | 60 |
| E3 | 40 | 20 | 60 |
| E4 | 40 | 20 | 60 |
| E5 | 90 | 30 | 120 |
| E6 | 90 | 30 | 120 |
| F1 | 40 | 20 | 60 |
| F2 | 40 | 20 | 60 |
| F3 | 40 | 20 | 60 |
| F4 | 40 | 20 | 60 |
| F5 | 20 | 10 | 30 |
| F6 | 40 | 20 | 60 |
| F7 | 40 | 20 | 60 |

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| | | | |
|-----|----|----|-----|
| F8 | 40 | 20 | 60 |
| F9 | 40 | 20 | 60 |
| F10 | 40 | 20 | 60 |
| F11 | 40 | 20 | 60 |
| F12 | 40 | 20 | 60 |
| F13 | 40 | 20 | 60 |
| F14 | 40 | 20 | 60 |
| F15 | 40 | 20 | 60 |
| F16 | 90 | 30 | 120 |

Footnote: “administrative completeness review time-frame”; “substantive review time-frame,” and “overall time-frame” are defined in A.R.S. § 41-1072.

Historical Note

New Article 12, Table 1, recodified from 12 A.A.C. 1, Article 12, Table 1 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 13. LICENSE AND REGISTRATION FEES

R9-7-1301. Definition

“Combined” means the Department has granted authorized activities contained in two or more license types in a single license document, requiring the payment of a single license fee for the more expensive license of the planned combination.

Historical Note

New Section R9-7-1301 recodified from R12-1-1301 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1302. License and Registration Categories

A. Category A licenses are those specific licenses that authorize a school, college, university, or other teaching facility to possess and use radioactive materials for instructional or research purposes.

1. A broad academic class A license is any category A license that meets the specifications of R9-7-310(A)(1).
2. A broad academic class B license is any category A license other than a broad academic class A license that meets the specifications of R9-7-310(A)(2).
3. A broad academic class C license is any category A license other than a broad academic class A or B license that meets the specifications of R9-7-310(A)(3).
4. A limited academic license is any category A license that authorizes only those radioisotopes, forms, and quantities individually specified in the license.

B. Category B licenses are those specific or general licenses that authorize the application of radioactive material or the radiation from it to a human being for medical diagnostic, therapeutic, or research purposes, or the use of radioactive material in medical laboratory testing. Except for a type B6, general medical license, the Department shall not combine a category B license with a license of any other category.

1. A broad medical license is any category B license that meets the specifications of R9-7-310(A)(1) and meets the requirements of 9 A.A.C. 7, Article 7. A broad medical license may authorize any medical use other than teletherapy.
2. A medical materials class A license is any specific category B license other than a broad medical license, that authorizes the use of radiopharmaceuticals and sealed sources containing radioactive materials for a therapeutic purpose in quantities that require hospitalization of the patient for radiation safety purposes. The license may authorize other radioactive materials and other medical uses, except teletherapy.
3. A medical materials class B license is any specific category B license that authorizes the diagnostic or therapeutic

use, other than teletherapy, of radioactive materials only in limited quantities such that the patient need not be hospitalized for radiation safety purposes.

4. A medical materials class C license is any specific category B license that authorizes possession of specified radioisotopes only in the form of sealed sources for treatment of the eye or skin or for use in diagnostic medical imaging devices.
 5. A medical teletherapy license is a specific category B license that solely authorizes radioisotopes in the form of multi-curie sealed sources for use in external beam therapy. The Department shall not combine a medical teletherapy license with any other type of category B license.
 6. A general medical license is one that authorizes the use of radioactive material pursuant to R9-7-306(D) or R9-7-306(E). A general medical license may be combined into a broad medical, medical materials class A, or medical materials class B license.
- C. Category C licenses are those specific or general licenses that authorize the use of radioactive materials in any activity other than those authorized by a category A, B, or D license. Except as specifically authorized in this Section, the Department shall not combine a category C license with any other type of license.
1. A broad industrial class A license is any category C license that meets the specifications of R9-7-310(A)(1). The Department may combine a broad industrial class A license with any other category C license except industrial radiography, open field irradiator, or well logging licenses.
 2. A broad industrial class B license is any category C license other than a broad industrial class A license that meets the specifications of R9-7-310(A)(2). The Department may combine a broad industrial class B license with any other category C license except industrial radiography, open field irradiator, or well logging licenses.
 3. A broad industrial class C license is any category C license other than a broad industrial class A or B license that meets the specifications of R9-7-310(A)(3). The Department may combine a broad industrial class C license with any other category C license except industrial radiography, open field irradiator, or well logging licenses.
 4. A limited industrial license is a specific category C license that authorizes the possession of the radioactive materials authorized in R9-7-305(A), or R9-7-306(A), (C), or (F) for uses authorized in those subsections, but in quantities greater than authorized by those subsections.

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5. A portable gauge license is a specific category C license that authorizes radioactive materials in the form of sealed sources for use in measuring or gauging devices designed and manufactured to be transported to the location of use. The Department may combine a portable gauge license with any broad scope industrial license or a fixed gauge class A license.
 6. A fixed gauge class A license is a specific category C license that authorizes the possession of 50 or more measuring or gauging devices containing radioactive materials, where each device is permanently mounted for use at a single location.
 7. A fixed gauge class B license is a specific category C license that authorizes the possession of 1 through 49 measuring or gauging devices containing radioactive materials, where each device is permanently mounted for use at a single location.
 8. A leak detector license is a specific category C license that authorizes the use of radioisotopes in the form of a gas to test hermetic seals on electronic packages.
 9. A gas chromatograph license is a specific category C license that authorizes the use of radioactive materials as ionization sources in gas chromatography or electron capture devices.
 10. A general industrial license is one that authorizes the use of a material, source, or device generally licensed pursuant to R9-7-305 or R9-7-306, except R9-7-305(B), R9-7-306(D), or R9-7-306(E).
 11. An industrial radiography class A license is a specific category C license that authorizes industrial radiography using sealed radioisotope sources at specific facilities identified in the license conditions or at temporary field job sites.
 12. An industrial radiography class B license is a specific category C license that authorizes industrial radiography using sealed radioisotope sources only at specific facilities identified in the license conditions.
 13. An open field irradiator license is a specific category C license that authorizes the use of radioisotopes in the form of sealed sources not permanently mounted within a shielding container, for irradiation of materials.
 14. A self-shielded irradiator license is a specific category C license that authorizes the use of radioisotopes in the form of sealed sources for irradiation of materials in a shielding device from which the sources are not removed during irradiation. The Department may combine a self-shielded irradiator license with any broad license.
 15. A well logging license is a specific category C license that authorizes the use of radioactive material in sealed or unsealed sources for wireline services or field tracer studies.
 16. A research and development license is a specific category C license that authorizes a licensee to utilize radioactive material in unsealed and sealed form for industrial, scientific, or biomedical research, not including administration of radiation or radioactive material to human beings.
 17. A laboratory license is a specific category C license that authorizes a licensee to perform specific in-vitro or in-vivo medical or veterinary testing, while possessing quantities of radioactive material greater than the general license quantities authorized in R9-7-306.
- D. Category D licenses are the following specific or general radioactive material licenses. Except for type D4, general industrial; type D5, depleted uranium; type D8 and D9, health physics; and type D14, additional facilities licenses, the**
- Department shall not combine a category D license with any other license.
1. A distribution license is one that authorizes the commercial distribution of radioactive materials or radioisotopes in products to persons holding an appropriate general or specific license. The Department shall ensure that a distribution license does not:
 - a. Authorize distribution of radiopharmaceuticals or distribution to persons exempt from regulatory control, or
 - b. Authorize any other use of the radioactive material. An appropriate category C license is required for possession of radioisotopes and their incorporation into products.
 2. A nuclear pharmacy license is one that authorizes the preparation, compounding, packaging, or dispensing of radiopharmaceuticals for use by other licensees.
 3. A nuclear laundry license is one that authorizes the collection and cleaning of items contaminated with radioactive materials.
 4. A general industrial gauging device license is one that authorizes the use of a gauging device in accordance with R9-7-306(A). The Department may combine a general industrial gauging device license with a class A, B, or C broad industrial, limited industrial, portable gauge, or class A or B fixed gauge license.
 5. A general depleted uranium license is one that authorizes the use of the general license authorized pursuant to R9-7-305(C) or the use of depleted uranium as a concentrated mass or as shielding for another radiation source within a device or machine. The Department may combine a general depleted uranium license with a medical teletherapy; class A, B, or C broad industrial; portable gauge; class A or B fixed gauge; class A or B industrial radiography; or self-shielded irradiator license. For licensing purposes, an applicant shall follow the requirements in R9-7-305(C).
 6. A veterinary medicine license is one that authorizes the use of radioactive materials for specific applications in veterinary medicine as authorized in the license.
 7. A general veterinary medicine license is one that authorizes the use of the general license authorized in R9-7-306(E) in veterinary medicine.
 8. A health physics class A license is one that authorizes the use of radioactive materials for performing instrument calibrations, processing leak test or environmental samples, or providing radiation dosimetry services or the performance of maintenance on devices containing radioactive materials.
 9. A health physics class B license is one that authorizes only the collection, possession, and transfer of radioactive materials in the form of leak test samples for processing by others.
 10. A secondary uranium recovery license is one that authorizes the extraction of natural uranium or thorium from an ore stream or tailing that is being or has been processed primarily for the extraction of another mineral. The Department shall not combine a secondary uranium recovery license with any other license.
 11. A low-level, radioactive waste disposal facility license is a license that is issued for a "disposal facility," as that term is used in R9-7-439 and R9-7-442, that has a closure or long-term care plan and is constructed and operated according to the requirements in 10 CFR 61, revised January 1, 2015, incorporated by reference, available under R9-7-101 and containing no future editions or amendments.

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12. A waste processor class A license is one that authorizes the incineration, compaction, repackaging, or any other treatment or processing of low-level radioactive waste prior to transfer to another person authorized to receive or dispose of the waste. The Department shall not combine a waste processor class A license with any other license.
 13. A waste processor class B license is one that authorizes a waste broker to receive prepackaged, low-level radioactive waste from other licensees; combine the waste into shipments; and transfer the waste without treating or processing the waste in any manner and without repackaging except to place damaged or leaking packages into overpacks. The Department shall not combine a waste processor class B license with any other license.
 14. An additional storage and use site license is an endorsement, by license condition to an existing specific license, authorizing one or more additional separate facilities where radioactive material may be stored or used for a period exceeding six months.
 15. A possession-only license is a license of any other category that authorizes only the possession in storage, but no use of, the authorized materials. A license that has been suspended as an enforcement action is not considered a possession-only license.
 16. A reciprocal license is the general license authorized by R9-7-320. This license is subject to a special fee as provided by R9-7-1306(C) but is exempt from annual fees.
 17. Reserved
 18. An "unclassified" radioactive material license is one that authorizes radioisotopes, physical or chemical forms, possession limits, or uses not included in any other type of license specified in this Section.
 19. A NORM commercial disposal site license is one that authorizes the receipt of waste material contaminated with naturally occurring radioactive material from other licensees for permanent disposal, provided the concentration of the radioactive material does not exceed 74kBq (2,000 picocuries)/gram.
- E.** Category E registrations are those that register the possession of x-ray machine(s) under 9 A.A.C. 7, Article 2. The Department shall not combine category E registrations with any other registration.
1. An X-ray machine class A registration is one authorizing the possession of X-ray machines in a hospital or other facility offering inpatient care.
 2. An X-ray machine class B registration is one authorizing the possession of X-ray machines in a medical, osteopathic, or chiropractic office or clinic not offering inpatient care; or the possession of X-ray machines in a school, college, university, or other teaching facility.
 3. An X-ray machine class C registration is one authorizing the possession of X-ray machines in dental, podiatry, or veterinarian offices or clinics.
 4. An industrial radiation machine registration is one authorizing the possession of X-ray machines, or the possession of particle accelerators not capable of producing a high radiation area, in a nonmedical facility.
 5. An accelerator facility registration is one authorizing the possession and operation of one or more particle accelerators of any kind capable of accelerating any particle and producing a high radiation area.
 6. An "other" ionizing radiation machine registration is one authorizing possession or use of an ionizing radiation machine not included in any other category specified in subsection (E).
- F.** Category F registrations are those that register non-ionizing radiation producing sources regulated under 9 A.A.C. 7, Article 14. The Department shall not combine category F registrations with any other registration categories that have a difference in fee per unit.
1. A tanning registration authorizes the commercial operation of one or more tanning booths, beds, cabinets, or other devices in a single establishment.
 2. A Class A laser registration authorizes the operation of one to 10 laser devices subject to R9-7-1433.
 3. A Class B laser registration authorizes the operation of 11 to 49 laser devices subject to R9-7-1433.
 4. A Class C laser registration authorizes operation of 50 or more laser devices subject to R9-7-1433.
 5. A laser light show or laser demonstration registration authorizes the operation of a laser device subject to R9-7-1441.
 6. A medical laser registration authorizes the operation of one or more laser devices subject to R9-7-1440.
 7. A Class II surgical device registration authorizes the operation of one or more Class II surgical devices subject to R9-7-1438. A device is designated as a Class II surgical device by the USFDA and is labeled as such by the manufacturer.
 8. A cosmetic radiofrequency device registration authorizes the operation of one or more medical radiofrequency devices for non-ionizing cosmetic procedures.
 9. A class A industrial radiofrequency device registration authorizes the operation of one to five radiofrequency devices.
 10. A class B industrial radiofrequency device registration authorizes the operation of six to 20 radiofrequency devices.
 11. A class C industrial radiofrequency device registration authorizes the operation more than 20 radiofrequency devices.
 12. A medical radiofrequency device registration authorizes the operation of one or more medical radiofrequency devices for non-ionizing, non-cosmetic procedures.
 13. An "other" non-ionizing radiation device registration authorizes the operation of a non-ionizing radiation device or other device not included in any other category specified in subsection (F).

Historical Note

New Section R9-7-1302 recodified from R12-1-1302 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final rulemaking at 26 A.A.R. 2939, with an immediate effective date of November 3, 2020 (Supp. 20-4). Amended by final expedited rulemaking at 28 A.A.R. 1855 (July 29, 2022), effective July 6, 2022 (Supp. 22-3).

R9-7-1303. Fee for Initial License and Initial Registration

An applicant shall remit for a new license or new registration the appropriate fee as prescribed in R9-7-1306 and Table 13.1. Table of Fees.

Historical Note

New Section R9-7-1303 recodified from R12-1-1303 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final rulemaking at 26 A.A.R. 2939, with an immediate effective date of November 3, 2020 (Supp. 20-4).

R9-7-1304. Annual Fees for Licenses and Registrations

- A.** Each license or registration issued by the Department shall identify the category by a letter and number corresponding to

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the appropriate subsection of R9-7-1302 or the category and type listed in Table 13.1. Table of Fees.

- B. Except as specified in R9-7-1306(C), (D), and (E), each licensee or registrant shall submit payment of the annual fee in the amount prescribed in Table 13.1 Table of Fees on or before January 1 of each year. This single annual fee will cover any and all renewals, amendments, and regular inspections of the license during the forthcoming calendar year.
- C. If a licensee or registrant fails to pay the annual fee by January 1, the license is not current.
- D. If a licensee or registrant fails to pay the annual fee by April 1, the Department shall apply administrative sanction provisions of Article 12 of this Chapter.
- E. A licensee who is required to pay an annual fee under this Article may qualify as a small entity and pay the reduced annual fee in Table 13.2 if the licensee has the following characteristics:
 1. For a business not engaged in manufacturing or a not-for-profit organization, having a three-year average of gross annual receipts of \$6.5 million or less;
 2. For an entity engaged in manufacturing, having an annual average of no more than 500 employees;
 3. For a government jurisdiction, not including publicly supported educational institutions, having no more than 50,000 residents in the jurisdiction;
 4. For a publicly supported educational institution, having no more than 50,000 faculty, staff, and students; and
 5. For an educational institution that is not publicly supported, having no more than 500 faculty and staff.
- F. A licensee who seeks to establish status as a small entity for the purpose of paying an annual fee in Table 13.2, rather than the annual fee in Table 13.1, shall file with the Department a certification statement annually on Department Form 333, accessed through the Department website at <https://azdhs.gov/documents/licensing/radiation-regulatory/forms/ram-small-entity-form.pdf>, for each license under which the licensee is billed.
- G. If a licensee qualifies as a small entity and provides the Department with the certification required in subsection (F), the licensee may pay the applicable reduced annual fee shown in Table 13.2. Small Entity Fees. Failure to file a small entity certification, according to subsection (F), in a timely manner may result in the licensee being required to pay the applicable fee in Table 13.1. Table of Fees.

Historical Note

New Section R9-7-1304 recodified from R12-1-1304 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final rulemaking at 26 A.A.R. 2939, with an immediate effective date of November 3, 2020 (Supp. 20-4).

R9-7-1305. Method of Payment

- A. An applicant licensee or registrant shall pay fees by check or money order, payable to the "State of Arizona" at the address shown on the application, license, registration, or renewal notice.
- B. Once a license or registration has been issued, no portion of the application fee or any annual fee will be refunded.

Historical Note

New Section R9-7-1305 recodified from R12-1-1305 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1306. Application Fees and Annual Fees

- A. The application fee or annual fee for each category and type is shown in Table 13.1. Table of Fees.

- B. The fee for a category D11 license, for a low-level radioactive waste disposal site, is \$6,000,000 for years one through five. Based on data gathered during the first five years, the Department shall set a reasonable fee after consideration of the following factors:
 1. Unrecovered costs that the Department may charge under A.R.S. § 30-654(B)(18), and
 2. Actual costs incurred by the Department in regulating the licensee.
- C. The fee for a category D16 license, providing reciprocal recognition under R9-7-320 of a radioactive materials license issued by the NRC or another Agreement state, is half of the annual fee for an Arizona license of the appropriate category and type. If there is no Arizona license of the appropriate category and type, the Department shall assess the "Full Cost" fee according to subsection (D) or (E), as applicable. The fee is due and payable at the time reciprocity is requested, and the general license does not become current until the fee is paid.
- D. "Full Cost" for an application fee is based on professional personnel time for preparation, travel, onsite inspection, any reports, review of findings, and preparation of the license or registration or denial charged at \$99 per hour and mileage charged at 44.5¢ per mile. The Department shall assess the licensee or registrant 90% of the estimated full cost of issuing the license or registration. The Department will assess for any remaining costs when it is prepared to issue the license, registration, denial, or if Department costs for the requested activity exceed \$10,000.
- E. "Full Cost" for an annual fee is based on professional personnel time for preparation, travel, onsite inspection, preparation of reports, review of findings, and preparation for any inspections or completion of any amendments to the license, registration or denials charged at \$99 per hour and mileage charged at 44.5¢ per mile for the preceding 12 months.

Historical Note

New Section R9-7-1306 and Table 13.1 recodified from R12-1-1306 and Table 13.1 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Table 13.1 under subsection (A) repealed; Section amended by final rulemaking at 26 A.A.R. 2939, with an immediate effective date of November 3, 2020 (Supp. 20-4).

R9-7-1307. Repealed**Historical Note**

New Section R9-7-1307 recodified from R12-1-1307 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Repealed by final rulemaking at 26 A.A.R. 2939, with an immediate effective date of November 3, 2020 (Supp. 20-4).

R9-7-1308. Fee for Requested Inspections

- A. A licensee or registrant may request an inspection of its facility at any time. The Department shall assess the licensee or registrant the full cost of the inspection, based on personnel time for preparation, travel, onsite inspection, review of findings, and preparation of a report, charged at \$99 per hour and mileage charged at 44.5¢ per mile.
- B. The fee specified in this Section does not apply to:
 1. Regular inspections as scheduled by the Department,
 2. Enforcement reinspections conducted to ensure the correction of violations or safety hazards, or
 3. Inspections requested by workers pursuant to R9-7-1007.

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Historical Note

New Section R9-7-1308 recodified from R12-1-1308 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1309. Abandonment of License or Registration Application

- A.** Any license or registration application for which the applicant has been provided a written notification of deficiencies in the application and for which the applicant does not make a written attempt to supply the requested information or request an extension in writing within 90 days of the date of the written notice of deficiencies, is considered abandoned and will not be processed.

- B.** If an applicant does not act in the time-frame specified in subsection (A), the applicant shall submit a new application with the appropriate fee.

Historical Note

New Section R9-7-1309 recodified from R12-1-1309 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Table 1. Repealed**Historical Note**

New Article 13, Table 1, recodified from 12 A.A.C. 1, Article 13, Table 1 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Table 1, Small Entity Fees repealed by final rulemaking at 26 A.A.R. 2939, with an immediate effective date of November 3, 2020 (Supp. 20-4).

Table 13.1. Table of Fees

| Category | Type | Application/Annual Fee |
|----------|-----------------------------------|------------------------|
| A1 | Broad academic class A | \$10,000 |
| A2 | Broad academic class B | \$10,000 |
| A3 | Broad academic class C | \$10,000 |
| A4 | Limited academic | \$2,500 |
| B1 | Broad medical | \$20,000 |
| B2 | Medical materials class A | \$4,000 |
| B3 | Medical materials class B | \$4,000 |
| B4 | Medical materials class C | \$4,000 |
| B5 | Medical teletherapy | \$8,000 |
| B6 | General medical | \$500 |
| C1 | Broad industrial class A | \$20,000 |
| C2 | Broad industrial class B | \$20,000 |
| C3 | Broad industrial class C | \$6,000 |
| C4 | Limited industrial | \$1,500 |
| C5 | Portable gauge | \$2,000 |
| C6 | Fixed gauge class A | \$2,000 |
| C7 | Fixed gauge class B | \$2,000 |
| C8 | Leak detector | \$2,000 |
| C9 | Gas chromatograph | \$2,000 |
| C10 | General industrial | \$300 |
| C11 | Industrial radiography class A | \$10,000 |
| C12 | Industrial radiography class B | \$10,000 |
| C13 | Open field irradiator | \$10,000 |
| C14 | Shelf-shielded irradiator | \$5,000 |
| C15 | Well logging | \$5,000 |
| C16 | Research and development | \$5,000 |
| C17 | Laboratory | \$3,000 |
| D1 | Distribution | \$5,000 |
| D2 | Nuclear pharmacy | \$10,000 |
| D3 | Nuclear laundry | \$25,000 |
| D4 | General industrial gauging device | \$500 |
| D5 | General depleted uranium | \$200 |
| D6 | Veterinary medicine | \$2,000 |
| D7 | General veterinary medicine | \$500 |

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|-----|----------------------------------------------------------|---------------------------------------------------------------------------|
| D8 | Health physics class A | \$5,000 |
| D9 | Health physics class B | \$3,000 |
| D10 | Secondary uranium recovery | \$8,000 |
| D11 | Low-level radioactive waste disposal facility | According to R9-7-1306(B) |
| D12 | Waste processor class A | \$10,000 |
| D13 | Waste processor class B | \$8,000 |
| D14 | Additional storage and use site | 30% of the applicable fee for each additional site |
| D15 | Possession-only | 50% of the applicable fee for the category under which storage will occur |
| D16 | Reciprocal | According to R9-7-1306(C) |
| D17 | Reserved | |
| D18 | Unclassified radioactive material | Full Cost, according to R9-7-1306(D) or (E) |
| D19 | NORM commercial disposal site | \$600,000 |
| E1 | X-ray machine class A (per tube) | \$145 |
| E2 | X-ray machine class B (per tube) | \$95 |
| E3 | X-ray machine class C (per tube) | \$90 |
| E4 | Industrial radiation machine (per device) | \$95 |
| E5 | Accelerator facility | \$2,500 |
| E6 | Other ionizing radiation machine | Full Cost, according to R9-7-1306(D) or (E) |
| F1 | Tanning device (per device) | \$50 |
| F2 | Class A laser (1 to 10 laser devices) | \$300 |
| F3 | Class B laser (11 to 49 laser devices) | \$600 |
| F4 | Class C laser (50 or more laser devices) | \$1,000 |
| F5 | Laser light show or laser demonstration | \$500 |
| F6 | Medical laser (per laser device) | \$100 |
| F7 | Class II surgical device (per device) | \$100 |
| F8 | Cosmetic radiofrequency device (per device) | \$100 |
| F9 | Class A industrial (1 to 5 radiofrequency devices) | \$150 |
| F10 | Class B industrial (6 to 20 radiofrequency devices) | \$350 |
| F11 | Class C industrial (more than 20 radiofrequency devices) | \$600 |
| F12 | Medical radiofrequency (one or more device) | \$100 |
| F13 | Other non-ionizing radiation device | Full Cost, according to R9-7-1306(D) or (E) |

Historical Note

Table 13.1 under subsection R9-7-1306(A) repealed; new Table 13.1 Table of Fees made by final rulemaking at 26 A.A.R. 2939, with an immediate effective date of November 3, 2020 (Supp. 20-4). Amended by final expedited rulemaking at 28 A.A.R. 1855 (July 29, 2022), effective July 6, 2022 (Supp. 22-3).

Table 13.2. Small Entity Fees

| Licensee qualifying as a small entity under R9-7-1304(E)(1) | |
|--------------------------------------------------------------------|------------|
| <i>Gross Annual Receipts</i> | <i>Fee</i> |
| \$350,000 to \$6.5 million | \$2,200 |
| <\$350,000 | \$500 |
| Licensee qualifying as a small entity under R9-7-1304(E)(2) | |
| <i>Number of Employees</i> | <i>Fee</i> |
| 35 to 500 employees | \$2,200 |
| <35 employees | \$500 |
| Licensee qualifying as a small entity under R9-7-1304(E)(3) | |
| <i>Number of Residents</i> | <i>Fee</i> |

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|--------------------------------------------------------------------|------------|
| 20,000 to 50,000 | \$2,200 |
| <20,000 | \$500 |
| Licensee qualifying as a small entity under R9-7-1304(E)(4) | |
| <i>Number of Faculty, Staff, and Students</i> | <i>Fee</i> |
| 20,000 to 50,000 | \$2,200 |
| <20,000 | \$500 |
| Licensee qualifying as a small entity under R9-7-1304(E)(5) | |
| <i>Number of Faculty and Staff</i> | <i>Fee</i> |
| 35 to 500 employees | \$2,200 |
| <35 employees | \$500 |

Historical Note

Table 13.2, Small Entity Fees made by final rulemaking at 26 A.A.R. 2939, with an immediate effective date of November 3, 2020 (Supp. 20-4).

ARTICLE 14. REGISTRATION OF NONIONIZING RADIATION SOURCES AND STANDARDS FOR PROTECTION AGAINST NONIONIZING RADIATION

R9-7-1401. Registration of Nonionizing Radiation Sources and Service Providers

- A. A person shall not use a nonexempt nonionizing radiation source, unless the source is registered by the Department.
- B. A person who possesses a nonexempt nonionizing source shall submit to the Department an application for registration within 30 days of its first use.
 1. A person who possesses a nonexempt source listed in R9-7-1302(F) shall register the source with the Department.
 2. A person applying for the registration of a nonexempt source shall use an application form provided by the Department.
 3. An applicant shall provide the information identified in Appendix B of this Article.
- C. A registrant shall notify the Department within 30 days of any change to the information contained in the registration, or sale of a source that results in termination of the activities conducted under the registration.
- D. In addition to the application form, an applicant shall remit the applicable registration fee, specified in R9-7-1306.
- E. A person who is operating more than one facility, where one or more nonexempt nonionizing sources are used, shall apply for a separate registration for each facility.
- F. A person in the business of installing or servicing nonexempt nonionizing sources shall apply to the Department for registration 30 days before furnishing the service. The person shall apply for registration on a form furnished by the Department and shall provide the information required by A.R.S. § 30-672.01.

Historical Note

New Section R9-7-1401 recodified from R12-1-1401 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1402. Definitions

General definitions:

“Controlled area” means any area to which human access is restricted for the purpose of protection from nonionizing radiation.

“Direct supervision” means that a licensed practitioner supervises the use of a source for medical purposes while the practitioner is present inside the facility where the source is being used.

“Indirect supervision” means for lasers or IPL devices used for hair removal procedures, there is at a minimum, responsible supervision and control by a licensed practitioner who is easily accessible by telecommunication.

“Licensed practitioner” (See R9-7-102)

“Medical director” means a licensed practitioner, as defined in R9-7-102, who delegates a laser, IPL, or other light-emitting medical device procedure to a non-physician and is qualified to perform the procedure within the scope of practice of the license.

“Nonexempt nonionizing source” means any system or device that contains a nonionizing source listed in R9-7-1302(F).

“Operator” means a person who is trained in accordance with this Article and knowledgeable about the control and function of a nonionizing device regulated under this Article.

“Other cosmetic procedure” means a method of using medical lasers or intense pulse light (IPL) devices approved by the Federal Food and Drug Administration (FDA), for the cosmetic purpose of spider vein removal, skin rejuvenation, non-ablative skin resurfacing, skin resurfacing, port wine stain removal, epidermal pigmented skin lesion removal, or tattoo removal; and does not include hair removal.

Laser definitions:

“Accessible emission limit (AEL)” means the maximum accessible emission level of laser or collateral radiation permitted within a particular class.

“Accessible radiation” means laser or collateral radiation to which human access is possible.

“Angular subtense” means the apparent visual angle, α , as calculated from the source size and distance from the eye.

“Aperture” means an opening in the protective housing or other enclosure of a laser product, through which laser or collateral radiation is emitted, allowing human access to the radiation.

“Aperture stop” means an opening serving to limit the size and to define the shape of the area over which radiation is measured.

“Certified laser product” means that the product is certified by a manufacturer in accordance with the requirements of 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on

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file with the Department. This incorporation by reference contains no future editions or amendments.

“CDRH” means the Center for Devices and Radiological Health.

“Classes of lasers” means the following categories of lasers, defined in 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department: Class 1, Class 2, Class 2a, Class 3, Class 3a, Class 3b, and Class 4. This incorporation by reference contains no future editions or amendments.

“Collateral radiation” means any electronic product radiation, except laser radiation, emitted by a laser product as a result of operation of the laser or any component of the laser product that is physically necessary for operation of the laser. The accessible emission limits for collateral radiation are specified in 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

“Continuous wave” (cw) means the output of a laser that is operated in a continuous rather than a pulsed mode. For purposes of this Article, a laser operating with a continuous output for a period ≥ 0.25 seconds, is regarded as a cw laser.

“Cosmetic procedure protocol” means a delegated written authorization to select specific laser or IPL settings, initiate a laser or IPL procedure, and conduct necessary follow-up procedures.

“Demonstration laser” means any laser manufactured, designed, intended, or used for purposes of demonstration, entertainment, advertising display, or artistic composition.

“Embedded laser” means an enclosed laser with an assigned class number higher than the inherent capability of the laser system in which it is incorporated, where the system’s lower classification is due to engineering features that limit accessible emission.

“Enclosed laser” means a laser that is contained within its own protective housing or the protective housing of a laser or laser system in which it is incorporated. Opening or removing the protective housing provides more access to laser radiation above the applicable MPE than is possible with the protective housing in place. (An embedded laser is a type of enclosed laser.)

“Federal performance standards for light-emitting products” means the regulations in 21CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives, and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

“Human access” means the capacity to intercept laser or collateral radiation by any part of the human body.

“Incident” means an event or occurrence that results in actual or suspected accidental exposure to laser radiation that has caused or is likely to cause biological damage.

“Integrated radiance” means radiant energy per unit area of a radiating surface per unit solid angle of emission, expressed in joules per square centimeter per steradian.

“Irradiance” means the time-averaged radiant power incident on an element of a surface divided by the area of that element, expressed in watts per square centimeter.

“Laser” See the definition in Article 1.

“Laser energy source” means any device intended for use in conjunction with a laser to supply energy for the operation of the laser. General energy sources, such as electrical supply mains or batteries, are not considered laser energy sources by the Department.

“Laser facility” means a facility where one or more lasers are used. For purposes of this definition a Class 1 facility is a facility that has one or more Class 1 lasers; a Class 2 facility is a facility that has one or more Class 2 or 2a lasers; a Class 3 facility is a facility that has one or more Class 3, 3a, or 3b lasers, and a Class 4 facility is a facility that has one or more Class 4 lasers. Facilities that contain more than one laser class are classified according to the highest laser class in use at the facility.

“Laser product” means any manufactured product or assemblage of components that constitutes, incorporates, or is intended to incorporate a laser or laser system. A laser or laser system that is intended for use as a component of an electronic product is itself considered a laser product.

“Laser protective device” means any device used to reduce or prevent exposure of personnel to laser radiation. This includes: protective eyewear, garments, engineering controls, and operational controls.

“Laser radiation” means all electromagnetic radiation emitted by a laser product, within the spectral range specified in the definition of “laser,” which is produced as a result of controlled stimulated emission or that is detectable with radiation so produced through the appropriate aperture stop and within the appropriate solid angle of acceptance.

“Laser Safety Officer (LSO)” means any individual, qualified by training and experience in the evaluation and control of laser hazards, who is designated by the registrant and has the authority and responsibility to establish and administer the laser radiation protection program for a particular class of facility.

“Laser system” means a laser in combination with an appropriate laser energy source with or without additional incorporated components.

“Limited exposure duration (T_{\max})” means an exposure duration that is specifically limited by design or intended use.

“Maintenance” means performance of those adjustments or procedures specified in operator information provided by the manufacturer with the laser product, which are to be performed by the operator to ensure the intended performance of the product. The term does not include operation or service as defined in this Section.

“Maximum permissible exposure (MPE)” means the level of laser radiation to which a person may be exposed without hazardous effect or adverse biological changes in the eye or skin. MPE values for eye and skin exposure are listed in ANSI Z136.1-2000, American National Standard for Safe Use of Lasers, 2000 edition, which is incorporated by reference, published by the Laser Institute of America, 13501 Ingenuity Drive, Suite 128, Orlando, FL 32826, and on file with the Department. This incorporation by reference contains no future editions or amendments.

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“Medical laser product” means any laser product that is a medical device defined in 21 U.S.C. 321(h) and is manufactured, designed, intended, or promoted for in vivo laser irradiation of any part of the human body for the purpose of: diagnosis, surgery, therapy, or relative positioning of the human body.

“Operation” means the performance of the laser product over the full range of its function. It does not include maintenance or service as defined in this Section.

“Protective housing” means those portions of a laser product that are designed to prevent human access to laser or collateral radiation in excess of the prescribed accessible emission limits under conditions specified in this Article.

“Pulse duration” means the time increment measured between the half-peak-power points at the leading and trailing edges of a pulse.

“Pulse interval” means the period of time between identical points on two successive pulses.

“Radiance” means the time-averaged radiant power per unit area of a radiating surface per unit solid angle of emission, expressed in watts per square centimeter per steradian.

“Radiant energy” means energy emitted, transferred, or received in the form of radiation, expressed in joules.

“Radiant exposure” means the radiant energy incident on an element of a surface divided by the area of that element, expressed in joules per square centimeter.

“Radiant power” means the time-averaged power emitted, transferred, or received in the form of radiation, expressed in watts.

“Rule of nines” means a method for estimating the extent of burns, expressed as a percentage of total body surface. In this method the body is divided into sections of 9 percent or multiples of 9 percent, each: head and neck, 9 percent; anterior trunk, 18 percent; posterior trunk, 18 percent; upper limbs, 18 percent; lower limbs, 36 percent; and genitalia and perineum, 1 percent.

“Safety interlock” means a device associated with the protective housing of a laser product to prevent human access to excessive radiation.

“Sampling interval” means the time interval during which the level of accessible laser or collateral radiation is sampled by a measurement process. The magnitude of the sampling interval in units of seconds is represented by the symbol “t”.

“Secured enclosure” means an area to which casual access is impeded by various means, such as a door secured by a lock, latch, or screws.

“Service” means the performance of those procedures or adjustments described in the manufacturer’s service instructions that may affect any aspect of the product’s performance. The term does not include maintenance or operation as defined in this Section.

“T_{max}” See limited exposure duration.

“Uncertified laser product” means any laser that has not been certified in accordance with the requirements of 21CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

Radio frequency and microwave radiation definitions:

“Accessible emission level” means the level of radio frequency radiation emitted from any source, expressed in terms of power density in milliwatts per square centimeter or electric and magnetic field strength, as applicable, and to which human access is normally possible.

“Far field region” means the area in which locally uniform distribution of electric and magnetic field strengths exists in planes transverse to the direction of propagation. The far field region is presumed to exist at distances greater than $2D^2/\lambda$ from the antenna, where λ is the wavelength and D is the largest antenna aperture dimension.

“Maximum permissible exposure MPE” means the rms and peak electric and magnetic field strengths, their squares, or the plane-wave equivalent power densities associated with these fields and the induced and contact currents to which a person may be exposed without harmful effect and with an acceptable safety factor.

“Near field region” means the area near an antenna in which the electric and magnetic field components vary considerably in strength from point to point. For most antennas the outer boundary of the region is presumed to exist at a distance $\lambda/2\pi$ from the antenna surface, where λ is the wavelength.

“Radio frequency controlled area” means any location to which access is controlled for the purpose of protection from radio frequency radiation.

“Radio frequency source” means a source or system that produces electromagnetic radiation in the radio frequency spectrum.

“Radio frequency radiation” means electromagnetic radiation (including microwave radiation) with frequencies in the range of 0.3 megahertz to 100 gigahertz.

“Root-mean-square (rms)” means the effective value, or the value associated with joule heating, of a periodic electromagnetic wave. The rms is obtained by taking the square root of the mean of the squared value of a function.

“Safety device” means any mechanism incorporated into a radio frequency source that is designed to prevent human access to excessive levels of radio frequency radiation.

Ultraviolet, high intensity light, and intense pulsed light source definitions:

“EPA” means the United States Environmental Protection Agency.

“FDA” means the United States Food and Drug Administration.

“High intensity mercury vapor discharge (HID) lamp” means any lamp, including a mercury vapor or metal halide lamp that incorporates a high-pressure arc discharge tube with a fill that consists primarily of mercury and is contained within an outer envelope, except the tungsten filament self-ballasted mercury vapor lamp.

“Intense pulsed light device (IPL)” means, for purposes of R9-7-1438, any lamp-based device that produces an incoherent, filtered, and intense light.

“Maximum exposure time” means the greatest continuous exposure time interval recommended by the manufacturer of a product.

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“Protective sunlamp eyewear” means any device designed to be worn by a user of a product to reduce exposure of the eyes to radiation emitted by the product.

“Sanitize” means treat the surfaces of equipment and devices using an EPA or FDA registered product that provides a specified concentration of chemicals, for a specified period of time, to reduce the bacterial count, including pathogens, to a safe level.

“Self-extinguishing lamp” means any HID lamp that ceases operation in conformance with the requirements of the performance standard in 21 CFR 1040.30(d), April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

“Sunlamp product” means any electronic product designed to incorporate one or more ultraviolet lamps and intended for irradiation of any part of the living human body, by ultraviolet radiation with wavelengths in air between 200 and 400 nanometers, to induce skin tanning.

“Timer” means any device incorporated into a product that terminates radiation emission after a preset time interval.

“Ultraviolet lamp” means any light source that produces ultraviolet radiation and that is intended for use in any sunlamp product.

“Ultraviolet radiation” means electromagnetic radiation in the wavelength interval from 200 to 400 nanometers in air.

“User” means any member of the public who is provided access to a tanning device in exchange for a fee or other compensation, or any individual who, in exchange for a fee or other compensation, is afforded use of a tanning device as a condition or benefit of membership or access.

Historical Note

New Section R9-7-1402 recodified from R12-1-1402 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1403. General Safety Provisions and Exemptions

- A.** Based on consideration of the following factors, the Department may waive compliance with specific requirements of this Article:
- Whether compliance requires product replacement or substantial modification of a product’s current installation, and
 - Whether the registrant provided information requested by the Department to determine if there are alternative methods of achieving the same or a greater level of radiation protection.
- B.** The registrant shall:
- Ensure that any nonionizing source is operated by an individual who is trained and has demonstrated competence in the safe use of the source.
 - Provide safety rules to each individual who operates a nonionizing radiation source and determine whether the individual is aware of operating restrictions and procedures associated with the safe use of the source.
 - Make, or cause to be made, any physical radiation surveys required by this Article.
 - Maintain the following records for three years for Department review:
 - Results of any physical survey or calibration required by this Article;

- Radiation source inventories;
- Maintenance, service, and modification records; and
- Incident reports of known or suspected exposure to nonionizing radiation that exceeds any MPE specified in this Article.

- C.** A registrant shall not operate a nonionizing radiation source unless the source complies with all of the applicable requirements of this Article.

Historical Note

New Section R9-7-1403 recodified from R12-1-1403 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1404. Radio Frequency Equipment

- A.** A registrant shall operate a radiation source that emits radio frequency radiation in a radio frequency controlled area, in a manner that will prevent human exposure that exceeds the MPE specified in IEEE Std C95.1-1999, Institute of Electrical and Electronics Engineers Standard for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3kHz to 300 GHz, 1999 edition, which is incorporated by reference, published by the Institute of Electrical and Electronic Engineers, Inc., 345 East 47th Street, New York, NY 10017, and on file with the Department. This incorporation by reference contains no future editions or amendments. The registrant shall post each point of access into a radio frequency controlled area according to R9-7-1406.
- B.** If a registrant is required to operate a radio frequency source in a controlled area, the registrant shall employ visual or audible emission indicators that function only during production of radiation.
- C.** If a source of radio frequency emissions is physically separate from the source’s means of activation by a distance greater than 2 meters, the registrant shall place a visual or an audible emission indicator at the source and the point of activation.
- D.** A registrant shall place each visual emission indicator so that the location of the indicator does not require human exposure to radio frequency radiation that exceeds the applicable MPE.
- E.** A registrant shall inspect each safety device designed to prevent human exposure to excessive radio frequency radiation for proper operation at intervals that do not exceed one month.
- F.** If a machine emits mechanically scanned radio frequency radiation, a registrant shall ensure that the machine cannot, as the result of scan failure or any other malfunction, cause a change in angular velocity or amplitude, allowing human exposure that exceeds the applicable MPE.
- G.** A registrant shall physically secure each radio frequency sources to prevent unauthorized use and tampering.

Historical Note

New Section R9-7-1404 recodified from R12-1-1404 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1405. Radio Frequency Radiation: Maximum Permissible Exposure

- A.** A registrant shall not expose a person to radio frequency radiation that exceeds the applicable MPE specified in IEEE Std C95.1-1999, Institute of Electrical and Electronics Engineers Standard for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3kHz to 300 GHz, 1999 edition, which is incorporated by reference, published by the Institute of Electrical and Electronic Engineers, Inc., 345 East 47th Street, New York, NY 10017, and on file with the Department. This incorporation by reference contains no future editions or amendments.
- B.** At frequencies between 300 kHz and 100 GHz a registrant may exceed the applicable MPE if exposure conditions can be shown by laboratory procedures to produce specific absorption

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rates (SARs) above 0.4 watts per kilogram, averaged over the whole body, and spatial peak SAR values above 8 watts per kilogram, averaged over 1 gram of tissue.

- C. At frequencies between 300 kHz and 1 GHz, a registrant may exceed the applicable MPE, if the radio frequency input power to the radiating device is seven watts or less.

Historical Note

New Section R9-7-1405 recodified from R12-1-1405 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1406. Radio Frequency Hazard Caution Signs, Symbols, Labeling, and Posting

- A. A registrant shall post each point of access to a controlled area with caution signs of the type designated in Figure 1.



Fig. 1

- B. A registrant shall post operating procedure restrictions or limitations, used to prevent unnecessary or excessive exposure to radio frequency radiation, in a location visible to the operator.
- C. A registrant shall place each warning sign or label so that an observer is not exposed to radio frequency radiation that exceeds the applicable MPE.

Historical Note

New Section R9-7-1406 recodified from R12-1-1406 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1407. Microwave Ovens

A person shall register with the Department any microwave oven that does not meet the requirements in 21 CFR 1030.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

Historical Note

New Section R9-7-1407 recodified from R12-1-1407 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1408. Reporting of Radio Frequency Radiation Incidents

- A. A registrant shall report in writing to the Department within 15 days of a known or suspected personnel exposure to radiation that exceeds the applicable MPE incorporated by reference in R9-7-1405.
- B. A registrant shall report to the Department within 24 hours of a known or suspected personnel exposure to radiation that

exceeds 150% of an applicable MPE incorporated by reference in R9-7-1405.

- C. A registrant shall immediately report to the Department a known or suspected personnel exposure to radiation that exceeds 500% of an applicable MPE incorporated by reference in R9-7-1405.

Historical Note

New Section R9-7-1408 recodified from R12-1-1408 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1409. Medical Surveillance for Workers Who May Be Exposed to Radio Frequency Radiation

- A. Upon request by the Department, a registrant shall provide a medical examination to an individual exposed to radiation reported to the Department according to R9-7-1408.
- B. A registrant shall provide a copy of the results to the Department if an individual undergoes a medical examination, requested under subsection (A).

Historical Note

New Section R9-7-1409 recodified from R12-1-1409 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1410. Radio Frequency Compliance Measurements

- A. For obtaining measurements to determine compliance with R9-7-1405, the Department shall use an instrument capable of measuring the field strength and frequency of radiation.
- B. The Department shall ensure that each instrument used for compliance measurements is calibrated every 12 months. The calibration shall be performed in a manner that meets the standards in IEEE Std C95.1-1999, incorporated by reference in R9-7-1404(A).
- C. For compliance measurements of exposure conditions in the near field, the Department shall obtain measurements of both the electric and magnetic field components. The applicable protection standards for near field measurements are the mean squared electric and magnetic field strengths (using the applicable MPE) referenced in R9-7-1405.
- D. If the Department is obtaining measurements to determine compliance in far field exposure conditions, the Department may use measurements of power density in milliwatts per square centimeter or the calculated equivalent plane wave power density, based on measurement of either the electric or magnetic field strength. The applicable protection standards are the power density values (using the applicable MPE) referenced in R9-7-1405.
- E. In obtaining measurements in accordance with this Section, the Department shall measure the electric and magnetic field strength:
1. Obtained at an emission frequency of 300 megahertz or less; and
 2. Expressed in terms of power density.
- F. For mixed or broadband fields at frequencies for which there are different protection standards, the Department shall determine the fraction of the applicable MPE incurred within each frequency interval. To achieve compliance the sum of all the fractions shall not exceed unity (1).
- G. The Department shall obtain compliance measurements at a distance of five centimeters or greater from any object.
- H. A registrant shall obtain measurements that are averaged over a six-minute period for pulsed and non-pulsed modes of radio frequency emission and make a correction for duty cycle in determining the average field strength.

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Historical Note

New Section R9-7-1410 recodified from R12-1-1410 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1411. Reserved**Historical Note**

Section R9-7-1411 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1412. Tanning Operations

A registrant shall establish and maintain written policies and procedures that are part of a radiation safety program to assure compliance with the requirements in R9-7-1412 through R9-7-1416.

Historical Note

New Section R9-7-1412 recodified from R12-1-1412 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1413. Tanning Equipment Standards

- A. A registrant operating a tanning facility shall use sunlamp products that are certified by the manufacturer to comply with 21 CFR 1040.20, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments. For sunlamp products in use before the effective date of this Article, the Department shall determine compliance based on the standard in effect at the time of manufacture, as shown on the equipment identification label.
- B. A registrant shall replace burned-out or defective lamps or filters, before any use of a tanning device.
- C. A registrant shall replace a burned-out or defective lamp or filter with a lamp or filter intended for use in that equipment, as specified on the sunlamp product label, or that is equivalent to a lamp or filter specified on the sunlamp product label under the FDA regulations and policies applicable to the sunlamp product at the time of manufacture. If an equivalent lamp or filter is used instead of the Original Equipment Manufacturer (OEM) lamp or filter specified on the product label, the registrant shall maintain a copy of the equivalency certification, provided by the lamp supplier, on file for review by Department inspectors.
- D. A registrant shall ensure that each sunlamp product has a timer and control system that complies with 21 CFR 1040.20(c), April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments. In addition the registrant shall ensure that:
 1. The timer interval does not exceed the manufacturer's maximum, recommended exposure time;
 2. The timer is functional and accurate to within +/- 10% of the maximum timer interval of the product;
 3. The timer does not automatically reset and cause radiation emission to resume for a period greater than the unused portion of the timer cycle;
 4. The timer is tested annually for accuracy;
 5. For a new facility (including existing facilities with change of ownership) a remote timer control system is installed before operation of sunlamp products. For an existing facility that has sunlamp products not equipped with a remote timer control system, a remote timer control system (outside of the sunlamp product room) is installed no later than 6 months after the effective date of this Section; and

6. Each sunlamp product is equipped with an emergency shutoff mechanism that allows manual termination of the UV exposure by the user.

- E. A registrant shall provide physical barriers between each sunlamp product to protect users from injury caused by touching or breaking a lamp.
- F. A registrant that employs a stand-up sunlamp product shall:
 1. Use physical barriers, handrails, floor markings, or other methods to indicate the proper exposure distance between the ultraviolet lamps and the user's skin;
 2. Construct each tanning booth so that it can withstand the stress of use and the impact of a falling person;
 3. Provide access to a tanning booth with doors of rigid construction that open outward, handrails, and non-slip floors; and
 4. Control the interior temperature of a sunlamp product so that it never exceeds 100 degrees Fahrenheit (38 degrees Centigrade).

Historical Note

New Section R9-7-1413 recodified from R12-1-1413 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1414. Tanning Equipment Operators

- A. A registrant shall ensure that at least one operator is present during operating hours. The operator shall:
 1. Limit the occupancy of the tanning room to one person when the tanning equipment is in use;
 2. Prevent use of the tanning equipment by anyone under 18 years of age unless the person has written permission from a parent or guardian;
 3. Limit exposure time to the manufacturer's recommendation on the equipment label or in the operator's manual;
 4. Limit exposure time during a 24-hour period to the maximum recommended for a 24-hour period by the manufacturer; and
 5. Maintain a record of each user's total number of tanning visits and exposure times for Department inspection. The registrant shall maintain the records for three years from the date on the record.
- B. Before use of tanning equipment, an operator shall:
 1. Provide the user sanitized protective sunlamp eyewear and directions for its use;
 2. Demonstrate the use of any physical aids, necessary to maintain correct exposure distance for the user, as recommended by the manufacturer of the tanning equipment;
 3. Set the exposure timer so that the user is not exposed to excess radiation;
 4. Instruct the user on the maximum exposure time and correct distance from the radiation source as recommended by the manufacturer of the tanning equipment; and
 5. Instruct the user about the location and correct operation of the emergency shutoff switch.
- C. An operator shall control a sunlamp's timer. A registrant shall:
 1. Provide training to operators that covers:
 - a. The requirements of this Section;
 - b. Facility operating procedures, including:
 - i. Determination of skin type and associated duration of exposure;
 - ii. Procedures for use of minor and adult user consent forms;
 - iii. Potential harm associated with photosensitizing foods, cosmetics, and medications;
 - iv. Requirements for use of protective eyewear by users of the equipment; and
 - v. Proper sanitizing procedures for the facility, equipment, and eyewear;

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- c. The manufacturer's procedures for operation and maintenance of tanning equipment;
- d. Recognition of injury or overexposure; and
- e. Emergency procedures used in the case of an injury.
- 2. Maintain records of training for Department review, which include dates and material covered, for three years from the date the training is provided.
- 3. Post a list of operators at the facility.
- D. Before the first use of a tanning facility in each calendar year by a user:
 - 1. An operator shall request that the user read a copy of the warnings in R9-7-1415(A);
 - 2. The operator shall obtain the user's signature on a statement as an acknowledgment that the user has heard or read and understands the warnings in R9-7-1415(A); and
 - 3. For illiterate or visually handicapped persons, the operator shall read the warnings in R9-7-1415(A) in the presence of a witness. Both the witness and the operator shall sign the statement described in subsection (D)(2).

Historical Note

New Section R9-7-1414 recodified from R12-1-1414 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1415. Tanning Facility Warning Signs

- A. A registrant shall post the warning sign shown in this subsection within 1 meter (39.37 inches) of each tanning device, ensuring that the sign is clearly visible and easily viewed by the user before the tanning device is operated.
- B. A registrant shall post a warning sign, which contains the statement shown, at or near the reception area.
 PERSONS UNDER AGE 18 ARE REQUIRED TO HAVE
 PARENT OR LEGAL GUARDIAN SIGN AN AUTHORIZATION
 TO TAN IN THE PRESENCE OF A TANNING
 FACILITY OPERATOR
- C. The lettering on each warning sign shall be at least 10 millimeters high for all words shown in capital letters and at least 5 millimeters high for all lower case letters.

DANGER - ULTRAVIOLET RADIATION

- 1. Follow instructions.
- 2. Avoid overexposure. As with natural sunlight, exposure can cause eye and skin injury and allergic reactions. Repeated exposure may cause premature aging of the skin, dryness, wrinkling, and skin cancer.
- 3. Wear protective eyewear.

FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE BURNS OR LONG TERM INJURY TO THE EYES.

- 4. Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult a physician before using a sunlamp if you are using medications or have a history of skin problems or believe you are especially sensitive to sunlight.
- 5. If you do not tan in the sun, you are unlikely to tan from use of this device.

Historical Note

New Section R9-7-1415 recodified from R12-1-1415 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1416. Reporting of Tanning Injuries

- A. A registrant shall report any incident involving an eye injury; skin burn; fall injury, if the fall occurs within the tanning device or while entering or exiting the device; laceration; infection believed to have been transmitted by use of the tanning device; or any other injury reasonably related to the use of the tanning device.
- B. A registrant shall provide a written report of an incident to the Department within 10 working days of its occurrence or within 10 working days of the date the registrant became aware of the incident.
- C. The report shall include:
 - 1. The name of the user;
 - 2. The name and location of the tanning facility;
 - 3. A description of and the circumstances associated with the injury;
 - 4. The name and address of the health care provider treating the user, if any; and
 - 5. Any other information the registrant considers relevant to the incident.

Historical Note

New Section R9-7-1416 recodified from R12-1-1416 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1417. Reserved**Historical Note**

Section R9-7-1417 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1418. High Intensity Mercury Vapor Discharge (HID) Lamps

A person shall register with the Department any HID lamp that does not meet the requirements in 21 CFR 1040.30, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

Historical Note

New Section R9-7-1418 recodified from R12-1-1418 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1419. Reserved**Historical Note**

Section R9-7-1419 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1420. Reserved

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Historical Note

Section R9-7-1420 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1421. Laser Safety

- A. The requirements contained in this Section apply to laser products that are used in accordance with the manufacturer's classification and instructions. If certain engineering controls are impractical during manufacture or research and development activities, the LSO shall specify alternate requirements to obtain equivalent laser safety protection.
- B. A registrant shall establish and maintain a laser radiation safety program.
- C. If R9-7-1433 is applicable, a registrant shall conduct a laser radiation protection survey to ensure compliance with R9-7-1433 before initial use, following system modifications, and at intervals that do not exceed six months. During a survey the registrant shall:
 - 1. Determine whether each laser protective device is labeled correctly, functioning within the design specifications, and meets required standards for the type and class of laser in use;
 - 2. Determine whether each warning device is functioning within design specifications;
 - 3. Determine whether each controlled area is identified, controlled, and posted with accurate warning signs in accordance with this Article;
 - 4. Reevaluate potential hazards from surfaces that are associated with Class 3 and Class 4 beam paths; and
 - 5. Evaluate the laser and collateral radiation hazard incident to the use of lasers.
- D. The registrant shall maintain records of:
 - 1. Results of all physical surveys made to determine compliance with this Article;
 - 2. Any restriction in operating procedures necessary to prevent unnecessary or excessive exposure to laser or collateral radiation;
 - 3. Any incident for which reporting to the Department is required pursuant to R9-7-1436;
 - 4. Results of medical surveillance to determine extent of injury resulting from exposure to laser or collateral radiation;
 - 5. Inventory to account for all sources of radiation possessed by the licensee.
- E. A registrant shall provide the Laser Safety Officer with training that covers the subjects listed in Appendix D.

Historical Note

New Section R9-7-1421 recodified from R12-1-1421 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1422. Laser Protective Devices

- A. A registrant shall ensure that each laser product has a protective housing that prevents access to laser and collateral radiation if it exceeds the exposure limits for Class 1 lasers in R9-7-1426. If a laser's accessible emission levels must exceed the limits for Class 1 lasers, the registrant shall use a laser from the lowest class that will enable the registrant to perform the intended function.
- B. To prevent access to radiation above the applicable MPE, a registrant shall ensure that each laser has a safety interlock, which prevents operation of the laser if a person has removed any portion of the protective housing that can be removed or displaced without the use of tools during normal operation or maintenance. The registrant shall ensure that:
 - 1. Service, testing, or maintenance of a laser does not render the interlocks inoperative or increase radiation outside the

protective housing to levels that exceed the applicable MPE, unless a controlled area is established as specified in R9-7-1433;

- 2. For pulsed lasers, interlocks are designed to prevent the laser from firing;
- 3. For Class 3b and 4 continuous wave (cw) lasers, interlocks turn off the power supply or interrupt the beam.
- 4. An interlock does not allow automatic accessibility to radiation emission above the applicable MPE when the interlock is closed; and
- 5. Multiple safety interlocks or a means to preclude removal or displacement of the interlocked portion of the protective housing is provided if failure of a single interlock could result in:
 - a. Human access to levels of laser radiation that exceed the radiant power accessible emission limit for Class 3a laser radiation, or
 - b. Laser radiation that exceeds the accessible emission limit for Class 2, emitted directly through the opening created by removal or displacement of a portion of the protective housing.
- C. A registrant shall ensure that a laser with viewing ports, viewing optics, or display screens, included as an integral part of the enclosed laser or laser system has:
 - 1. A suitable means to attenuate laser and collateral radiation transmitted through the optical system to less than the accessible emission limit for collateral radiation required by 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments; and
 - 2. Specific written administrative procedures developed by the LSO, and use controls, such as interlocks or filters, if there is increased hazard to the eye or skin associated with the use of optical systems such as lenses, telescopes, or microscopes.
- D. A registrant shall ensure that each Class 3 or 4 laser product provides a visual or audible indication before the emission of accessible laser radiation that exceeds the limits for Class 1, as follows:
 - 1. For Class 3, except for laser products that allow access to less than 5 milliwatts peak visible laser radiation, and Class 4 lasers, the indication occurs before the emission of the radiation and allows enough time for action to avoid exposure;
 - 2. Any visual indicator is clearly visible through protective eyewear designed specifically for the wavelength of the emitted laser radiation;
 - 3. If the laser and laser energy source are housed separately and can be operated at a separation distance of greater than 2 meters, both the laser and laser energy source incorporate visual or audible indicators; and
 - 4. Any visual indicators are positioned so that viewing does not require human access to laser radiation that exceeds the applicable MPE.
- E. In addition to the information signs, symbols, and labels prescribed in R9-7-1427, R9-7-1428, and R9-7-1429, each registrant shall provide, near the signs, symbols, and labels within the laser facility, operating procedure restrictions and any other safety information required to ensure compliance with this Article and minimize exposure to laser and collateral radiation.

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Historical Note

New Section R9-7-1422 recodified from R12-1-1422 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1423. Laser Prohibitions

- A. A registrant shall not require or permit an individual to look directly into a laser beam or directly at specular reflections of a laser beam, or align a laser by eye while looking along the axis of the laser beam if the intensity of the beam or the beam's reflections exceeds the applicable MPE.
- B. A registrant shall not permit an individual to enter a controlled area if the skin exposure exceeds the applicable MPE, unless the registrant provides and requires the use of protective clothing, gloves, and shields.
- C. A registrant shall ensure that any laser product, emitting spatially scanned laser radiation, does not, as a result of scan failure or any other failure that causes a change in angular velocity or amplitude, permit human access to laser radiation that exceeds the accessible emission limits applicable to that class of product.

Historical Note

New Section R9-7-1423 recodified from R12-1-1423 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1424. Reserved**Historical Note**

Section R9-7-1424 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1425. Laser Product Classification

- A. Each laser product is classified on the basis of emission level, emission duration, and wavelength of accessible laser radiation emitted over the full range of resulting operational capability, any time during the useful life of the product, according to the federal performance standards for light-emitting products contained in 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.
- B. Any person that modifies a certified laser product in a manner that affects any aspect of performance or intended functions of the product, shall recertify and reidentify the product in accordance with 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.
- C. Any laser system that is incorporated into a laser product that is subject to the requirements of this Article, and capable, without modification, of producing laser radiation when removed from the laser product, is considered a laser product, subject to the applicable requirements of this Article. Upon removal of the laser system described in this subsection, the laser product is classified on the basis of accessible laser radiation emission.

Historical Note

New Section R9-7-1425 recodified from R12-1-1425 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1426. Laser and Collateral Radiation Exposure Limits

- A. A registrant shall not use, or permit the use of a laser product that will result in a human exposure that exceeds the applicable MPE or accessible emission limit (AEL) listed in ANSI Z136.1-2000, American National Standard for Safe Use of

Lasers, 2000 edition, which is incorporated by reference, published by the Laser Institute of America, 13501 Ingenuity Drive, Suite 128, Orlando, FL 32826, and on file with the Department. Accessible emission limits are listed in 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. These incorporations by reference contain no future editions or amendments.

- B. A registrant shall not allow exposure to collateral radiation that exceeds any accessible emission limit in 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

Historical Note

New Section R9-7-1426 recodified from R12-1-1426 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1427. Laser Caution Signs, Symbols, and Labels

- A. Except as otherwise authorized by the Department, a registrant shall use signs, symbols, and labels prescribed by this Section and the design and colors specified in ANSI Z136.1-2000, American National Standard for Safe Use of Lasers, 2000 edition, which is incorporated by reference, published by the Laser Institute of America, 13501 Ingenuity Drive, Suite 128, Orlando, FL 32826, and on file with the Department. This incorporation by reference contains no future editions or amendments.
- B. A registrant shall ensure that the word "invisible" immediately precedes the word "radiation" on labels and signs required by this Section for lasers that only produce wavelengths of laser and collateral radiation that are outside of the range of 400 to 710 nanometers.
- C. A registrant shall ensure that the words "visible and invisible" immediately precede the word "radiation" on labels and signs required by this Section for lasers that produce wavelengths of laser and collateral radiation that are both within and outside the range of 400 to 710 nanometers.
- D. A registrant shall position any label placed on lasers or signs posted in laser facilities so that the reader of the label or sign is not exposed to laser or collateral radiation that exceeds the applicable MPE or accessible emission limit while reading the label or sign.
- E. A registrant shall use labels and signs that are clearly visible, legible, and permanently attached to the laser or facility.
- F. A registrant shall ensure that a permanent and legible label is affixed to each laser, identifying the classification of the laser in accordance with 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.
- G. For a Class 3 or Class 4 laser a registrant shall ensure that a permanent and legible label is affixed to each laser, specifying the maximum output of laser radiation, the pulse duration if applicable, and the laser medium or emitted wavelength.
- H. For a Class 3 or Class 4 laser, used in the practice of medicine, a registrant shall ensure that a permanent and legible label is affixed to each laser providing one or more of the following warnings near each aperture that emits laser radiation or collateral radiation that exceeds the applicable MPE, as follows:

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1. "AVOID EXPOSURE - Laser radiation is emitted from this aperture" if the radiation emitted through the aperture is laser radiation;
2. "AVOID EXPOSURE - Hazardous electromagnetic radiation is emitted from this aperture" if the radiation emitted through the aperture is collateral radiation; or
3. "AVOID EXPOSURE - Hazardous x-rays are emitted from this aperture" if the radiation emitted through the aperture is collateral x-ray radiation.

I. A registrant shall ensure that there is a label on each non-interlocked or defeatable interlocked portion of the protective housing or enclosure that permits human access to laser or collateral radiation. The label shall include one or more of the following warnings, as applicable:

1. For laser radiation that exceeds the applicable accessible emission limit for a Class 1 or Class 2 laser, but does not exceed the applicable accessible emission limit for a Class 3 laser, the warning: "DANGER - Laser radiation when open, AVOID DIRECT EXPOSURE TO THE BEAM."
2. For laser radiation that exceeds the applicable accessible emission limit for a Class 3 laser, the warning: "DANGER - Laser radiation when open, AVOID EYE OR SKIN EXPOSURE TO DIRECT OR SCATTERED RADIATION."
3. For collateral radiation that exceeds an applicable accessible emission limit:
 - a. If the applicable limit for collateral laser radiation is exceeded, the warning: "CAUTION - Hazardous electromagnetic radiation when open"; and
 - b. If the applicable limit for collateral x-ray radiation is exceeded, the warning: "CAUTION - Hazardous x-ray radiation".
4. For a protective housing or an enclosure that has a defeatable interlock, the warning "and interlock defeated" in addition to the warnings in subsections (1) through (3).

Historical Note

New Section R9-7-1427 recodified from R12-1-1427 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1428. Reserved**Historical Note**

Section R9-7-1428 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1429. Posting of Laser Facilities

Unless other methods are approved by the Department, a registrant shall post each laser facility in accordance with ANSI Z136.1-2000, American National Standard for Safe Use of Lasers, 2000 edition, which is incorporated by reference, published by the Laser Institute of America, 13501 Ingenuity Drive, Suite 128, Orlando, FL 32826, and on file with the Department. This incorporation by reference contains no future editions or amendments.

Historical Note

New Section R9-7-1429 recodified from R12-1-1429 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1430. Reserved**Historical Note**

Section R9-7-1430 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1431. Reserved**Historical Note**

Section R9-7-1431 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1432. Reserved**Historical Note**

Section R9-7-1432 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1433. Laser Use Areas that are Controlled

- A.** A registrant shall establish a controlled area for a laser if it is possible for a person to be exposed to laser radiation from a Class 3b laser, except a Class 3b laser of less than 5 milliwatts visible peak power, or a Class 4 laser that exceeds the applicable MPE or AEL in R9-7-1426.
- B.** A registrant shall ensure that a controlled area associated with a Class 3b laser is:
 1. The responsibility of a LSO;
 2. Posted in accordance with this Article; and
 3. Access controlled by the LSO or a trained, designated representative.
- C.** A registrant shall ensure that a controlled area associated with a Class 4 laser is:
 1. The responsibility of a LSO;
 2. Posted in accordance with this Article;
 3. Access controlled by the LSO or a trained, designated representative; and
 4. If an indoor controlled area:
 - a. Equipped with latches, interlocks, or another means of preventing unexpected entry into the controlled area;
 - b. Equipped with a control-disconnect switch, panic button, or an equivalent device for deactivating the laser during an emergency;
 - c. Operated so that the person in charge of the controlled area can momentarily override the safety interlocks during tests that require continuous operation to provide access to other personnel if there is no optical radiation hazard at the point of entry and the entering personnel are wearing required protective devices; and
 - d. Controlled in a way that reduces the transmitted values of laser radiation through optical paths such as windows, to levels at or below the applicable ocular MPE and AEL in R9-7-1426. If a laser beam with an irradiance or radiant-exposure above the applicable MPE or AEL will exit the indoor controlled area (as in the case of exterior atmospheric beam paths), the registrant and the operator are responsible for ensuring that the beam path is limited to controlled air space or controlled ground space.
- D.** If a panel or protective cover is removed or an interlock bypassed for service, testing, or maintenance, a registrant shall establish an accessible controlled area. The registrant, through a LSO or a designated representative, shall comply with laser safety requirements for all potentially-exposed individuals.

Historical Note

New Section R9-7-1433 recodified from R12-1-1433 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1434. Laser Safety Officer (LSO)

- A.** Each registrant shall designate a Laser Safety Officer (LSO).
- B.** The LSO shall administer the laser radiation protection program and shall:
 1. Ensure that maintenance or service for Class 3b and Class 4 lasers is performed only by technicians trained to pro-

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- vide the maintenance or service by either the manufacturer's service organization or the registrant;
2. Approve or reject written service, maintenance, and operating procedures;
 3. Investigate, document, and report all incidents as required by R9-7-1436;
 4. Select protective eyewear as required by R9-7-1435, along with any other protective equipment;
 5. For health care facilities, establish authorization and operating procedures, including preoperative and postoperative checklists, for use by operating room personnel;
 6. Ensure that authorized personnel are trained in the assessment and control of laser hazards;
 7. Select signs, symbols, and labels as required by R9-7-1427;
 8. Perform laser radiation protection surveys as required by R9-7-1421 and R9-7-1441;
 9. Classify or verify the classification of lasers and laser systems used under the LSO's jurisdiction;
 10. Evaluate the hazard of laser use areas, treatment areas, and controlled areas, as required by R9-7-1421(C).

Historical Note

New Section R9-7-1434 recodified from R12-1-1434 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1435. Laser Protective Eyewear

- A. A registrant shall require that protective eyewear, as specified by the LSO, be worn by an individual who has access to:
 1. Class 4 laser radiation; or
 2. Class 3b laser radiation.
- B. A registrant shall, through the LSO, provide protective eyewear that is:
 1. Marked with a label that indicates the optical density protection afforded for the relevant laser wavelength;
 2. Maintained so that the protective properties of the eyewear are preserved;
 3. Inspected at intervals that do not exceed six months to ensure integrity of the protective properties; and
 4. Removed from service if the protective properties of the eyewear fall below the optical density on the label.
- C. A registrant shall maintain records of protective eyewear maintenance, inspection, and removal from service for five years.

Historical Note

New Section R9-7-1435 recodified from R12-1-1435 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1436. Reporting Laser Incidents

- A. A registrant shall notify the Department by telephone within 24 hours of any incident that has caused or may have caused:
 1. Permanent loss of sight in either eye; or
 2. Third-degree burns of the skin involving more than 5 percent of the body surface as estimated by the rule of nines.
- B. A registrant shall notify the Department by telephone within five working days of any incident that has or may have caused:
 1. Any second-degree burn of the skin larger than one inch (2.54 centimeter) in greatest diameter; or
 2. Any third-degree burn of the skin; or
 3. An eye injury with any potential loss of sight.
- C. Each registrant shall file a written report with the Department of any known exposure of an individual to laser radiation or collateral radiation within 30 days of its discovery, describing:
 1. Each exposure of the individual to laser or collateral radiation that exceeds the applicable MPE; and
 2. Any incident that triggered a notice requirement in subsections (A) or (B).

- D. Each report required by subsection (C) shall describe the extent of exposure to each individual including:
 1. An estimate of the individual's exposure;
 2. The level of laser or collateral radiation involved;
 3. The cause of the exposure; and
 4. The corrective steps taken or planned to prevent a recurrence.
- E. A registrant shall not operate or permit the operation of any laser product or system that does not meet the applicable requirements in this Article.

Historical Note

New Section R9-7-1436 recodified from R12-1-1436 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1437. Special Lasers

A registrant operating a laser system with an unenclosed beam path shall:

1. Conduct an evaluation before operating the laser to determine the expected beam path and the potential hazards from reflective surfaces. Based on the evaluation the registrant shall exclude reflective surfaces from the beam path at all points where the laser radiation exceeds an applicable MPE;
2. Evaluate the stability of the laser platform to determine the constraints placed upon the beam traverse and the extent of the range of control; and
3. Refrain from operating or making a laser ready for operation until the area along all points of the beam path, where the laser radiation will exceed the applicable MPE, is clear of individuals, unless the individuals are wearing the correct protective devices.

Historical Note

New Section R9-7-1437 recodified from R12-1-1437 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1438. Hair Removal and Other Cosmetic Procedures Using Laser and Intense Pulsed Light

- A. In addition to the definitions in A.R.S. § 32-516 and R9-7-102 and R9-7-1402, the following definitions apply in this Section and R9-7-1439 unless otherwise specified:
 1. "Prescribing health professional" means a health professional who is authorized by the health professional's regulatory board to order and use a "prescription-only device," as defined in A.R.S. § 32-1901.
 2. "Cosmetic procedure" means any of the following:
 - a. Hair reduction,
 - b. Skin rejuvenation,
 - c. Non-ablative skin resurfacing,
 - d. Spider vein reduction,
 - e. Skin tightening,
 - f. Wrinkle reduction,
 - g. Laser peel,
 - h. Telangiectasia reduction,
 - i. Acquired adult hemangioma reduction,
 - j. Facial erythema reduction,
 - k. Solar lentigo reduction (age spots),
 - l. Ephelis reduction (freckles),
 - m. Acne scar reduction,
 - n. Photo facial,
 - o. Tattoo removal,
 - p. Cellulite reduction, or
 - q. Another, as approved by the Department after consultation with other health professional boards as defined in A.R.S. § 32-516(F)(3) or 32-3233(D)(1).
- B. A person who seeks to perform hair removal or other cosmetic procedures shall apply for registration, under R9-7-

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1302(F)(7), of any medical laser or IPL device that is a Class II surgical device, certified by the manufacturer as complying with the labeling standards in 21 CFR 801.109, revised June 15, 2016, incorporated by reference, available under R9-7-101, and including no future editions or amendments.

C. An applicant for registration shall submit to the Department:

1. The following information, in a Department-provided format:
 - a. The name, mailing address, billing address if different from the mailing address, telephone number, and email address of the applicant;
 - b. Any other names by which the applicant is known;
 - c. The applicant's type of business organization, including:
 - i. For a corporation, information as registered with the Arizona Corporation Commission;
 - ii. For a partnership, the name and address of each partner and percentage of ownership;
 - iii. For a sole proprietorship, the name of the owner; and
 - iv. For a governmental entity, documentation showing the applicant is a governmental entity;
 - d. The type of facility;
 - e. For the medical laser or IPL device, as applicable:
 - i. The class and type, and
 - ii. The name of the manufacturer and model of the medical laser or IPL device;
 - f. The physical address of the location at which the medical laser or IPL device, as applicable, will be used;
 - g. The name, title, telephone number, and e-mail address of:
 - i. A point of contact for the applicant at the location of use, and
 - ii. A billing point of contact;
 - h. The name, telephone number, and e-mail address of the prescribing health professional who will be responsible for the use of the medical laser or IPL device in subsection (C)(1)(e), including the prescribing health professional's regulatory board and professional license number;
 - i. The name, telephone number, and e-mail address of the Laser Safety Officer required in R9-7-1434;
 - j. Whether the applicant agrees to allow the Department to submit supplemental requests for information under A.R.S. § 41-1075(A);
 - k. Attestation that the prescribing health professional in subsection (C)(1)(h):
 - i. Is qualified in accordance with A.R.S. § 32-516 or 32-3233 and subsection (E);
 - ii. Is responsible for the use of the medical laser or IPL device;
 - iii. If applicable, will provide indirect supervision of a laser technician certified under 9 A.A.C. 16, Article 7, using the medical laser or IPL device for hair removal; and
 - iv. If applicable, will provide direct supervision of a laser technician certified under 9 A.A.C. 16, Article 7, using the medical laser or IPL device for a cosmetic procedure other than hair removal;
 - l. Attestation that the information or documents submitted to the Department are true and correct; and
 - m. The signature of both the applicant and prescribing health professional and the date signed;

2. Documentation for the individual specified according to subsection (C)(1)(c)(iii) or (g)(i), as applicable, that complies with A.R.S. § 41-1080;
3. Documentation demonstrating that the prescribing health professional in subsection (C)(1)(h) meets the requirements in subsection (E);
4. Documentation demonstrating that the Laser Safety Officer in subsection (C)(1)(i) has completed the training specified according to Appendix D; and
5. The fee in Table 13.1(F)(7).

D. If a registrant is using a medical laser or an IPL device in subsection (A), the registrant shall:

1. Designate a Laser Safety Officer, as required in R9-7-1434, who:
 - a. May be the registrant or the prescribing health professional; and
 - b. Has completed the training in Appendix D, as required in R9-7-1421(E);
2. Ensure that policies and procedures are developed, documented, and implemented that:
 - a. Address the applicable requirements in R9-7-1403, R9-7-1421, R9-7-1427, R9-7-1429, R9-7-1433, R9-7-1434, R9-7-1435, and R9-7-1436;
 - b. Include procedures to ensure that the prescribing health professional purchases or orders the medical laser or IPL device;
 - c. If applicable, cover situations in which the prescribing health professional is not present in the facility, according to subsection (D)(8); and
 - d. Cover the knowledge, skills, and experience of individuals authorized to use the medical laser or IPL device;
3. Ensure that the prescribing health professional:
 - a. Has established a written protocol for the application of radiation to a patient for each cosmetic procedure that may be conducted using the medical laser or IPL device, including follow-up instructions for the patient;
 - b. Reviews and, as necessary revises, the written protocols in subsection (D)(3)(a) at least annually; and
 - c. Documents the review in subsection (D)(3)(b) with a signature and date of signature;
4. Ensure that the registrant has a written order from the prescribing health professional before the application of radiation to a patient;
5. Ensure that the medical laser or IPL device is only used by:
 - a. A health professional described in A.R.S. §§ 32-516(F)(3) and 32-3233(D)(1) who meets the requirements in subsection (E);
 - b. A laser technician, certified under 9 A.A.C. 16, Article 7, for the cosmetic procedure to be performed, who:
 - i. When performing a hair removal procedure, is working under the indirect supervision of a prescribing health professional described in A.R.S. §§ 32-516(C)(1) and 32-3233(D) and (H)(1); and
 - ii. When performing a cosmetic procedure other than hair removal, is working under the direct supervision of a prescribing health professional described in A.R.S. §§ 32-516(C)(1) and 32-3233(D) and (H)(1); or
 - c. An individual who has a provisional certificate for course completion issued according to R9-7-1439(E)(3) and:

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- i. Is receiving hands-on training under the supervision of an individual qualified according to R9-7-1439(F)(2); and
 - ii. If applicable, when a prescribing health professional is providing indirect supervision to a supervising laser technician in R9-7-1439(F)(2)(b);
 - 6. Ensure that a laser technician follows the applicable written protocol established by the prescribing health professional according to subsection (D)(3)(a) when applying radiation to a patient using the medical laser or IPL device;
 - 7. Ensure that, at least every six months, the prescribing health professional:
 - a. Observes each laser technician, while the laser technician is performing a hair removal procedure, for adherence to the applicable written protocol in subsection (D)(3)(a); and
 - b. Documents the observation and the assessment in subsection (D)(7)(a);
 - 8. If the registrant is authorized by the Department to conduct hair removal procedures or other cosmetic procedures without a prescribing health professional being present in the facility:
 - a. Establish a method for emergency medical care of a patient; and
 - b. Assume legal liability for the services rendered in the facility by:
 - i. An indirectly-supervised certified laser technician performing hair removal procedures, or
 - ii. A health professional performing any cosmetic procedure;
 - 9. Ensure that a laser technician using the medical laser or IPL device displays a valid original certificate, as issued by the Department under A.A.C. R9-16-703, R9-16-704, or R9-16-705, in a location that is viewable by the public;
 - 10. Ensure that labels and signs are used, according to the applicable requirements in R9-7-1427 and R9-7-1429; and
 - 11. Maintain on the premises of the facility:
 - a. The policies and procedures in subsection (D)(2),
 - b. The written protocols in subsection (D)(3)(a),
 - c. Documentation of the review of the written protocols in subsection (D)(3)(b) for at least three years after the date of the review,
 - d. Documentation of the observation and assessment in subsection (D)(7)(b) for at least three years after the date of the assessment,
 - e. Documentation of the radiation safety training required in subsection (F) for at least three years after the last date of employment, and
 - f. Documentation of the training required in subsection (D)(1)(b) for as long as the individual is acting as a Laser Safety Officer.
 - E. A registrant shall verify that a health professional is qualified to perform a cosmetic procedure using a medical laser or IPL device by obtaining documentation that the health professional:
 - 1. Meets the requirements in A.R.S. §§ 32-516(F)(3) and 32-3233(D)(1); and
 - 2. Has:
 - a. A certificate of completion of 24 hours of didactic training issued to the health professional by a training program according to Appendix C; or
 - b. Has been in practice since before October 1, 2010 and has at least 24 hours of training on the subjects in Appendix C.
 - F. A registrant shall:
 - 1. Provide radiation safety training to all individuals involved with performing cosmetic procedures under subsection (D), consistent with the individual's knowledge, skills, and duties; and
 - 2. Document the radiation safety training, including the date of the training, topics covered, name and qualifications of the individual providing the training, and names of individuals receiving the training.
 - G. A registrant shall ensure that:
 - 1. A medical laser or IPL device is secured so that the medical laser or IPL device cannot be removed from the facility, and
 - 2. The on/off switch is turned to the "off" position with the key removed when a laser technician or a health professional is not present in the room where the medical laser or IPL device is located.
- Historical Note**
- New Section R9-7-1438 recodified from R12-1-1438 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 30 A.A.R. 164 (January 26, 2004), with an immediate effective date of January 4, 2024 (Supp. 24-1).
- R9-7-1438.01. Repealed**
- Historical Note**
- New Section R9-7-1438.01 recodified from R12-1-1438.01 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Repealed by final expedited rulemaking at 30 A.A.R. 164 (January 26, 2004), with an immediate effective date of January 4, 2024 (Supp. 24-1).
- R9-7-1439. Laser Technician Training Programs**
- A. The Department shall maintain a list of Department-certified training programs for laser technicians according to A.R.S. § 32-3233 on the Department's website at https://docs.google.com/document/u/3/d/e/2PACX-1vT_KRgZkYEV-vg5VRGZzvpWZ-RzMVOWSCo8clPNrxMGQ6z-Lkuyci-UQ_7EEbT7dn6Ps8Lxysg6JNmdd/pub.
 - B. An applicant may request to become a Department-certified training program for laser technicians or renew approval as a Department-certified training program for laser technicians by submitting to the Department an application packet that contains:
 - 1. The following information, in a Department-provided format:
 - a. The name and address of the school providing the training program;
 - b. The name, title, telephone number, and email address of the administrator or designee of the school;
 - c. A list of each training course for which approval is being requested;
 - d. A statement that the applicant will comply with the requirements in subsection (E); and
 - e. The signature and date of signature of the individual specified according to subsection (B)(1)(b);
 - 2. A copy of the syllabus for each course that contains:
 - a. The course title and course description,
 - b. The number of hours of instruction provided,
 - c. The duration of the course,
 - d. The subjects covered,
 - e. Any included learning activities, and

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- f. The name and license number or other credentials of each instructor for the course; and
 - 3. A nonrefundable fee of \$100.
 - C. The Department shall:
 - 1. Review each application packet specified in subsection (B) according to R9-7-1223;
 - 2. If the application is approved:
 - a. Notify the applicant that certification is issued for 12 months and expires on the last day of the month;
 - b. For an initial certification, add the applicant's school to the list of Department-certified training programs in subsection (A); and
 - c. For a renewal of certification, retain the applicant's school on the list of Department-certified training programs in subsection (A); and
 - 3. If the Department learns of non-compliance with the requirements in subsection (E) or, if applicable (F), remove the training program's school from the list of Department-certified training programs in subsection (A).
 - D. A certified training program may provide a course in any of the cosmetic procedures included in the definition in R9-7-1438(A)(2).
 - E. The administrator of a Department-certified training program shall ensure that:
 - 1. A course to prepare an individual to become a laser technician:
 - a. Includes at least 40 hours of didactic training;
 - b. Includes federal and state legal requirements;
 - c. Is specific to the medical laser or IPL device in use and the clinical procedures to be performed, including:
 - i. A description of the medical laser or IPL device;
 - ii. Fundamentals of laser radiation or IPL device radiation;
 - iii. The potential biological effects of laser or IPL device light, including absorption and wavelength effects;
 - iv. Operation of the medical laser or IPL device;
 - v. Typical laser or IPL device settings for hair removal or cosmetic procedures; and
 - vi. Criteria for setting the levels of Maximum Permissible Exposure (MPE) for eye and skin associated hazards;
 - d. Addresses hazards associated with laser or IPL device use, including:
 - i. The bioeffects of laser radiation on the eye and skin;
 - ii. Explosive, electrical, chemical, and other hazards; and
 - iii. Thermal effects;
 - e. Addresses safety considerations and methods to minimize the hazards associated with laser or IPL device use, including:
 - i. Controlled access to an area while the laser or IPL device is in use;
 - ii. Use of protective eyewear or other protective devices, as applicable; and
 - iii. Other methods to minimize the hazards associated with laser or IPL device use and to improve safety;
 - f. Addresses treatment considerations, including:
 - i. Anatomy and physiology of skin areas to be treated,
 - ii. Pre- and post-care of a patient,
 - iii. Expected patient response to treatment, and
 - iv. Potential adverse reactions to treatment
 - g. Is provided by a:
 - i. Health professional acting within the health professional's scope of practice; or
 - ii. Laser technician, who is certified under 9 A.A.C. 16, Article 7, with a minimum of 100 hours of hands-on experience using a medical laser or IPL device; and
 - h. Includes an examination for the course that consists of at least 50 multiple-choice questions on the subjects covered;
 - 2. The minimum score for passing the examination in subsection (E)(1)(h) is 80%;
 - 3. An individual who completes the course in subsection (E)(1) and achieves a score of at least 80% on the examination required according to subsection (E)(1)(h) is provided with a provisional certificate for course completion, as specified in A.R.S. § 32-3233(E)(1), that includes:
 - a. Identification of the training program,
 - b. Identification of the 40-hour didactic course completed,
 - c. The name of the individual who completed the course,
 - d. The date the individual completed all course requirements,
 - e. Attestation that the individual has met all course requirements, and
 - f. The signature or electronic signature of the training program administrator and the date of signature or electronic signature; and
 - 4. Documentation related to a course is maintained for at least three years after the end of a course session and includes:
 - a. The syllabus for the course,
 - b. The name and credentials of the individual providing the course,
 - c. The name and attendance record of each individual taking the course, and
 - d. The results of the examination for each individual taking the course.
- F. A Department-certified training program may offer hands-on training in the use of a medical laser or IPL device if:
 - 1. The individual receiving the hands-on training has a provisional certificate for course completion issued according to subsection (E)(3);
 - 2. The hands-on training is supervised by a:
 - a. Health professional acting within the health professional's scope of practice; or
 - b. Laser technician, who is certified under 9 A.A.C. 16, Article 7, with a minimum of 100 hours of hands-on experience using a medical laser or IPL device;
 - 3. For hands-on training in the use of a medical laser or IPL device for hair removal:
 - a. The hands-on training includes at least 24 hours of use of a medical laser or IPL device by the individual while the supervising health professional or laser technician in subsection (F)(2) is present in the room with the individual, and
 - b. The supervising health professional or laser technician verifies the successful completion of the hands-on training by the individual according to subsection (G);
 - 4. For hands-on training in the use of a medical laser or IPL device for a cosmetic procedure other than hair removal:

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- a. The individual receiving the hands-on training has documentation of the successful completion of the hands-on training in subsection (F)(3);
 - b. The individual specifies the types of cosmetic procedures, as specified in subsection (D), on which the individual will receive hands-on training and for which the individual will request certification;
 - c. The hands-on training includes at least 24 hours of use of a medical laser or IPL device for each type of cosmetic procedure specified according to subsection (F)(4)(b) while the supervising health professional or laser technician in subsection (F)(2) is present in the room with the individual;
 - d. The individual performs at least 10 cosmetic procedures of each type specified according to subsection (F)(4)(b); and
 - e. The supervising health professional or laser technician verifies the successful completion of the hands-on training by the individual according to subsection (G); and
5. Documentation related to the hands-on training is maintained for at least three years after the end of the hands-on training and includes:
 - a. The type of cosmetic procedure,
 - b. The type of each medical laser or IPL device used during the hands-on training,
 - c. The name and credentials of the individual providing the hands-on training,
 - d. The name of each individual taking the hands-on training, and
 - e. Any assessments by the individual providing the hands-on training of an individual taking the hands-on training.
- G.** A supervising health professional or laser technician in subsection (F)(2) verifying the successful completion of an individual's hands-on training shall specify the following:
1. The name of the individual completing the hands-on training;
 2. The name, title, e-mail address, and telephone number of the supervising health professional or laser technician, including, as applicable:
 - a. The health professional's professional license number, or
 - b. The laser technician's certification number;
 3. The type of license or certification held by the supervising health professional or laser technician;
 4. Each type of cosmetic procedure on which the individual has completed hands-on training;
 5. An attestation by the supervising health professional or laser technician that:
 - a. The individual specified according to subsection (G)(1) has completed the training according to subsection (F)(3) or (4), as applicable, for each cosmetic procedure specified according to subsection (G)(4);
 - b. The supervising health professional or laser technician was present in the room during the use of a medical laser or IPL device by the individual;
 - c. The supervising health professional or laser technician is qualified, according to A.R.S. § 32-3233, to provide the supervision; and
 - d. The supervising health professional or laser technician understands that, if the Department determines that the supervising health professional or laser technician has falsified documentation related to the hands-on training, the Department may, as applicable:
 - i. Report the falsification to the health professional's licensing board, or
 - ii. Take disciplinary action against the laser technician; and
6. The signature of the supervising health professional or laser technician and date of signing.

Historical Note

New Section R9-7-1439 recodified from R12-1-1439 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 30 A.A.R. 164 (January 26, 2004), with an immediate effective date of January 4, 2024 (Supp. 24-1).

R9-7-1440. Medical Lasers

- A.** A registrant shall ensure that a Class 3 and Class 4 laser product used in the practice of medicine has a means for measuring the level of laser radiation with an error in measurement of no greater than +20%, when calibrated in accordance with the laser product manufacturer's calibration procedure.
- B.** A registrant shall calibrate a laser used in the practice of medicine according to the manufacturer's specified calibration procedure, at intervals that do not exceed those specified by the manufacturer.
- C.** In a medical facility where several medical disciplines or a number of different practitioners use Class 3b and Class 4 lasers, a registrant shall form a Laser Safety Committee to govern laser activity, establish use criteria, and approve operating procedures, as follows:
1. With regard to membership of the committee the registrant shall include at least one representative of the Nursing staff, the LSO, one management representative, and one representative of each medical discipline that uses the lasers;
 2. The committee shall review actions by the LSO related to hazard evaluation and the monitoring and control of laser hazards; and
 3. The committee shall approve or deny requests by potential operators and ancillary personnel to operate or assist in the operation of a laser under the direction of a licensed practitioner.
- D.** A registrant shall use Class 3b and Class 4 Lasers that have a guard mechanism on the switch to control patient exposure and prevent inadvertent exposure.
- E.** A registrant shall establish a written laser safety training program that provides a thorough understanding of established procedures for each type of laser in use and the medical procedures associated with use of the laser. The registrant shall make program documentation available for Department review and, at minimum, address all of the following in the documentation:
1. Regulatory requirements and the laser classification system;
 2. Fundamentals of laser operation and the significance of specular and diffuse reflections;
 3. Biological effects of laser radiation on the eye and skin;
 4. Non-beam hazards (for example: electrical, chemical, and reaction by-product hazards) and ionizing radiation hazards (for example: x-rays from power sources and target interactions, if applicable) of lasers; and
 5. Responsibilities of management and employees regarding control measures.

Historical Note

New Section R9-7-1440 recodified from R12-1-1440 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1441. Laser Light Shows and Demonstrations

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- A. Before a conducting laser light show or laser demonstration, a registrant shall provide documentation to the Department that a variance from 21 CFR 1040.10 has been obtained from the FDA.
- B. A registrant shall notify the Department in writing, at least three working days in before a proposed laser light show or demonstration, and include all of the following information:
 - 1. The location, time, and date of the light show or demonstration;
 - 2. Sketches showing the locations of each laser, operator, performer, laser beam path, viewing screen, wall, mirror ball, or any other reflective or diffuse surface that could be hit by or reflect the laser beam;
 - 3. Scanning beam patterns, scan velocity, and frequency in occupied areas; and
 - 4. Physical surveys and calculations made to comply with this Article.
- C. A registrant shall supply any additional information required by the Department for the safety evaluation of the proposed activity.
- D. Before an outdoor laser light show, a registrant shall notify the Federal Aviation Administration of the proposed show.
- E. If a light show or demonstration involves laser radiation emissions outside the spectral range of 400 to 700 nanometers, a registrant shall prevent the emissions from exceeding the applicable Class 1 accessible emission limit.
- F. If it is likely that an audience member or any operator, performer, or employee will view laser or collateral radiation, a registrant shall prevent the radiation from exceeding the applicable Class 1 accessible emission limit.
- G. Even if it is unlikely that an individual, including any operator, performer, or employee in the vicinity of a laser light show or demonstration will view or be exposed to laser or collateral radiation, a registrant shall prevent the radiation from exceeding the applicable Class 2 accessible emission limit.
- H. A registrant shall identify any area where levels of laser radiation exceed the applicable Class 2 accessible emission limit by posting warning signs and using barriers or guards to prevent entry.
- I. If a registrant uses a scanning device, the registrant shall not use a device which, as a result of scan failure or any other failure, can change its angular velocity or amplitude, permitting audience exposure to laser radiation that exceeds the applicable Class 1 accessible emission limit.
- J. If a mirror ball is used with a scanning laser, a registrant shall meet the requirements of subsections (F) and (G) when the mirror ball is stationary or during any failure mode that results in a change in the rotational speed of the mirror ball.
- K. A registrant shall ensure that an operator is at all times directly and personally supervising a laser light show or demonstration, except in cases where the maximum laser power output level is less than 5 milliwatts (all spectral lines) and the laser beam path is located at all times at least 6 meters above any surface upon which an individual in the audience is permitted to stand, and at any point, more than 2.5 meters in lateral separation from any position where an individual in the audience is permitted during the performance.
- L. A registrant shall prevent laser radiation levels from exceeding the applicable Class 2 accessible emission limit at any point less than three meters above any surface upon which an individual in the audience is permitted to stand and 2.5 meters in lateral separation from any position where an individual in the audience is permitted, unless physical barriers are present that prevent human access to the radiation.
- M. A registrant shall limit the maximum power output of any laser to a level sufficient to produce the desired effect.
- N. If a registrant is required to limit output power to a level less than the available power to meet the requirements of this Article, the registrant shall adjust, measure, and record the laser output power before the laser light show or demonstration.
- O. A registrant shall functionally test and evaluate all safety devices and procedures necessary to comply with this Article after setup, and before a laser light show or demonstration.
- P. A registrant shall secure a laser system, when not in use, against unauthorized operation or tampering.
- Q. A registrant shall perform laser alignment procedures with the laser output power reduced to the lowest practicable level, and ensure that any operator, performer, or other employee wears protective eyewear as necessary to prevent exposure to radiation levels that exceed the applicable MPE. The registrant shall only allow individuals who are performing the alignment be present during alignment procedures.
- R. A registrant shall not conduct a laser light show or demonstration unless the Department has specifically exempted the show or demonstration from the requirements of 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

Historical Note

New Section R9-7-1441 recodified from R12-1-1441 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1442. Measurements and Calculations to Determine MPE Limits for Lasers

A registrant shall take measurements to determine MPE values in a manner consistent with the procedures contained in ANSI Z136.1-2000, American National Standard for Safe Use of Lasers, 2000 edition, which is incorporated by reference, published by the Laser Institute of America, 13501 Ingenuity Drive, Suite 128, Orlando, FL 32826, and on file with the Department. This incorporation by reference contains no future editions or amendments.

Historical Note

New Section R9-7-1442 recodified from R12-1-1442 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1443. Laser Compliance Measurement Instruments

A registrant shall ensure that the radiation output measurement is performed with an instrument that is calibrated and designed for use with the laser that is being evaluated for compliance. The registrant shall specify the date of calibration, accuracy of calibration, wavelength range, and power or energy of calibration on a legible, clearly visible label attached to the instrument.

Historical Note

New Section R9-7-1443 recodified from R12-1-1443 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1444. Laser Classification Measurements

- A. A registrant shall measure accessible emission for classification:
 - 1. Under the operational conditions and procedures that maximize accessible emission levels, including start-up, stabilized operation, and shutdown of the laser or laser facility;
 - 2. With all controls and adjustments listed in the operating and service instructions adjusted for the maximum accessible emission level of laser radiation that is not expected to be detrimental to the functional integrity of the laser or enclosure;

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3. At points in space to which human access is possible for a given laser configuration. If operations include the defeat of safety interlocks or removal of portions of the protective housing or enclosure, the registrant shall measure accessible emission at points accessible in that configuration;
4. With the measuring instrument detector positioned so that the maximum possible radiation is measured by the instrument; and
5. With the laser coupled to the type of laser energy source specified as compatible by the laser manufacturer and producing the maximum emission of accessible laser radiation.

- B.** A registrant shall perform measurements of accessible emission levels, used to classify laser and collateral radiation in accordance with 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

Historical Note

New Section R9-7-1444 recodified from R12-1-1444 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Appendix A. Radio Frequency Devices (Include, but are not limited to, the following)

Dielectric heaters and sealers
 Medical diathermy units
 Radar
 R.F. activated alarm systems
 Sputter devices
 R.F. activated lasers
 Edge gluers
 Industrial microwave ovens and dryers
 Asher-etcher equipment
 R.F. welding equipment
 Medical surgical coagulators

Historical Note

New Article 14, Appendix A recodified from 12 A.A.C. 1, Article 14, Appendix A at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Appendix B. Application Information

The Department shall issue a registration if an applicant provides the following information and fee as required in R9-7-1401(D). The Department shall provide an application form to the applicant with a guide and upon request, assist the applicant to ensure that correct information is provided on the application form.

Name and mailing address of applicant
 Person responsible for radiation safety program
 Type of facility
 Legal structure and ownership
 Radiation source information
 Shielding information
 Equipment operator instructions and restrictions
 Classification of professional in charge
 Type of request: amendment, new, or renewal
 Protection survey results, if applicable
 Radiation Safety Officer name, if applicable
 Laser class and type, if applicable
 Information required by Article 14 for the specific source
 Use location
 Telephone number
 Facility subtype
 Signature of certifying agent

Equipment identifiers
 Scale drawing
 Physicist name and training, if applicable
 Contact person
 Applicable fee listed in Article 13 schedule

Historical Note

New Article 14, Appendix B recodified from 12 A.A.C. 1, Article 14, Appendix B at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Appendix C. Health Professional Training Program

1. General Considerations. An applicant shall ensure that:
 - a. The training program is specific to the medical laser or IPL device in use and the clinical procedures to be performed;
 - b. Program content is consistent with facility policy and procedure and applicable federal and state law; and
 - c. The training program addresses hazards associated with laser or IPL device use.
2. Technical Considerations. The applicant's training program shall cover all of the following technical subjects:
 - a. Laser and IPL device descriptions
 - b. Definitions
 - c. Laser and IPL device radiation fundamentals
 - d. Laser mediums, types of lasers, and other light-emitting devices – solid, liquid, gas, and IPL devices
 - e. Biological effects of laser or IPL device light
 - f. Damage mechanisms
 - i. Eye hazard
 - ii. Skin hazard (includes information regarding skin type and skin anatomy)
 - iii. Absorption and wavelength effects
 - iv. Thermal effects
 - g. Photo chemistry
 - h. Criteria for setting the Maximum Permissible Exposure (MPE) for eye and skin associated hazards
 - i. Explosive, electrical, and chemical hazards
 - j. Photosensitive medications
 - k. Fire, ionizing radiation, cryogenic hazards, and other hazards, as applicable
3. Medical Considerations. The applicant's training program shall cover all of the following medical subjects:
 - a. Local anesthesia techniques, including ice, EMLA cream, and other applicable topical treatments
 - b. Typical laser and IPL device settings for hair removal and cosmetic procedures
 - c. Expected patient response to treatment
 - d. Potential adverse reactions to treatment
 - e. Anatomy and physiology of skin areas to be treated
 - f. Indications and contraindications for use of pigment and vascular-specific lasers for cutaneous procedures
4. General Laser or IPL device safety. The applicant's training program shall cover the following general safety subjects:
 - a. Laser and IPL device classifications
 - b. Control measures (includes information regarding protective equipment)
 - c. Manager and operator responsibilities
 - d. Medical surveillance practices
 - e. Federal and state legal requirements
 - f. Related safety issues
 - i. Controlled access
 - ii. Plume management

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- iii. Equipment testing, aligning, and troubleshooting

Historical Note

New Article 14, Appendix C recodified from 12 A.A.C. 1, Article 14, Appendix C at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 30 A.A.R. 164 (January 26, 2004), with an immediate effective date of January 4, 2024 (Supp. 24-1).

Appendix D. Laser Operator and Laser Safety Officer Training

1. Operators and personnel that work around lasers:
 - a. Fundamentals of laser operation (for example: physical principles, construction, and other basic information)
 - b. Bioeffects of laser radiation on the eye and skin
 - c. Significance of specular and diffuse reflections
 - d. Non-beam hazards of lasers (for example: electrical, chemical, and reaction byproducts)
 - e. Ionizing radiation hazards (includes information regarding x-rays from power sources and target interactions, if applicable)
 - f. Laser and laser system classifications
 - g. Control measures
 - h. Responsibilities of managers and operators
 - i. Medical surveillance practices (if applicable)
 - j. CPR for personnel servicing lasers with exposed high voltages, the capability of producing potentially lethal electrical currents, or both.
2. The LSO or other individual responsible for the safety program, evaluation of hazards, and implementation of control measures, or any others, if directed by management to obtain a thorough knowledge of laser safety:
 - a. The subjects covered in subsection (1)
 - b. Laser terminology
 - c. Laser types, wavelengths, pulse shapes, modes, power and energy
 - d. Basic radiometric units and measurement devices
 - e. MPE levels for eye and skin under all conditions
 - f. Laser hazard evaluations, range equations, and other calculations
3. Technical Considerations
 - a. Laser and IPL device descriptions
 - b. Definitions
 - c. Laser and IPL device radiation fundamentals
 - d. Laser mediums, types of lasers, and other light-emitting devices (includes information regarding diodes and solid, liquid, gas, and IPL devices)
 - e. Biological effects of laser or IPL device light
 - f. Damage mechanisms
 - i. Eye hazard
 - ii. Skin hazard (includes information regarding skin type and skin anatomy)
 - iii. Absorption and wavelength effects
 - iv. Thermal effects
 - g. Photo chemistry
 - h. Photosensitive medications
 - i. Criteria for setting the Maximum Permissible Exposure (MPE) levels for eye and skin associated hazards
 - j. Explosive, electrical, and chemical hazards
 - k. Fire, ionizing radiation, cryogenic hazards, and other hazards as applicable.

Historical Note

New Article 14, Appendix D recodified from 12 A.A.C. 1, Article 14, Appendix D at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 15. TRANSPORTATION**R9-7-1501. Requirement for License**

- A. A person shall not transport radioactive material or deliver radioactive material to a carrier for transport unless the person is authorized in a general or specific license issued by the Department or exempt under R9-7-103(A).
- B. This Article applies to any licensee to transfer licensed material if the licensee delivers that material to a carrier for transport, transports the material outside the site of usage as specified in the license, or transports that material on public highways. No provision of this Article authorizes possession of licensed material.

Historical Note

New Section R9-7-1501 recodified from R12-1-1501 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1502. Definitions

Terms defined in Article 1 have the same meaning when used in this Article.

Historical Note

New Section R9-7-1502 recodified from R12-1-1502 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1503. Transportation of Licensed Material

Each licensee that transports licensed material outside the site of usage, as specified in a Department license, or where transport is on public highways, or that delivers licensed material to a carrier for transport, shall comply with the applicable requirements of the U.S. Department of Transportation regulations listed in 10 CFR 71.5, revised January 1, 2008, incorporated by reference and available under R9-7-101. This incorporated material contains no future editions or amendments.

Historical Note

New Section R9-7-1503 recodified from R12-1-1503 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1504. Intrastate Transportation and Storage of Radioactive Materials

- A. A general license is issued to:
 1. Any common or contract carrier not exempt under R9-7-103 to receive, possess, transport, and store radioactive material in the regular course of carriage for others or to store radioactive material incident to the transport activities, provided the transportation or storage is in accordance with applicable requirements for the mode of transport of the U.S. Department of Transportation, 49 CFR 171 through 180, revised October 1, 2007, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
 2. Any private carrier or licensee who transports and stores radioactive material, provided the transportation and storage are in accordance with the requirements applicable to the mode of transport, of the U.S. Department of Transportation, 49 CFR 171 through 180, revised October 1, 2007, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

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- B. Any notification of incidents required under federal regulations in subsection (A) shall also be filed with, or made to, the Department.
- C. A person who transports or stores radioactive material according to the general license in this Section is exempt from the requirements of Article 4 and Article 10 of this Chapter to the extent that this Section applies to transportation of the radioactive material.

Historical Note

New Section R9-7-1504 recodified from R12-1-1504 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1505. Storage of Radioactive Material in Transport

- A. A carrier shall not store, for any period in excess of 72 hours, any package that contains radioactive material bearing a Department of Transportation Yellow II or Yellow III label, unless the radioactive material is stored in an area other than, and not adjacent to, any food storage area or area that is normally occupied by an individual.
- B. A carrier shall not store a package that contains radioactive material with other hazardous materials, except as authorized by U.S. Department of Transportation regulations in 49 CFR 177.848, revised October 1, 2007, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- C. Whenever a package containing radioactive material is stored in excess of 48 hours, the storage area shall be conspicuously posted according to the requirements of Article 4.
- D. When transit is interrupted and storage is required for an extended period, the following requirements apply:
 - 1. When radioactive materials are stored for longer than 48 hours during transit, the carrier shall notify the local fire department and provide the following information:
 - a. Warehouse location and carrier name and telephone number;
 - b. Radionuclide(s);
 - c. Activity per package in curies or becquerels and number of packages;
 - d. Form (solid, metallic, liquid, gas);
 - e. Flammability (if flammable);
 - f. Specific location in warehouse;
 - g. Estimated date of departure;
 - h. Toxicity (if toxic).
 - 2. If the radioactive material will be, or has been in storage for longer than 90 days, the carrier shall notify the Department in writing and include the information required in subsection (D)(1).
 - 3. The licensee or carrier shall immediately notify the Department of Public Safety of an accident involving radioactive material.

Historical Note

New Section R9-7-1505 recodified from R12-1-1505 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1506. Preparation of Radioactive Material for Transport

A licensee shall not deliver any package that contains radioactive material to a carrier for transport or transport radioactive material, unless the licensee:

- 1. Complies with the U.S. Department of Transportation packaging, monitoring, manifesting, marking, and labeling regulations applicable to the mode of transport, (Contained in 49 CFR 171 through 180, revised October 1, 2007, or 39 CFR 111.1, revised July 1, 2007, incorporated by reference, and available under R9-7-101. This

incorporated material contains no future editions or amendments.); and

- 2. Establishes procedures for safely opening and closing packages in which radioactive material is transported; and
- 3. Prior to delivery of a package to a carrier for transport, assures that:
 - a. The package is properly closed, and
 - b. Any special instructions needed to safely open the package are made available to the consignee.

Historical Note

New Section R9-7-1506 recodified from R12-1-1506 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1507. Packaging Quality Assurance

- A. A licensee that transports radioactive material in the course of business or delivers radioactive material to a carrier for transport in a package for which a license, certificate of compliance, applicant for a certificate of compliance, or other approval has been issued by the Nuclear Regulatory Commission, or meets the applicable criteria (10 CFR 71, Subpart H), shall establish, maintain, and execute the quality assurance program specified in 10 CFR 71, Subpart H.
- B. The transportation of radioactive material shall be in accordance with the requirements in 10 CFR Part 71, with the exception of the following sections: 71.2, 71.6, 71.11, 71.14(b), 71.19, 71.31, 71.33, 71.35, 71.37, 71.38, 71.39, 71.41, 71.43, 71.45, 71.51, 71.52, 71.53, 71.55, 71.59, 71.61, 71.63, 71.64, 71.65, 71.70, 71.71, 71.73, 71.74, 71.75, 71.77, 71.85(a)-(c), 71.91(b), 71.99, 71.100, 71.101(c)(2), 71.101(g), 71.107, 71.109, 71.111, 71.113, 71.115, 71.117, 71.119, 71.121, 71.123 and 71.125. The provisions of this subsection apply to the transportation of radioactive material, or delivery of radioactive material to a carrier for transportation, regardless of whether or not the carrier is also subject to the rules and regulations of the NRC contained in 10 CFR Part 71 and other agencies of the United States having jurisdiction.
- C. In addition to the requirements in subsection (A) for a quality assurance program, a licensee shall verify by procedures such as checking or inspection, that deficiencies or defective material or equipment relative to the shipment of packages containing radioactive material are promptly identified and corrected.
- D. Before the first use of any Type B packaging, a licensee shall obtain approval of its quality assurance program by the Department.
- E. A licensee shall maintain sufficient written records to demonstrate compliance with the quality assurance program. Records of quality assurance pertaining to the use of a Type B package for shipment of radioactive material shall be maintained for three years after the package is used for a shipment.

Historical Note

New Section R9-7-1507 recodified from R12-1-1507 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-1508. Advance Notification of Nuclear Waste Transportation

- A. Prior to the transport of any nuclear waste, as defined in Article 1, outside of the confines of the licensee's facility or other place of use or storage, or prior to the delivery of any nuclear waste to a carrier for transport, each licensee shall provide advance notification of such transport to the Department.

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- B.** Each advance notification required in subsection (A) above shall contain the following information:
1. The name, address, and telephone number of the shipper, carrier, and receiver of the shipment;
 2. A description of the nuclear waste contained in the shipment as required by 49 CFR 172.202 and 172.203(d) (Revised October 1, 2007, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.);
 3. The point of origin of the shipment and the seven-day period during which departure of the shipment will occur;
 4. The seven-day period during which arrival of the shipment at state boundaries will occur;
 5. The destination of the shipment, and the seven-day period during which arrival of the shipment will occur; and
 6. A point of contact with a telephone number for current shipment information.
- C.** The licensee shall make the notification required by subsection (A) in writing to the Department. A notification delivered by mail must be postmarked at least seven days before the beginning of the seven-day period during which departure of the shipment is estimated to occur. The licensee shall maintain a copy of the notification for one year.
- D.** The licensee shall notify the Department of any changes in shipment plans, including cancellations, rerouting, or rescheduling, provided pursuant to subsection (A). Such notification shall be by telephoning the Department. The licensee shall maintain for one year a record of the name of the individual contacted.
- E.** After June 11, 2013, each licensee shall provide advance notification to the Tribal official of participating Tribes referenced in paragraph (c)(3)(iii) of 10 CFR 71.97, or the official's designee, of the shipment of licensed material, within or across the boundary of the Tribe's reservation, before the transport, or delivery to a carrier, for transport, of licensed material outside the confines of the licensee's plant or other place of use or storage.
- D.** The general license applies only to packages labeled with a CSI which:
1. Has been determined in accordance with subsection (E);
 2. Has a value less than or equal to 100; and
 3. For a shipment of multiple packages containing Pu-Be sealed sources, the sum of the CSIs must be less than or equal to 50 (for shipment on a nonexclusive use conveyance) and less than or equal to 100 (for shipment on an exclusive use conveyance).
- E.** The value for the CSI must be greater than or equal to the number calculated by the following equation:
1. $CSI = 10[(\text{grams of } ^{239}\text{Pu} + \text{grams of } ^{241}\text{Pu})/24]$,
 2. The calculated CSI must be rounded up to the first decimal place.

Historical Note

New Section R9-7-1509 recodified from R12-1-1509 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1510. Packaging

- A.** A general license is issued to any licensee to transport, or to deliver to a carrier for transport, licensed material in a package for which a license, certificate of compliance, or other approval has been issued by the NRC.
1. This general license applies only to a licensee that has a quality assurance program approved by the Department as satisfying R9-7-1507;
 2. This general license applies only to a licensee that:
 - a. Has a copy of the license, certificate of compliance, or other approval of the package, and has the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken before shipment;
 - b. Complies with the terms and conditions of the license, certificate, or other approval, as applicable, and the applicable requirements of this Article;
 - c. Before the licensee's first use of the package, submits in writing to the Department and to ATTN: Document Control Desk, Director, Division of Fuel Management, Office of Nuclear Material Safety and Safeguards, using an appropriate method listed in 10 CFR 71.1(a), the licensee's name, license number, and the package identification number specified in the package approval;
 - d. The licensee shall make available to the Department for inspection, upon reasonable notice, all records required by this part. Records are only valid if stamped, initialed, or signed and dated by authorized personnel, or otherwise authenticated; and
 - e. The licensee shall maintain sufficient written records to furnish evidence of the quality of packaging. The records to be maintained include results of the determinations required by 10 CFR 71.85; design, fabrication, and assembly records; results of reviews, inspections, tests, and audits; results of monitoring work performance and materials analyses; and results of maintenance, modification, and repair activities. Inspection, test, and audit records must identify the inspector or data recorder, the type of observation, the results, the acceptability, and the action taken in connection with any deficiencies noted. These records must be retained for three years after the life of the packaging to which they apply.
 3. This general license applies only when the package approval authorizes use of the package under this general license.

Historical Note

New Section R9-7-1508 recodified from R12-1-1508 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-1509. General License: Plutonium-Beryllium Special Form Material

- A.** A general license is issued to any licensee of the Department to transport fissile material in the form of plutonium-beryllium (Pu-Be) special form sealed sources, or to deliver Pu-Be sealed sources to a carrier for transport, if the material is shipped in accordance with this Article. This material must be contained in a Type A package. The Type A package must also meet the DOT requirements of 49 CFR 173.417(a), revised October 1, 2010, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- B.** The general license applies only to a licensee who has a quality assurance program approved by the Department as satisfying the provisions of R9-7-1507.
- C.** The general license applies only when a package's contents:
1. Contain no more than a Type A quantity of radioactive material; and
 2. Contain less than 1000 g of plutonium, provided that: plutonium-239, plutonium-241, or any combination of these radionuclides, constitutes less than 240 g of the total quantity of plutonium in the package.

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4. For a Type B or fissile material package, the design of which was approved by NRC before April 1, 1996, the general license is subject to the additional restrictions of subsection (B).
- B. Type B packages.**
 1. Before the first use of any packaging for the shipment of licensed material, refer to 10 CFR 71.85 (a), (b) and (c).
 2. A Type B(U) package, a Type B(M) package, a low specific activity (LSA) material package or a fissile material package, previously approved by the NRC but without the "-85" designation in the identification number of the NRC certificate of compliance, may be used under the general license of subsection (A) with the following additional conditions:
 - a. Fabrication of the packaging is satisfactorily completed by April 1, 1999 as demonstrated by application of its model number in accordance with 10 CFR 71.85(c);
 - b. A package that is used for a shipment to a location outside the United States is subject to multilateral approval as defined in 49 CFR 173.403, revised January 8, 2015, incorporated by reference, available under R9-7-101, and containing no future editions or amendments; and
 - c. A serial number which uniquely identifies each package which conforms to the approved design and is assigned to, and legibly and durably marked on, the outside of each package.
 3. A licensee may modify the design and authorized contents of a Type B package, or a fissile material package, previously approved by NRC, provided:
 - a. The modifications of a Type B package are not significant with respect to the design, operating characteristics, or safe performance of the containment system, when the package is subjected to the tests specified in 10 CFR 71.71 and 71.73;
 - b. The modifications of a fissile material package are not significant, with respect to the prevention of criticality, when the package is subjected to the tests specified in 10 CFR 71.71 and 71.73; and
 - c. The modifications to the package satisfy the requirements of this Section.
 4. The NRC will revise the package identification number to designate previously approved package designs as B(U), B(M), AF, BF, or A as applicable, and with the identification number suffix "-85" after receipt of an application demonstrating that the design meets the requirements of this Section.
 5. For purposes of this Section, package types are defined in 10 CFR 71.4.
- C. A general license is issued to any licensee of the Department to transport fissile material, or to deliver to a carrier for transport, licensed material in a specification container for fissile material or for a Type B quantity of radioactive material as specified in 49 CFR 173, revised July 16, 2018, and 49 CFR 178, revised March 11, 2013, incorporated by reference, available under R9-7-101, and containing no future editions or amendments, if the following requirements are met:**
 1. The licensee maintains a quality assurance program approved by the Department as satisfying R9-7-1507;
 2. The licensee:
 - a. Maintains a copy of the specification; and
 - b. Complies with the terms and conditions of the specification and the applicable requirements in 10 CFR 71, Subparts A, G, and H;
 3. The licensee does not use the specification container for a shipment to a location outside the United States, except by multilateral approval, as defined in 49 CFR 173.403, revised January 1, 2015, incorporated by reference, available under R9-7-101, and containing no future editions or amendments;
 4. The general license applies only when a package's contents:
 - a. Contain no more than a Type A quantity of radioactive material; and
 - b. Contain less than 500 total grams of beryllium, graphite, or hydrogenous material enriched in deuterium;
 5. The general license applies only to packages containing fissile material that are labeled with a CSI which:
 - a. Has been determined in accordance with subsection (E);
 - b. Has a value less than or equal to 10; and
 - c. For a shipment of multiple packages containing fissile material, the sum of the CSIs must be less than or equal to 50 (for shipment on a nonexclusive use conveyance) and less than or equal to 100 (for shipment on an exclusive use conveyance); and
 6. The CSI value meets the following requirements:
 - a. The value for the CSI must be greater than or equal to the number calculated by the following equation: $CSI=10[(\text{grams of } 235\text{U}/X) + (\text{grams of } 235\text{U}/Y) + (\text{grams of } 235\text{U}/Z)]$;
 - b. The calculated CSI must be rounded up to the first decimal place;
 - c. The values of X, Y, and Z used in the CSI equation must be taken from Tables 71-1 or 71-2 as appropriate located in 10 CFR 71.22;
 - d. If Table 71-2 is used to obtain the value of X, then the values for the terms in the equation for uranium-233 and plutonium must be assumed to be zero; and
 - e. Table 71-1 values for X, Y, and Z must be used to determine the CSI if:
 - i. Uranium-233 is present in the package;
 - ii. The mass of plutonium exceeds 1 percent of the mass of uranium-235;
 - iii. The uranium is of unknown uranium-235 enrichment or greater than 24 weight percent enrichment; or
 - iv. Substances having a moderating effectiveness (i.e., an average hydrogen density greater than H₂O) (e.g., certain hydrocarbon oils or plastics) are present in any form, except as polyethylene used for packing or wrapping.
- D. Foreign packaging.**
 1. A general license is issued to any licensee of the Department to transport, or to deliver to a carrier for transport, licensed material in a package the design of which has been approved in a foreign national competent authority certificate that has been revalidated by the Federal Department of Transportation as meeting the applicable requirements of 49 CFR 171.23, revised March 30, 2017, incorporated by reference, available under R9-7-101, and containing no future editions or amendments.
 2. Except as otherwise provided in this Section, the general license applies only to a licensee who has a quality assurance program approved by the Department as satisfying the applicable provisions of R9-7-1507.
 3. This general license applies only to:
 - a. Shipments made to or from locations outside the United States.

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- b. A licensee that:
- Has a copy of the applicable certificate, the revalidation, and the drawings and other documents referenced in the certificate, relating to the use and maintenance of the packaging and to the actions to be taken before shipment; and
 - Complies with the terms and conditions of the certificate and revalidation, and with the applicable requirements in 10 CFR 71, Subparts A, G, and H, revised September 9, 2015.
- E. Routine determination before each shipment of licensed material shall ensure that the package with its contents satisfies the applicable requirements of this Article and of the license. The licensee shall determine that:
- The package is proper for the contents to be shipped;
 - The package is in unimpaired physical condition except for superficial defects such as marks or dents;
 - Each closure device of the packaging, including any required gasket, is properly installed and secured and free of defects;
 - Any system for containing liquid is adequately sealed and has adequate space or other specified provision for expansion of the liquid;
 - Any pressure relief device is operable and set in accordance with written procedures;
 - The package has been loaded and closed in accordance with written procedures;
 - For fissile material, any moderator or neutron absorber, if required, is present and in proper condition;
 - Any structural part of the package that could be used to lift or tie down the package during transport is rendered inoperable for that purpose, unless it satisfies the design requirements of 10 CFR 71.45;
 - The level of non-fixed (removable) radioactive contamination on the external surfaces of each package offered for shipment is as low as reasonably achievable, and within the limits specified in DOT regulations in 49 CFR 173.443, revised July 11, 2014, incorporated by reference, available under R9-7-101, and containing no future editions or amendments;
 - External radiation levels around the package and around the vehicle, if applicable, will not exceed the limits specified in 10 CFR 71.47, at any time during transportation; and
 - Accessible package surface temperatures will not exceed the limits specified in 10 CFR 71.43(g), at any time during transportation.
- F. Fissile material meeting the requirements of at least one of the conditions in subsections (F)(1) through (F)(6) are exempt from classification as fissile material and from the fissile material package standards of 10 CFR 71.55 and 71.59, but are subject to all other requirements of this part, except as noted.
- Individual package containing 2 grams or less fissile material.
 - Individual or bulk packaging containing 15 grams or less of fissile material provided the package has at least 200 grams of solid nonfissile material for every gram of fissile material. Lead, beryllium, graphite, and hydrogenous material enriched in deuterium may be present in the package but must not be included in determining the required mass for solid nonfissile material.
 - Low concentrations of solid fissile material commingled with solid nonfissile material, provided that:
 - There is at least 2000 grams of solid nonfissile material for every gram of fissile material;
 - There is no more than 180 grams of fissile material distributed within 360 kg of contiguous nonfissile material; and
 - Lead, beryllium, graphite, and hydrogenous material enriched in deuterium may be present in the package but must not be included in determining the required mass of solid nonfissile material.
 - Uranium enriched in uranium-235 to a maximum of 1 percent by weight, and with total plutonium and uranium-233 content of up to 1 percent of the mass of uranium-235, provided that the mass of any beryllium, graphite, and hydrogenous material enriched in deuterium constitutes less than 5 percent of the uranium mass, and that the fissile material is distributed homogeneously and does not form a lattice arrangement within the package.
 - Liquid solutions of uranyl nitrate enriched in uranium-235 to a maximum of 2 percent by mass, with a total plutonium and uranium-233 content not exceeding 0.002 percent of the mass of uranium, and with a minimum nitrogen to uranium atomic ratio (N/U) of 2. The material must be contained in at least a DOT Type A package.
 - Packages containing, individually, a total plutonium mass of not more than 1000 grams, of which not more than 20 percent by mass may consist of plutonium-239, plutonium-241, or any combination of these radionuclides.

Historical Note

New Section R9-7-1510 recodified from R12-1-1510 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-1511. Air Transport of Plutonium

- A. Notwithstanding the provisions of any general licenses and notwithstanding any exemptions stated directly in this Section or included indirectly by citation of 49 CFR 107, and 171 through 180, previously incorporated in this Article, as may be applicable, the licensee shall ensure that plutonium in any form, whether for import, export, or domestic shipment, is not transported by air or delivered to a carrier for air transport unless:
- The plutonium is contained in a medical device designed for individual human application; or
 - The plutonium is contained in a material in which the specific activity is less than or equal to the activity concentration values for Plutonium specified in 10 CFR 71, Appendix A, Table A-2 (Revised January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.), and in which the radioactivity is essentially uniformly distributed; or
 - The plutonium is shipped in a single package containing no more than an A2 quantity of plutonium in any isotope or form, and is shipped in accordance with R9-7-1503 and 10 CFR 71.5 (Revised January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.); or
 - The plutonium is shipped in a package specifically authorized for the shipment of plutonium by air in the Certificate of Compliance for that package issued by the NRC.
- B. Nothing in subsection (A) is to be interpreted as removing or diminishing the requirements of 10 CFR 73.24, January 1, 2008, incorporated by reference, and available under R9-7-

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101. This incorporated material contains no future editions or amendments.

- C. For a shipment of plutonium by air that is subject to subsection (A)(4), the licensee shall, through special arrangement with the carrier, require compliance with 49 CFR 175.704, revised October 1, 2007, incorporated by reference, and available under R9-7-101. This U.S. Department of Transportation regulation is applicable to the air transport of plutonium. This incorporated material contains no future editions or amendments.

Historical Note

New Section R9-7-1511 recodified from R12-1-1511 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1512. Advance Notification of Shipment of Irradiated Reactor Fuel and Nuclear Waste

- A. A licensee shall provide advance notification to the Governor, or the Director of the Department, of the shipment of licensed material as specified in 10 CFR 71.97, revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- B. After June 11, 2013, each licensee shall provide advance notification to the Tribal official of participating Tribes referenced in paragraph (c)(3)(iii) of 10 CFR 71.97, or the Tribal official's designee, of the shipment of licensed material, within or across the boundary of the Tribe's reservation, before the transport, or delivery to a carrier, for transport, of licensed material outside the confines of the licensee's plant or other place of use or storage.
- C. Advance notification is also required under this Section for the shipment of licensed material, other than irradiated fuel, meeting the following three conditions:
1. The licensed material is required by this Chapter to be in Type B packaging for transportation;
 2. The licensed material is being transported to or across a State boundary en route to a disposal facility or to a collection point for transport to a disposal facility; and
 3. The quantity of licensed material in a single package exceeds the least of the following:
 - a. 3000 times the A1 value of the radionuclides as specified in appendix A, Table A-1 for special form radioactive material;
 - b. 3000 times the A2 value of the radionuclides as specified in appendix A, Table A-1 for normal form radioactive material; or
 - c. 1000 TBq (27,000 Ci).
- D. Procedures for submitting advance notification.
1. The advance notification shall be made in writing to:
 - a. The office of each appropriate Governor or Governor's designee;
 - b. For the portion of the route through Arizona, the Department;
 - c. The office of each appropriate Tribal official or Tribal official's designee; and
 - d. The Director, Division of Security Policy, Office of Nuclear Security and Incident Response.
 2. A notification delivered by:
 - a. Mail must be postmarked at least seven days before the beginning of the seven-day period during which departure of the shipment is estimated to occur; and
 - b. Any means other than mail must reach the Office of the Governor or of the Governor's designee or the Tribal official or Tribal official's designee at least four days before the beginning of the seven-day

period during which departure of the shipment is estimated to occur.

3. Contact information for each State and participating Tribes, including telephone and mailing addresses of Governors and Governors' designees and of Tribal officials and Tribal official's designees, including telephone and mailing addresses, is available:
 - a. At <https://scp.nrc.gov/special/designee.pdf>; or
 - b. Or on request from the Director, Division of Materials Safety, Security, State, and Tribal Programs, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.
4. Notification to the Department:
 - a. By mail addressed to: ATTN: Arizona Department of Health Services; Bureau of Radiation Control; Radioactive Materials Program; 4814 South 40th Street, Phoenix, Arizona 85040;
 - b. By hand delivery to the Department's offices at 4814 South 40th Street, Phoenix, Arizona 85040;
 - c. By electronic submission, ram@azdhs.gov; and
 - d. By telephone at 480-202-4982.
5. Each advance notification shall contain the following information:
 - a. The name, address, and telephone number of the shipper, carrier, and receiver of the irradiated reactor fuel or nuclear waste shipment;
 - b. The license numbers of the shipper and receiver;
 - c. A description of the irradiated reactor fuel or nuclear waste contained in the shipment, including the radionuclides and quantity;
 - d. The point of origin of the shipment and the estimated time and date that departure of the shipment will occur;
 - e. The estimated time and date that the shipment is expected to enter each State or Tribal reservation boundary along the route;
 - f. The destination of the shipment, and the estimated time and date of arrival of the shipment at the destination; and
 - g. A point of contact, with a telephone number, for current shipment information.
- E. Revision notice: A licensee shall contact by telephone each individual previously notified according to subsection (D)(1) to provide any information not previously available at the time of the initial notification or any changes to the information previously provided as soon as the information becomes available.
- F. Cancellation notice: Each licensee who cancels a shipment for which advance notification has been sent shall send a cancellation notice:
 1. To each individual previously notified according to subsections (D)(1) through (4),
 2. Before the shipment would have commenced or as soon thereafter as possible, and
 3. Identifying the advance notification to which the notice of cancellation pertains and stating in the notice that the shipment is cancelled.
- G. Records: A licensee shall retain a copy of the advance notification and any revision notices or cancellation notices as a record for at least three years.

Historical Note

New Section R9-7-1512 recodified from R12-1-1512 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 24 A.A.R.

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2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-1513. Opening Instructions

Before delivery of a package to a carrier for transport, the licensee shall ensure that any special instructions needed to safely open the package have been sent to, or otherwise made available to, the consignee for the consignee's use in accordance with 10 CFR 20.1906(e) revised January 1, 2010, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

Historical Note

New Section R9-7-1513 recodified from R12-1-1513 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1514. Records

- A.** Each licensee shall maintain, for a period of three years after shipment, a record of each shipment of licensed material not exempt under R9-7-1515, showing where applicable:
1. Identification of the packaging by model number and serial number;
 2. Verification that there are no significant defects in the packaging, as shipped;
 3. Volume and identification of coolant;
 4. Type and quantity of licensed material in each package, and the total quantity of each shipment;
 5. For each item of irradiated fissile material:
 - a. Identification by model number and serial number;
 - b. Irradiation and decay history to the extent appropriate to demonstrate that its nuclear and thermal characteristics comply with license conditions; and
 - c. Any abnormal or unusual condition relevant to radiation safety;
 6. Date of the shipment;
 7. For fissile packages and for Type B packages, any special controls exercised;
 8. Name and address of the transferee;
 9. Address to which the shipment was made; and
 10. Results of the determinations required by R9-7-1510(E) and by the conditions of the package approval.
- B.** The licensee shall make available to the Department for inspection, upon reasonable notice, all records required by this Chapter. Records are only valid if stamped, initialed, or signed and dated by authorized personnel, or otherwise authenticated.
- C.** The licensee shall maintain sufficient written records to furnish evidence of the quality of packaging. The records to be maintained include results of the determinations required by R9-7-1507; design, fabrication, and assembly records; results of reviews, inspections, tests, and audits; results of monitoring work performance and materials analyses; and results of maintenance, modification, and repair activities. Inspection, test, and audit records must identify the inspector or data recorder, the type of observation, the results, the acceptability, and the action taken in connection with any deficiencies noted. These records must be retained for three years after the life of the packaging to which they apply.
- D.** Each record required by this Chapter must be legible throughout the retention period specified by each Department regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete

records during the required retention period. Records such as letters, drawings, and specifications must include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

Historical Note

Section R9-7-1514 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1). New Section made by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-1515. Exemption for Low-level Radioactive Materials

- A.** A licensee is exempt from all the requirements of 10 CFR 71 with respect to shipment or carriage of the low-level materials listed in 10 CFR 71.14(a), revised January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- B.** Natural material and ores containing naturally occurring radionuclides that are either in their natural state, or have only been processed for purposes other than for the extraction of the radionuclides, and which are not intended to be processed for the use of these radionuclides, provided the activity concentration of the material does not exceed 10 times the applicable radionuclide activity concentration values specified in appendix A, Table A-2, or Table A-3 of this part.
- C.** Materials for which the activity concentration is not greater than the activity concentration values specified in appendix A, Table A-2, or Table A-3 of this part, or for which the consignment activity is not greater than the limit for an exempt consignment found in appendix A, Table A-2, or Table A-3 of 10 CFR 71 Appendix A.
- D.** Non-radioactive solid objects with radioactive substances present on any surfaces in quantities not in excess of the levels cited in the definition of contamination in 10 CFR 71.4.

Historical Note

New Section R9-7-1515 recodified from R12-1-1515 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

ARTICLE 16. RESERVED**ARTICLE 17. WIRELINE SERVICE OPERATIONS AND SUBSURFACE TRACER STUDIES****R9-7-1701. Definitions**

"Energy compensation source (ECS)" means a small sealed source, with activity that does not exceed 3.7 Mbq (100 microcuries), contained within a logging tool or other tool component.

"Tritium neutron generator target source" means a tritium source contained within a tritium neutron generator tube that produces neutrons for use in well logging applications.

Historical Note

New Section R9-7-1701 recodified from R12-1-1701 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1702. Agreement with Well Owner or Operator

- A.** A licensee that performs wireline service (well logging) with a sealed source shall enter into a written agreement with the employing well owner or operator that identifies the party responsible for complying with each of the following requirements. The responsible party shall:
1. Make a reasonable effort to recover any sealed source that may be lodged in the well;

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2. Not attempt to recover a sealed source in a manner which, in the licensee's opinion, is likely to result in its rupture;
3. Perform the radiation monitoring required in R9-7-1723(A);
4. Decontaminate anyone or anything contaminated with licensed material before releasing personnel or equipment from the site or releasing the site for unrestricted use; and
5. If a source is classified by the Department as irretrievable after reasonable efforts at recovery, implement the following requirements within 30 days:
 - a. Immobilize the irretrievable well logging source and seal it in place with a cement plug;
 - b. Provide a means to prevent inadvertent intrusion that could damage the source, unless the site is rendered inaccessible to subsequent drilling operations; and
 - c. Mount a permanent identification plaque, constructed of long-lasting material, such as stainless steel, brass, bronze, or Monel, in a conspicuous location adjacent to the well. The responsible party shall ensure that the plaque size is at least 17 cm (7 inches) square and 3 mm (1/8 inch) thick and the following information is written on the plaque:
 - i. The word "CAUTION,"
 - ii. The radiation symbol (the color requirement in R9-7-428(A) does not apply),
 - iii. The date the source was abandoned,
 - iv. The name of the well owner or operator that employed the licensee;
 - v. The well name and identification number or other designation,
 - vi. An identification of each source by radionuclide and quantity of radionuclide,
 - vii. The depth of the source and depth to the top of the plug, and
 - viii. The following warning, "DO NOT RE-ENTER THIS WELL," and
 - d. Notify the Oil and Gas Conservation Commission, Department of Water Resources, or Department of Environmental Quality of the abandoned source, as required by law.
- B. A licensee shall maintain a copy of the agreement at the field station during logging operations. The licensee shall retain a copy of the written agreement for three years after completion of the well logging operation.
- C. A licensee may apply in accordance with A.R.S. § 30-654(B)(13) for Department approval, on a case-by-case basis, of proposed procedures to abandon an irretrievable well logging source in a manner not otherwise authorized in subsection (A)(5).
- D. A written agreement between the licensee and the well owner or operator is not required if the licensee and the well owner or operator are employed by the same corporation or other business entity. If so, the licensee shall comply with the requirements in subsections (A)(1) through (A)(5).

Historical Note

New Section R9-7-1702 recodified from R12-1-1702 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1703. Limits on Levels of Radiation

A person in possession of any source of radiation shall transport the source according to 9 A.A.C. 7, Article 15, and use or store the source in a manner that is consistent with the dose limits in 9 A.A.C. 7, Article 4.

Historical Note

New Section R9-7-1703 recodified from R12-1-1703 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1704. Reserved**Historical Note**

Section R9-7-1704 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1705. Reserved**Historical Note**

Section R9-7-1705 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1706. Reserved**Historical Note**

Section R9-7-1706 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1707. Reserved**Historical Note**

Section R9-7-1707 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1708. Reserved**Historical Note**

Section R9-7-1708 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1709. Reserved**Historical Note**

Section R9-7-1709 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1710. Reserved**Historical Note**

Section R9-7-1710 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1711. Reserved**Historical Note**

Section R9-7-1711 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1712. Storage Precautions

- A. A person storing or transporting a source of radiation shall place the source in an approved storage container, transport container, or both. The container or combination of containers shall have a lock, or tamper-proof seal for calibration sources, to prevent unauthorized removal of the source and exposure to radiation.
- B. A person storing or transporting a source of radiation shall store the source in a manner that will minimize danger from explosion or fire.

Historical Note

New Section R9-7-1712 recodified from R12-1-1712 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1713. Transportation Precautions

Each licensee shall ensure that transport containers are physically secured in the transporting vehicle to prevent accidental movement, loss, tampering, or unauthorized removal.

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Historical Note

New Section R9-7-1713 recodified from R12-1-1713 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1714. Radiation Survey Instruments

- A. A licensee shall maintain at each field station and temporary job site a calibrated and operable radiation survey instrument capable of detecting beta and gamma radiation. The licensee shall ensure that the radiation survey instrument is capable of measuring 1.0 microsievert (0.1 millirem) per hour through 500 microsievert (50 millirem) per hour.
- B. A licensee shall ensure that additional calibrated and operable radiation detection instruments are available as needed and that the instruments are sensitive enough to detect the low radiation and contamination levels that could be encountered if a sealed source is ruptured.
- C. A licensee shall ensure that the radiation survey instrument required in subsection (A) is calibrated
 1. At intervals not to exceed six months and after each instrument servicing;
 2. At energies comparable to the energies of the radiation sources used;
 3. For linear scale instruments, at two points located approximately 1/3 and 2/3 of full-scale on each scale or for logarithmic scale instruments, at mid-range of each decade, and at two points of at least one decade; and
 4. So that accuracy within plus or minus 20 percent of the true radiation level can be demonstrated on each scale.
- D. A licensee shall retain calibration records for a period of three years from the date of calibration.

Historical Note

New Section R9-7-1714 recodified from R12-1-1714 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1715. Leak Testing of Sealed Sources

- A. A licensee that uses a sealed source shall ensure that the source is tested for leakage according to subsection (C). The licensee shall maintain a record of leak test results in units of Becquerels (Bq) or microcuries, for inspection by the Department for three years after the leak test is performed.
- B. A person authorized under R9-7-417(C) shall wipe a sealed source using a leak test kit or a similar method approved by the Department, the NRC, or another Agreement State. The authorized person shall take the wipe sample from the nearest accessible point to the sealed source where contamination might accumulate, and ensure the wipe sample is analyzed for radioactive contamination. The authorized person shall use a method of analysis capable of detecting the presence of 185 Bq (0.005 microcuries) of radioactive material on the test sample.
- C. Test frequency.
 1. A licensee shall ensure that each sealed source (except an energy compensation source (ECS)) is tested in accordance with R9-7-417. In the absence of a certificate from a transferor that a test has been performed within six months before transfer, a licensee shall not use the sealed source until it is tested.
 2. A licensee shall ensure that each ECS that is not exempt from testing under subsection (E) is tested at intervals that do not exceed three years. In the absence of a certificate from a transferor that a test has been performed within three years before transfer, a licensee shall not use the ECS until it is tested.
- D. Removal of leaking source from service.
 1. If a test conducted according to this Section reveals the presence of 185 Bq (0.005 microcuries) or more of

removable radioactive material, a licensee shall remove the sealed source from service immediately and have it decontaminated, repaired, or disposed of by a Department, a NRC, or an Agreement State licensee that is authorized to perform these functions. The licensee shall check the equipment associated with the leaking source for radioactive contamination and, if the equipment is contaminated, have it decontaminated or disposed of by a Department, a NRC, or an Agreement State licensee that is authorized to perform the chosen function.

2. A licensee shall submit a report to the Department, within five days of receiving positive test results. The report shall describe the equipment involved in the leak, the test results, any contamination that resulted from the leaking source, and each corrective action taken up to the date on the report.
- E. The following sealed sources are exempt from the periodic leak test requirements in subsections (A) through (D):
 1. Hydrogen-3 (tritium) sources;
 2. Sources that contain licensed material with a half-life of 30 days or less;
 3. Sealed sources that contain licensed material in gaseous form;
 4. Sources of beta- or gamma-emitting radioactive material with an activity of 3.7 MBq [100 microcuries] or less; and
 5. Sources of alpha- or neutron-emitting radioactive material with an activity of 0.37 MBq [10 microcuries] or less.

Historical Note

New Section R9-7-1715 recodified from R12-1-1715 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1716. Inventory

A licensee shall conduct a physical inventory every six months to account for all licensed material received and possessed under the license. The licensee shall maintain records of the inventory for three years from the date of the inventory for inspection by the Department. The inventory shall indicate the quantity and kind of licensed material, the location of the licensed material, the date of the inventory, and the name of each individual who conducted the inventory. Physical inventory records may be combined with leak test records.

Historical Note

New Section R9-7-1716 recodified from R12-1-1716 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1717. Utilization Records

Each licensee shall maintain records of use for three years from the date of the recorded event, that contain the following information for each source of radiation:

1. Make, model number, and serial number or a description of each source of radiation used;
2. The identity of the well-logging supervisor or the field unit to which the source is assigned;
3. Locations and dates of use; and
4. In the case of tracer materials and radioactive markers, the radionuclide and activity undertaken in a particular well.

Historical Note

New Section R9-7-1717 recodified from R12-1-1717 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1718. Design and Performance Criteria for Sealed Sources

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- A. A licensee shall use a sealed source for well logging applications if the sealed source:
1. Is doubly encapsulated;
 2. Contains licensed material in a chemical and physical form that is insoluble and nondispersible; and
 3. Meets the requirements of subsection (B), (C), or (D).
- B. For a sealed source manufactured on or before July 14, 1989, a licensee may use a sealed source in well logging applications that meets the requirements of USASI N5.4-1968, Classification of Sealed Radioactive Sources, available from the American National Standards Institute at 25 West 43rd Street, 4th floor, New York, NY 10036, which is incorporated by reference and on file with the Department, or the requirements in subsection (C) or (D). This incorporation by reference contains no future editions or amendments.
- C. For a sealed source manufactured after July 14, 1989, a licensee may use a sealed source in well logging applications that meets the oil-well logging requirements of ANSI/HPS N43.6-1997, Sealed Radioactive Sources--Classification, available from the American National Standards Institute at 25 West 43rd Street, 4th floor, New York, NY 10036, which is incorporated by reference and on file with the Department. This incorporation by reference contains no future editions or amendments.
- D. For a sealed source manufactured after July 14, 1989, a licensee may use a sealed source in well logging applications if the sealed source's prototype has been tested and found to maintain its integrity after each of the following required tests:
1. Temperature. The test source is held at -40° C for 20 minutes and 600° C for one hour, and then subjected to a thermal shock with a temperature drop from 600° C to 20° C within 15 seconds.
 2. Impact. A 5 kg steel hammer, 2.5 cm in diameter, is dropped from a height of 1 m onto the test source.
 3. Vibration. The test source is subjected to vibration in the 25 Hz to 500 Hz range at 5 g amplitude for 30 minutes.
 4. Puncture. A 1 gram hammer with a pin, 0.3 cm in diameter, is dropped from a height of 1 m onto the test source.
 5. Pressure. The test source is subjected to an external pressure of 1.695 x 10⁷ pascals (24,600 pounds per square inch absolute).
- E. The requirements in subsections (A), (B), (C), and (D) do not apply to a sealed source that contains licensed material in gaseous form.
- F. The requirements in subsections (A), (B), (C), and (D) do not apply to an energy compensation source (ECS).

Historical Note

New Section R9-7-1718 recodified from R12-1-1718 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1719. Labeling

- A. A licensee shall mark each source, source holder, or logging tool that contains radioactive material with a durable, legible, and clearly visible marking or label, consisting at minimum of the standard radiation caution symbol, without the conventional color requirement, and the following wording:

DANGER (or: CAUTION)
RADIOACTIVE

This labeling is required for each component transported as a separate piece of equipment regardless of size.

- B. A licensee shall permanently attach to each transport container a durable, legible, and a clearly visible label consisting at minimum, of the standard radiation caution symbol and the following wording:

DANGER (or: CAUTION)
RADIOACTIVE

NOTIFY CIVIL AUTHORITIES (or name of company)

Historical Note

New Section R9-7-1719 recodified from R12-1-1719 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1720. Inspection, Maintenance, and Opening of a Source or Source Holder

- A. Each licensee shall visually check source holders, logging tools, and source handling tools for defects before each use to ensure that the equipment is in good working condition and that required labeling is present. If defects are found, the licensee shall remove equipment from service until it is repaired, and make a record listing: date of check, name of inspector, equipment involved, each defect found, and repairs made. The licensee shall maintain each record for three years after a defect is found.
- B. Each licensee shall have a program for semiannual visual inspection and routine maintenance of source holders, logging tools, injection tools, source handling tools, storage containers, transport containers, and uranium sinker bars to ensure that the required labeling is legible and that no physical damage is visible. If any defect is found, the licensee shall remove the equipment from service until it is repaired, and make a record listing: date of inspection, equipment involved, inspection and maintenance operations performed, each defect found, and each action taken to correct a defect. The licensee shall maintain each record for three years after a defect is found.
- C. A licensee shall not remove a sealed source from a source holder or logging tool, or perform maintenance on a sealed source or source holder that contains a sealed source without written permission from the Department.
- D. If a sealed source is stuck in the source holder, a licensee shall not perform any operation, such as drilling, cutting, or chiseling, on the source holder unless the licensee is specifically authorized to perform the operation by the Department.
- E. The opening, repair, or modification of any sealed source is prohibited, unless authorized by the Department, the NRC, or an Agreement State.

Historical Note

New Section R9-7-1720 recodified from R12-1-1720 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1721. Training

- A. A licensee shall not permit an individual to act as a logging supervisor until that person has:
1. Completed training in the subjects outlined in subsection (E);
 2. Received copies of, and instruction in:
 - a. The applicable rules contained in 9 A.A.C. 7;
 - b. The Department license under which the logging supervisor will perform well logging; and
 - c. The licensee's operating and emergency procedures, required by R9-7-1722;
 3. Completed on-the-job training and demonstrated competence during a field evaluation in the use of licensed materials, remote handling tools, and radiation survey instruments; and
 4. Demonstrated understanding of the requirements in subsections (A)(1) and (A)(2) by successfully completing a written test.
- B. The licensee shall not permit an individual to act as a logging assistant until that person has:
1. Received instruction in applicable rules of 9 A.A.C. 7;

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2. Received copies of, and instruction in, the licensee's operating and emergency procedures required by R9-7-1722;
 3. Demonstrated understanding of the materials listed in subsections (B)(1) and (B)(2) by successfully completing a written or oral test; and
 4. Received instruction in the use of licensed materials, remote handling tools, and radiation survey instruments that is related to the logging assistant's intended job responsibilities.
- C.** A licensee shall provide a safety training review for logging supervisors and logging assistants at least once during each calendar year. Each logging supervisor and logging assistant shall attend a safety training review at least once during the current calendar year.
- D.** A licensee shall maintain a record of each logging supervisor's and logging assistant's initial training and annual safety training review. The training records shall include copies of written tests and dates of oral tests given after the effective date of this Section. The licensee shall maintain the initial training records for three years following termination of employment, and maintain records of each annual safety training review, including a list of subjects covered during the review, for three years.
- E.** A licensee shall provide instruction in the following subjects in the training required by subsection (A)(1):
1. Fundamentals of radiation safety, including:
 - a. Characteristics of radiation;
 - b. Units of radiation dose and quantity of radioactivity;
 - c. Hazards of exposure to radiation;
 - d. Levels of radiation from licensed material;
 - e. Methods of controlling radiation dose (time, distance, and shielding); and
 - f. Radiation safety practices, including prevention of contamination and methods of decontamination;
 2. Radiation detection instruments, including:
 - a. Use, operation, calibration, and limitations of radiation survey instruments;
 - b. Survey techniques; and
 - c. Use of personnel monitoring equipment;
 3. Equipment, including:
 - a. Operation of equipment, including source handling equipment and remote handling tools;
 - b. Storage, control, and disposal of licensed material; and
 - c. Maintenance of equipment;
 4. The requirements of pertinent federal and state law, and
 5. Case histories of accidents in well logging.
3. Methods and occasions for conducting a radiation survey;
 4. Methods and occasions for locking and securing a source of radiation;
 5. Personnel monitoring and the use of personnel monitoring equipment;
 6. Transportation of a source to a temporary job site or field station, including packaging and placing the source of radiation in a vehicle, placarding the vehicle, and securing the source of radiation during transportation;
 7. Procedure for notifying the Department if there is an accident;
 8. Maintenance of records;
 9. Inspection and maintenance of source holders, logging tools, source handling tools, storage containers, transport containers, and injection tools;
 10. Procedure required if a sealed source is:
 - a. Lost or lodged downhole; or
 - b. Ruptured, including safeguards to prevent job site and personnel contamination, inhalation; and ingestion;
 11. Procedures required for picking up, receiving, and opening packages that contain radioactive material; and
 12. Procedures required for site and equipment surveys and decontamination following tracer studies.

Historical Note

New Section R9-7-1722 recodified from R12-1-1722 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1723. Personnel Monitoring

- A.** A licensee shall not permit an individual to act as a logging supervisor or logging assistant unless that person wears a personnel dosimeter at all times during the handling of licensed radioactive materials.
- B.** A licensee shall assign a personnel dosimeter to each individual, who shall wear the assigned equipment.
- C.** A licensee shall replace film badges at least monthly and replace all other personnel dosimeters that require replacement at least quarterly. After replacement, a licensee shall evaluate all personnel dosimeters at least quarterly or promptly after replacement, whichever is more frequent.
- D.** A licensee shall provide bioassay services to each individual who uses licensed materials in subsurface tracer studies if required by the license.
- E.** A licensee shall record exposures noted from personnel dosimeters required by subsection (A) and bioassay results and maintain these records for three years after the Department terminates the radioactive material license.

Historical Note

New Section R9-7-1723 recodified from R12-1-1723 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-1722. Operating and Emergency Procedures

Each licensee shall develop operating and emergency procedures on the following subjects:

1. Procedures designed to prevent individuals from being exposed to radiation in excess of the limits in Article 4 of this Chapter. This subject includes:
 - a. Use of a sealed source in a well without a surface casing for the purposes of protecting a fresh water aquifer, as appropriate;
 - b. Methods employed to minimize exposure from inhalation or ingestion of licensed tracer materials; and
 - c. Methods for minimizing exposure of individuals in the event of an accident;
2. Use of remote handling tools for manipulating a radioactive sealed source or tracer;

R9-7-1724. Radioactive Contamination Control

- A.** If a licensee detects evidence that a sealed source has ruptured or licensed materials have caused contamination, the licensee shall immediately initiate the emergency procedures required by R9-7-1722.
- B.** If contamination results from the use of licensed material in well logging, the licensee shall decontaminate all affected areas, equipment, and personnel.
- C.** During efforts to recover a source lodged in a well, the licensee shall continuously monitor, with a radiation detection instrument that complies with R9-7-1714 or a logging tool with a radiation detector, the well and any circulating fluids

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from the well to check for contamination resulting from damage to the source.

Historical Note

New Section R9-7-1724 recodified from R12-1-1724 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1725. Uranium Sinker Bars

A licensee may use a uranium sinker bar for a well logging application only if it is legibly impressed with the words "Caution Radioactive-Depleted Uranium" and "Notify Civil Authorities (or company name) if Found."

Historical Note

New Section R9-7-1725 recodified from R12-1-1725 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1726. Energy Compensation Source

- A. A licensee may use an energy compensation source (ECS) in a logging tool, or other tool component, if the ECS contains a quantity of radioactive material that does not exceed 3.7 MBq (100 microcuries).
- B. If used in a well with a surface casing, an ECS is subject to all Sections of this Article except R9-7-1702, R9-7-1728, and R9-7-1751.
- C. If used in a well logging hole without a surface casing, an ECS is subject to all Sections of this Article.

Historical Note

New Section R9-7-1726 recodified from R12-1-1726 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1727. Neutron Generator Source

- A. A licensee may use a tritium neutron generator source to produce neutrons for well logging applications.
- B. If the activity of a tritium neutron generator source does not exceed 1.11 TBq (30 Curies) and the source is used in a well with a surface casing, the source is subject to all Sections of this Article except R9-7-1702 and R9-7-1751.
- C. If the activity of a neutron generator source is equal to or exceeds 1.11 TBq (30 Curies) or the source is used in a well without a surface casing, the source is subject to all Sections of this Article.

Historical Note

New Section R9-7-1727 recodified from R12-1-1727 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1728. Use of a Sealed Source in a Well Without a Surface Casing

A licensee may use a sealed source in a well without a surface casing if the licensee follows a procedure for reducing the probability that the source will be lodged in the well. The procedure shall be separately approved by the Department or in a license issued by the Department, the NRC, or another Agreement State.

Historical Note

New Section R9-7-1728 recodified from R12-1-1728 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1729. Reserved**Historical Note**

Section R9-7-1729 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1730. Reserved**Historical Note**

Section R9-7-1730 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1731. Security

- A. A logging supervisor shall be physically present at a temporary job site whenever licensed material is being handled or is not stored and locked in a vehicle or storage place. The logging supervisor may leave the job site to obtain assistance if a source becomes lodged in a well.
- B. During well logging, except when a radiation source is below ground or in a shipping or storage container, the logging supervisor or other individual designated by the logging supervisor shall maintain direct surveillance of the operation to prevent unauthorized entry into a restricted area, as defined in R9-7-102.

Historical Note

New Section R9-7-1731 recodified from R12-1-1731 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1732. Handling Tools

The licensee shall provide and require the use of tools that will assure remote handling of sealed sources other than low-activity calibration sources.

Historical Note

New Section R9-7-1732 recodified from R12-1-1732 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1733. Subsurface Tracer Studies

- A. Any person who handles radioactive tracer material shall wear protective gloves and other appropriate protective clothing and equipment. Precautions shall be taken to avoid ingestion or inhalation of radioactive material.
- B. A licensee shall not inject radioactive material into potable aquifers without authority granted in a radioactive material license issued by the Department.
- C. A licensee shall dispose of tracer study waste contaminated with radioactive material in accordance with R9-7-434.

Historical Note

New Section R9-7-1733 recodified from R12-1-1733 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1734. Use of a Sealed Source in a Well Without a Surface Casing and Particle Accelerators

- A. A licensee or registrant may use a sealed source in a well without a surface casing to protect a fresh water aquifer if the licensee follows the correct procedure for reducing the probability that the source will become lodged in the well.
- B. A licensee or registrant shall not begin well logging operations in a well without a surface casing unless the Department has approved the licensee's procedure for logging in an uncased hole.
- C. A licensee or registrant shall not permit above-ground testing of a particle accelerator, designed for use in well-logging, which results in the production of radiation, unless the area or facility affected is controlled or shielded in a manner consistent with applicable requirements in Article 4 of this Chapter.

Historical Note

New Section R9-7-1734 recodified from R12-1-1734 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1735. Reserved

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Historical Note

Section R9-7-1735 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1736. Reserved**Historical Note**

Section R9-7-1736 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1737. Reserved**Historical Note**

Section R9-7-1737 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1738. Reserved**Historical Note**

Section R9-7-1738 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1739. Reserved**Historical Note**

Section R9-7-1739 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1740. Reserved**Historical Note**

Section R9-7-1740 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1741. Radiation Surveys

- A. A licensee shall perform and make a record of a radiation survey using instruments or calculations of radiation levels in each area where radioactive material is stored.
- B. A licensee shall make and record a radiation survey using instruments or calculations of radiation levels in occupied positions and on the exterior of each vehicle used to transport radioactive material. The survey or calculation shall include each source of radiation or combination of sources to be transported in the vehicle.
- C. After removal of the sealed source from the logging tool and before departing the job site, a licensee shall ensure that the logging tool detector is energized, or a survey meter is used to test the logging tool for contamination. The licensee shall record the test for contamination.
- D. The licensee shall make and record each survey using an appropriate survey instrument for the radionuclide being used, at the job site or wellhead for each tracer operation, except those using Hydrogen-3, Carbon-14 and Sulfur-35. Each survey shall include measurements of radiation levels before and after each tracer operation.
- E. Records of surveys conducted according to subsections (A) through (D) shall include the date of each survey, the identification of each individual making the survey, identification of each survey instrument used, each radiation measurement in millirem or microsievert per hour, and an exact description of the location of the survey. A licensee shall retain records of a survey for three years after completion of the survey.

Historical Note

New Section R9-7-1741 recodified from R12-1-1741 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1742. Documents and Records Required at Field Stations

Each licensee shall maintain the following documents and records at the field station:

1. A copy of 9 A.A.C. 7;

2. The license, authorizing use of licensed material;
3. Operating and emergency procedures required by R9-7-1722;
4. The record of radiation survey instrument calibrations required by R9-7-1714;
5. The record of leak test results required by R9-7-1715;
6. Physical inventory records required by R9-7-1716;
7. Utilization records required by R9-7-1717;
8. Records of inspection and maintenance required by R9-7-1720;
9. Training records required by R9-7-1721; and
10. Survey records required by R9-7-1741.

Historical Note

New Section R9-7-1742 recodified from R12-1-1742 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1743. Documents and Records Required at Temporary Job Sites

Each licensee that conducts operations at a temporary job site shall maintain the following documents and records at the temporary job site until the well logging operation is completed:

1. Operating and emergency procedures required by R9-7-1722;
2. The most current calibration records for the radiation survey instruments in use at the site required by R9-7-1714;
3. The most current survey records required by R9-7-1741.
4. The shipping papers for transportation of radioactive materials required by license condition; and
5. If operating under reciprocity in accordance with R9-7-320, a copy of the Department authorization for use of radioactive material in Arizona.

Historical Note

New Section R9-7-1743 recodified from R12-1-1743 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1744. Reserved**Historical Note**

Section R9-7-1744 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1745. Reserved**Historical Note**

Section R9-7-1745 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1746. Reserved**Historical Note**

Section R9-7-1746 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1747. Reserved**Historical Note**

Section R9-7-1747 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1748. Reserved**Historical Note**

Section R9-7-1748 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1749. Reserved

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Historical Note

Section R9-7-1749 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1750. Reserved**Historical Note**

Section R9-7-1750 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1751. Notification of Incidents and Lost Sources; Abandonment Procedures for Irretrievable Sources

- A. If, after making a reasonable effort to recover a sealed source or device that contains radioactive material using methods that are not likely to result in damage or rupture and contamination, a licensee determines that the source or device is lodged in a well, the licensee shall:
1. Immediately notify the Department by telephone of the circumstances that resulted in the inability to retrieve the source and, if there is no evidence of contamination, obtain the following from the Department:
 - a. A determination that the source is irretrievable and abandonment is necessary because further efforts to recover the source are likely to result in an immediate threat to public health and safety, and
 - b. An approval to implement abandonment procedures;
 2. Advise the well owner or operator, as applicable, of the abandonment procedures implemented under R9-7-1702(A) and (C); and
 3. Either ensure that abandonment procedures are implemented within 30 days after the Department classifies the source as irretrievable or request an extension of time if unable to complete abandonment procedures.
- B. A licensee shall immediately notify the Department by telephone and subsequently, within 30 days, by confirmatory letter if the licensee knows or has reason to believe that a sealed source has been ruptured or the well has otherwise been contaminated. The letter shall describe the well location, the magnitude and extent of radioactive contamination, the consequences of the rupture, and the efforts planned or initiated to mitigate the consequences.
- C. A licensee shall notify the Department of the theft or loss of any radioactive material, radiation overexposure, excessive levels and concentrations of radiation, and incidents as required by R9-7-443, R9-7-444, and R9-7-445.
- D. A licensee shall, within 30 days after a sealed source has been classified as irretrievable, report in writing to the Department. The licensee shall send a copy of the report to each state or federal agency that issued permits or otherwise approved of the drilling operation. The report shall contain the following information:
1. Date of occurrence;
 2. A description of the irretrievable well logging source involved, including the name of the radionuclide and its quantity, and the chemical and physical form of the radionuclide;
 3. Surface location and identification of the well;
 4. Results of efforts to immobilize and seal the source in place;
 5. A brief description of the attempted recovery effort;
 6. Depth of the source;
 7. Depth of the top of the cement plug;
 8. Depth of the well;
 9. The reasons why further efforts to recover the source are likely to result in an immediate threat to public health and safety, necessitating abandonment;

10. Information contained on the permanent identification plaque; and
11. State and federal agencies receiving a copy of the report.

Historical Note

New Section R9-7-1751 recodified from R12-1-1751 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 18. RESERVED**ARTICLE 19. PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2 QUANTITIES OF RADIOACTIVE MATERIAL****R9-7-1901. Purpose**

This Article has been established to provide the requirements for the physical protection program for any licensee that possesses an aggregated category 1 or category 2 quantity of radioactive material listed in Appendix A to this Article. These requirements provide reasonable assurance of the security of category 1 or category 2 quantities of radioactive material by protecting these materials from theft or diversion. Specific requirements for access to material, use of material, transfer of material, and transport of material are included. No provision of this Article authorizes possession of licensed material.

Historical Note

New Section R9-7-1901 recodified from R12-1-1901 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1902. Reserved**Historical Note**

Section R9-7-1902 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1903. Scope

- A. R9-7-1921 through R9-7-1957 of this Article apply to any person who, under the rules in this chapter, possesses or uses at any site, an aggregated category 1 or category 2 quantity of radioactive material.
- B. R9-7-1971 through R9-7-1981 of this Article applies to any person who, under the rules of this chapter:
1. Transports or delivers to a carrier for transport in a single shipment, a category 1 or category 2 quantity of radioactive material; or
 2. Imports or exports a category 1 or category 2 quantity of radioactive material; the provisions only apply to the domestic portion of the transport.

Historical Note

New Section R9-7-1903 recodified from R12-1-1903 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1904. Reserved**Historical Note**

Section R9-7-1904 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1905. Definitions

The following definitions apply in this Article, unless the context otherwise requires:

“Access control means a system for allowing only approved individuals to have unescorted access to the security zone and for ensuring that all other individuals are subject to escorted access.

“Act” means the Atomic Energy Act of 1954 (68 Stat. 919), including any amendments thereto.

“Aggregated” means accessible by the breach of a single physical barrier that would allow access to radioactive material in

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any form, including any devices that contain the radioactive material, when the total activity equals or exceeds a category 2 quantity of radioactive material.

“Agreement State” means any state with which the Atomic Energy Commission or the U.S. Nuclear Regulatory Commission has entered into an effective agreement under subsection 274b. of the Act. Non-agreement State means any other State.

“Approved individual” means an individual whom the licensee has determined to be trustworthy and reliable for unescorted access in accordance with R9-7-1921 through R9-7-1933 of this Article and who has completed the training required by R9-7-1943(C).

“Background investigation” means the investigation conducted by a licensee or applicant to support the determination of trustworthiness and reliability.

“Becquerel (Bq)” means one disintegration per second.

“Byproduct material” means the same as in R9-7-102.

“Category 1 quantity of radioactive material” means a quantity of radioactive material meeting or exceeding the category 1 threshold in Table 1 of Appendix A to this Article. This quantity is determined by calculating the ratio of the total activity of each radionuclide to the category 1 threshold for that radionuclide and adding the ratios together. If the sum is equal to or exceeds 1, the quantity would be considered a category 1 quantity. Category 1 quantities of radioactive material do not include the radioactive material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet.

“Category 2 quantity of radioactive material” means a quantity of radioactive material meeting or exceeding the category 2 threshold but less than the category 1 threshold in Table 1 of Appendix A to this Article. This quantity is determined by calculating the ratio of the total activity of each radionuclide to the category 2 threshold for that radionuclide and adding the ratios together. If the sum is equal to or exceeds 1, the quantity would be considered a category 2 quantity. Category 2 quantities of radioactive material do not include the radioactive material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet.

“Commission” means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

“Curie” means the same as in R9-7-102.

“Diversion” means the unauthorized movement of radioactive material subject to this Article to a location different from the material’s authorized destination inside or outside of the site at which the material is used or stored.

“Escorted access” means accompaniment while in a security zone by an approved individual who maintains continuous direct visual surveillance at all times over an individual who is not approved for unescorted access.

“Fingerprint orders” means the orders issued by the U.S. Nuclear Regulatory Commission or the legally binding requirements issued by Agreement States that require fingerprints and criminal history records checks for individuals with unescorted access to category 1 and category 2 quantities of radioactive material or safeguards information-modified handling.

“Government agency” means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an

instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Government.

“License”, except where otherwise specified, means a license for byproduct material issued pursuant to the rules in Articles 3, 5, 7, and 15 of this chapter.

“License issuing authority” means the licensing agency that issued the license, i.e. the Department, the U.S. Nuclear Regulatory Commission, or the appropriate agency of an Agreement State.

“Local law enforcement agency (LLEA)” means a public or private organization that has been approved by a federal, state, or local government to carry firearms and make arrests, and is authorized and has the capability to provide an armed response in the jurisdiction where the licensed category 1 or category 2 quantity of radioactive material is used, stored, or transported.

“Lost or missing licensed material” means licensed material whose location is unknown. It includes material that has been shipped but has not reached its destination and whose location cannot be readily traced in the transportation system.

“Mobile device” means a piece of equipment containing licensed radioactive material that is either mounted on wheels or casters, or is otherwise equipped for moving without a need for disassembly or dismounting; or designed to be hand carried. Mobile devices do not include stationary equipment installed in a fixed location.

“Movement control center” means an operations center that is remote from transport activity and that maintains position information on the movement of radioactive material, receives reports of attempted attacks or thefts, provides a means for reporting these and other problems to appropriate agencies and can request and coordinate appropriate aid.

“No-later-than arrival time” means the date and time that the shipping licensee and receiving licensee have established as the time at which an investigation will be initiated if the shipment has not arrived at the receiving facility. The no-later-than arrival time may not be more than 6 hours after the estimated arrival time for shipments of category 2 quantities of radioactive material.

“Person” means:

Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Commission or the DOE (except that the DOE shall be considered a person within the meaning of the rules in 10 CFR chapter I to the extent that its facilities and activities are subject to the licensing and related regulatory authority of the Commission under section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244), the Uranium Mill Tailings Radiation Control Act of 1978 (92 Stat. 3021), the Nuclear Waste Policy Act of 1982 (96 Stat. 2201), and section 3(b)(2) of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (99 Stat. 1842)), any State or any political subdivision of or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and

Any legal successor, representative, agent, or agency of the foregoing.

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“Reviewing official” means the individual who shall make the trustworthiness and reliability determination of an individual to determine whether the individual may have, or continue to have, unescorted access to the category 1 or category 2 quantities of radioactive materials that are possessed by the licensee.

“Sabotage” means deliberate damage, with malevolent intent, to a category 1 or category 2 quantity of radioactive material, a device that contains a category 1 or category 2 quantity of radioactive material, or the components of the security system.

“Safe haven” means a readily recognizable and readily accessible site at which security is present or from which, in the event of an emergency, the transport crew can notify and wait for the local law enforcement authorities.

“Security zone” means any temporary or permanent area determined and established by the licensee for the physical protection of category 1 or category 2 quantities of radioactive material.

“State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

“Telemetric position monitoring system” means a data transfer system that captures information by instrumentation and/or measuring devices about the location and status of a transport vehicle or package between the departure and destination locations.

“Trustworthiness and reliability” means characteristics of an individual considered dependable in judgment, character, and performance, such that unescorted access to category 1 or category 2 quantities of radioactive material by that individual does not constitute an unreasonable risk to the public health and safety or security. A determination of trustworthiness and reliability for this purpose is based upon the results from a background investigation.

“Unescorted access” means solitary access to an aggregated category 1 or category 2 quantity of radioactive material or the devices that contain the material.

“United States” when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States.

Historical Note

New Section R9-7-1905 recodified from R12-1-1905 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1906. Reserved**Historical Note**

Section R9-7-1906 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1907. Communications

Except where otherwise specified or covered under licensing program as provided in this Chapter, all communications and reports concerning the rules in this Article may be sent as follows:

1. By mail addressed to: ATTN: Arizona Department of Health Services; Bureau of Radiation Control; Radioactive Materials Program; 4814 South 40th Street, Phoenix, Arizona 85040;
2. By hand delivery to the Department’s offices at 4814 South 40th Street, Phoenix, Arizona 85040; or
3. Where practicable, by electronic submission, for example, Electronic Information Exchange, or CD-ROM. Electronic submissions shall be made in a manner that

enables the Department to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Electronic submissions can be made by email to ram@azdhs.gov.

Historical Note

New Section R9-7-1907 recodified from R12-1-1907 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-1908. Reserved**Historical Note**

Section R9-7-1908 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1909. Interpretations

Except as specifically authorized by the Department in writing, no interpretations of the meaning of the rules in this Article by any officer or employee of the Department other than a written interpretation by the Arizona Assistant Attorney General counsel assigned to the Department will be recognized as binding upon the Department.

Historical Note

New Section R9-7-1909 recodified from R12-1-1909 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1910. Reserved**Historical Note**

Section R9-7-1910 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1911. Specific Exemptions

- A. The Department may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the rules in this Article as it determines are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest.
- B. Any licensee’s NRC-licensed activities are exempt from the requirements of R9-7-1921 through R9-7-1957 of this Article to the extent that its activities are included in a security plan required by 10 CFR part 73 revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- C. A licensee that possesses radioactive waste that contains category 1 or category 2 quantities of radioactive material is exempt from the requirements of R9-7-1921 through R9-7-1981 of this Article, except that any radioactive waste that contains discrete sources, ion-exchange resins, or activated material that weighs less than 2,000 kg (4,409 lbs.) is not exempt from the requirements of this Article. The licensee shall implement the following requirements to secure the radioactive waste:
 1. Use continuous physical barriers that allow access to the radioactive waste only through established access control points;
 2. Use a locked door or gate with monitored alarm at the access control point;
 3. Assess and respond to each actual or attempted unauthorized access to determine whether an actual or attempted theft, sabotage, or diversion occurred; and
 4. Immediately notify the LLEA and request an armed response from the LLEA upon determination that there was an actual or attempted theft, sabotage, or diversion of

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the radioactive waste that contains category 1 or category 2 quantities of radioactive material.

Historical Note

New Section R9-7-1911 recodified from R12-1-1911 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1912. Reserved**Historical Note**

Section R9-7-1912 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1913. Reserved**Historical Note**

Section R9-7-1913 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1914. Reserved**Historical Note**

Section R9-7-1914 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1915. Reserved**Historical Note**

Section R9-7-1915 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1916. Reserved**Historical Note**

Section R9-7-1916 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1917. Reserved**Historical Note**

Section R9-7-1917 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1918. Reserved**Historical Note**

Section R9-7-1918 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1919. Reserved**Historical Note**

Section R9-7-1919 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1920. Reserved**Historical Note**

Section R9-7-1920 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1921. Personnel Access Authorization Requirements for Category 1 or Category 2 Quantities of Radioactive Material

A. General:

1. Each licensee that possesses an aggregated quantity of radioactive material at or above the category 2 threshold shall establish, implement, and maintain its access authorization program in accordance with the requirements of this Article.
2. An applicant for a new license and each licensee that would become newly subject to the requirements of this Article upon application for modification of its license shall implement the requirements of this Article, as

appropriate, before taking possession of an aggregated category 1 or category 2 quantity of radioactive material.

3. Any licensee that has not previously implemented the Security Orders or been subject to the provisions of R9-7-1921 through R9-7-1933 shall implement the provisions of R9-7-1921 through R9-7-1933 before aggregating radioactive material to a quantity that equals or exceeds the category 2 threshold.

- B.** General performance objective: The licensee's access authorization program shall ensure that the individuals specified in subsection (C)(1) are trustworthy and reliable.

C. Applicability:

1. Licensees shall subject the following individuals to an access authorization program:
 - a. Any individual whose assigned duties require unescorted access to category 1 or category 2 quantities of radioactive material or to any device that contains the radioactive material; and
 - b. Reviewing officials.
2. Licensees need not subject the categories of individuals listed in R9-7-1929(A) to the investigation elements of the access authorization program.
3. Licensees shall approve for unescorted access to category 1 or category 2 quantities of radioactive material only those individuals with job duties that require unescorted access to category 1 or category 2 quantities of radioactive material.
4. Licensees may include individuals in the access authorization program under R9-7-1921 through R9-7-1933 and needing access to safeguards information-modified handling under 10 CFR part 73 revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

Historical Note

New Section R9-7-1921 recodified from R12-1-1921 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1922. Reserved**Historical Note**

Section R9-7-1922 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1923. Access Authorization Program Requirements**A. Granting unescorted access authorization:**

1. Licensees shall implement the requirements of this Article for granting initial or reinstated unescorted access authorization.
2. Individuals who have been determined to be trustworthy and reliable shall also complete the security training required by R9-7-1943(C) before being allowed unescorted access to category 1 or category 2 quantities of radioactive material.

B. Reviewing officials:

1. Reviewing officials are the only individuals who may make trustworthiness and reliability determinations that allow individuals to have unescorted access to category 1 or category 2 quantities of radioactive materials possessed by the licensee.
2. Each licensee shall name one or more individuals to be reviewing officials. After completing the background investigation on the reviewing official, the licensee shall provide under oath or affirmation, a certification, to the ATTN: Bureau Chief, Bureau of Radiation Control, Arizona Department of Health Services, 4814 S. 40th Street, Phoenix, Arizona 85040, that the reviewing official is

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deemed trustworthy and reliable by the licensee. The fingerprints of the named reviewing official shall be taken by a law enforcement agency, Federal or State agencies that provide fingerprinting services to the public, or commercial fingerprinting services authorized by a State to take fingerprints. The licensee shall recertify that the reviewing official is deemed trustworthy and reliable every 10 years in accordance with R9-7-1925(C).

3. Reviewing officials shall be permitted to have unescorted access to category 1 or category 2 quantities of radioactive materials or access to safeguards information or safeguards information-modified handling, if the licensee possesses safeguards information or safeguards information-modified handling. Reviewing officials permitted unescorted access to category 1 or category 2 quantities of radioactive materials shall receive appropriate radiation safety training initially and at a frequency not to exceed 12 months. The licensee shall maintain records of the initial and refresher training for three years from the date of training for Department review.
 4. Reviewing officials cannot approve other individuals to act as reviewing officials.
 5. A reviewing official does not need to undergo a new background investigation before being named by the licensee as the reviewing official if:
 - a. The individual has undergone a background investigation that included fingerprinting and an FBI criminal history records check and has been determined to be trustworthy and reliable by the licensee; or
 - b. The individual is subject to a category listed in R9-7-1929(A).
- C. Informed consent:**
1. Licensees may not initiate a background investigation without the informed and signed consent of the subject individual. This consent shall include authorization to share personal information with other individuals or organizations as necessary to complete the background investigation. Before a final adverse determination, the licensee shall provide the individual with an opportunity to correct any inaccurate or incomplete information that is developed during the background investigation. Licensees do not need to obtain signed consent from those individuals that meet the requirements of R9-7-1925(B). A signed consent shall be obtained prior to any reinvestigation.
 2. The subject individual may withdraw his or her consent at any time. Licensees shall inform the individual that:
 - a. If an individual withdraws his or her consent, the licensee may not initiate any elements of the background investigation that were not in progress at the time the individual withdrew his or her consent; and
 - b. The withdrawal of consent for the background investigation is sufficient cause for denial or termination of unescorted access authorization.
- D. Personal history disclosure:** Any individual who is applying for unescorted access authorization shall disclose the personal history information that is required by the licensee's access authorization program for the reviewing official to make a determination of the individual's trustworthiness and reliability. Refusal to provide, or the falsification of, any personal history information required by this Article is sufficient cause for denial or termination of unescorted access.
- E. Determination basis:**
1. The reviewing official shall determine whether to permit, deny, unfavorably terminate, maintain, or administratively withdraw an individual's unescorted access authorization based on an evaluation of all of the information collected to meet the requirements of this Article.
2. The reviewing official may not permit any individual to have unescorted access until the reviewing official has evaluated all of the information collected to meet the requirements of this Article and determined that the individual is trustworthy and reliable. The reviewing official may deny unescorted access to any individual based on information obtained at any time during the background investigation.
 3. The licensee shall document the basis for concluding whether or not there is reasonable assurance that an individual is trustworthy and reliable.
 4. The reviewing official may terminate or administratively withdraw an individual's unescorted access authorization based on information obtained after the background investigation has been completed and the individual granted unescorted access authorization.
 5. Licensees shall maintain a list of persons currently approved for unescorted access authorization. When a licensee determines that a person no longer requires unescorted access or meets the access authorization requirement, the licensee shall remove the person from the approved list as soon as possible, but no later than 7 working days, and take prompt measures to ensure that the individual is unable to have unescorted access to the material.
- F. Procedures:** Licensees shall develop, implement, and maintain written procedures for implementing the access authorization program. The procedures shall include provisions for the notification of individuals who are denied unescorted access. The procedures shall include provisions for the review, at the request of the affected individual, of a denial or termination of unescorted access authorization. The procedures shall contain a provision to ensure that the individual is informed of the grounds for the denial or termination of unescorted access authorization and allow the individual an opportunity to provide additional relevant information.
- G. Right to correct and complete information:**
1. Prior to any final adverse determination, licensees shall provide each individual subject to this Article with the right to complete, correct, and explain information obtained as a result of the licensee's background investigation. Confirmation of receipt by the individual of this notification shall be maintained by the licensee for a period of 1 year from the date of the notification.
 2. If, after reviewing his or her criminal history record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, update, or explain anything in the record, the individual may initiate challenge procedures. These procedures include direct application by the individual challenging the record to the law enforcement agency that contributed the questioned information or a direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306 as set forth in 28 CFR 16.30 through 16.34. In the latter case, the Federal Bureau of Investigation (FBI) will forward the challenge to the agency that submitted the data, and will request that the agency verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information

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supplied by that agency. Licensees shall provide at least 10 days for an individual to initiate action to challenge the results of an FBI criminal history records check after the record being made available for his or her review. The licensee may make a final adverse determination based upon the criminal history records only after receipt of the FBI's confirmation or correction of the record.

H. Records:

1. The licensee shall retain documentation regarding the trustworthiness and reliability of individual employees for 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.
2. The licensee shall retain a copy of the current access authorization program procedures as a record for 3 years after the procedure is no longer needed. If any portion of the procedure is superseded, the licensee shall retain the superseded material for 3 years after the record is superseded.
3. The licensee shall retain the list of persons approved for unescorted access authorization for 3 years after the list is superseded or replaced.

Historical Note

New Section R9-7-1923 recodified from R12-1-1923 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-1924. Reserved**Historical Note**

Section R9-7-1924 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1925. Background Investigations

- A. Initial investigation:** Before allowing an individual unescorted access to category 1 or category 2 quantities of radioactive material or to the devices that contain the material, licensees shall complete a background investigation of the individual seeking unescorted access authorization. The scope of the investigation shall encompass at least the 7 years preceding the date of the background investigation or since the individual's eighteenth birthday, whichever is shorter. The background investigation shall include at a minimum:
1. Fingerprinting and an FBI identification and criminal history records check in accordance with R9-7-1927;
 2. Verification of true identity. Licensees shall verify the true identity of the individual who is applying for unescorted access authorization to ensure that the applicant is who he or she claims to be. A licensee shall review official identification documents (e.g., driver's license; passport; government identification; certificate of birth issued by the state, province, or country of birth) and compare the documents to personal information data provided by the individual to identify any discrepancy in the information. Licensees shall document the type, expiration, and identification number of the identification document, or maintain a photocopy of identifying documents on file in accordance with R9-7-1931. Licensees shall certify in writing that the identification was properly reviewed, and shall maintain the certification and all related documents for review upon inspection;
 3. Employment history verification. Licensees shall complete an employment history verification, including military history. Licensees shall verify the individual's

employment with each previous employer for the most recent 7 years before the date of application;

4. Verification of education. Licensees shall verify that the individual participated in the education process during the claimed period;
5. Character and reputation determination. Licensees shall complete reference checks to determine the character and reputation of the individual who has applied for unescorted access authorization. Unless other references are not available, reference checks may not be conducted with any person who is known to be a close member of the individual's family, including but not limited to the individual's spouse, parents, siblings, or children, or any individual who resides in the individual's permanent household. Reference checks under this Section shall be limited to whether the individual has been and continues to be trustworthy and reliable;
6. The licensee shall also, to the extent possible, obtain independent information to corroborate that provided by the individual (e.g., seek references not supplied by the individual); and
7. If a previous employer, educational institution, or any other entity with which the individual claims to have been engaged fails to provide information or indicates an inability or unwillingness to provide information within a time frame deemed appropriate by the licensee but at least after 10 business days of the request or if the licensee is unable to reach the entity, the licensee shall document the refusal, unwillingness, or inability in the record of investigation; and attempt to obtain the information from an alternate source.

B. Grandfathering:

1. Individuals who have been determined to be trustworthy and reliable for unescorted access to category 1 or category 2 quantities of radioactive material under the Fingerprint Orders may continue to have unescorted access to category 1 and category 2 quantities of radioactive material without further investigation. These individuals shall be subject to the reinvestigation requirement.
2. Individuals who have been determined to be trustworthy and reliable under the provisions of 10 CFR part 73 revised January 1, 2015, incorporated by reference, available under R9-7-101, and containing no future editions or amendments; or the security orders for access to safeguards information, safeguards information-modified handling, or risk-significant material may have unescorted access to category 1 and category 2 quantities of radioactive material without further investigation. The licensee shall document that the individual was determined to be trustworthy and reliable under the provisions of 10 CFR part 73 revised January 1, 2015, incorporated by reference, available under R9-7-101, and containing no future editions or amendments; or a security order. Security order, in this context, refers to any order that was issued by the NRC that required fingerprints and an FBI criminal history records check for access to safeguards information, safeguards information-modified handling, or risk significant material such as special nuclear material or large quantities of uranium hexafluoride. These individuals shall be subject to the reinvestigation requirement.

- C. Re-investigations:** Licensees shall conduct a reinvestigation every 10 years for any individual with unescorted access to category 1 or category 2 quantities of radioactive material. The reinvestigation shall consist of fingerprinting and an FBI identification and criminal history records check in accordance

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with R9-7-1927. The re-investigations shall be completed within 10 years of the date on which these elements were last completed.

Historical Note

New Section R9-7-1925 recodified from R12-1-1925 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1926. Reserved**Historical Note**

Section R9-7-1926 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1927. Requirements for Criminal History Records Checks of Individuals Granted Unescorted Access to Category 1 or Category 2 Quantities of Radioactive Material**A. General performance objective and requirements:**

1. Except for those individuals listed in R9-7-1929 and those individuals grandfathered under R9-7-1925(B), each licensee subject to the provisions of this Article shall fingerprint each individual who is to be permitted unescorted access to category 1 or category 2 quantities of radioactive material. Licensees shall transmit all collected fingerprints to the NRC for transmission to the FBI. The licensee shall use the information received from the FBI as part of the required background investigation to determine whether to grant or deny further unescorted access to category 1 or category 2 quantities of radioactive materials for that individual.
2. The licensee shall notify each affected individual that his or her fingerprints will be used to secure a review of his or her criminal history record, and shall inform him or her of the procedures for revising the record or adding explanations to the record.
3. Fingerprinting is not required if a licensee is reinstating an individual's unescorted access authorization to category 1 or category 2 quantities of radioactive materials if:
 - a. The individual returns to the same facility that granted unescorted access authorization within 365 days of the termination of his or her unescorted access authorization; and
 - b. The previous access was terminated under favorable conditions.
4. Fingerprints do not need to be taken if an individual who is an employee of a licensee, contractor, manufacturer, or supplier has been granted unescorted access to category 1 or category 2 quantities of radioactive material, access to safeguards information, or safeguards information-modified handling by another licensee, based upon a background investigation conducted under this Article, the Fingerprint Orders, or 10 CFR part 73, revised December 12, 2018, incorporated by reference, available under R9-7-101, and containing no future editions or amendments. An existing criminal history records check file may be transferred to the licensee asked to grant unescorted access in accordance with the provisions of R9-7-1931(C).
5. Licensees shall use the information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for unescorted access authorization to category 1 or category 2 quantities of radioactive materials, access to safeguards information, or safeguards information-modified handling.

B. Prohibitions:

1. Licensees may not base a final determination to deny an individual unescorted access authorization to category 1

or category 2 quantities of radioactive material solely on the basis of information received from the FBI involving:

- a. An arrest more than 1 year old for which there is no information of the disposition of the case; or
- b. An arrest that resulted in dismissal of the charge or an acquittal.

2. Licensees may not use information received from a criminal history records check obtained under this Section in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall licensees use the information in any way that would discriminate among individuals on the basis of race, religion, national origin, gender, or age.

C. Procedures for processing of fingerprint checks:

1. For the purpose of complying with this Article, licensees shall use an appropriate method listed in 10 CFR 37.7, revised November 29, 2019, incorporated by reference, available under R9-7-101, and containing no future editions or amendments; to submit to the U.S. Nuclear Regulatory Commission, Division of Physical and Cyber Security Policy, 11545 Rockville Pike, ATTN: Criminal History Program/Mail Stop T-07D04M, Rockville, MD 20852, one completed, legible standard fingerprint card (Form FD-258, ORIMDNRCOOOZ), electronic fingerprint scan or, where practicable, other fingerprint record for each individual requiring unescorted access to category 1 or category 2 quantities of radioactive material. Copies of these forms may be obtained by emailing MAILSVS.Resource@nrc.gov. Guidance on submitting electronic fingerprints can be found at <https://www.nrc.gov/security/chp.html>.
2. Fees for the processing of fingerprint checks are due upon application. Licensees shall submit payment with the application for the processing of fingerprints through corporate check, certified check, cashier's check, money order, or electronic payment, made payable to "U.S. NRC." (For guidance on making electronic payments, contact the Division of Physical and Cyber Security Policy by e-mailing Crimhist.Resource@NRC.gov.) Combined payment for multiple applications is acceptable. The Commission publishes the amount of the fingerprint check application fee on the NRC's public website. (To find the current fee amount, go to the Licensee Criminal History Records Checks & Firearms Background Check information page at <https://www.nrc.gov/security/chp.html> and see the link for "How do I determine how much to pay for the request?".)
3. The U.S. Nuclear Regulatory Commission will forward to the submitting licensee all data received from the FBI as a result of the licensee's application or applications for criminal history records checks.

Historical Note

New Section R9-7-1927 recodified from R12-1-1927 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2). Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-1928. Reserved

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Historical Note

Section R9-7-1928 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1929. Relief From Fingerprinting, Identification, and Criminal History Records Checks and Other Elements of Background Investigations for Designated Categories of Individuals Permitted Unescorted Access to Certain Radioactive Materials

A. Fingerprinting, and the identification and criminal history records checks required by section 149 of the Atomic Energy Act of 1954, as amended, and other elements of the background investigation are not required for the following individuals prior to granting unescorted access to category 1 or category 2 quantities of radioactive materials:

1. An employee of the U.S. Nuclear Regulatory Commission or of the Executive Branch of the U.S. Government who has undergone fingerprinting for a prior U.S. Government criminal history records check;
2. A Member of Congress;
3. An employee of a member of Congress or Congressional committee who has undergone fingerprinting for a prior U.S. Government criminal history records check;
4. The Governor of a State or his or her designated State employee representative;
5. Federal, State, or local law enforcement personnel;
6. State Radiation Control Program Directors and State Homeland Security Advisors or their designated State employee representatives;
7. Agreement State employees conducting security inspections on behalf of the NRC under an agreement executed under section 274.i. of the Atomic Energy Act;
8. Representatives of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S./IAEA Safeguards Agreement who have been certified by the NRC;
9. Emergency response personnel who are responding to an emergency;
10. Commercial vehicle drivers for road shipments of category 1 and category 2 quantities of radioactive material;
11. Package handlers at transportation facilities such as freight terminals and railroad yards;
12. Any individual who has an active Federal security clearance, provided that he or she makes available the appropriate documentation. Written confirmation from the agency/employer that granted the Federal security clearance or reviewed the criminal history records check shall be provided to the licensee. The licensee shall retain this documentation for a period of 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material; and
13. Any individual employed by a service provider licensee for which the service provider licensee has conducted the background investigation for the individual and approved the individual for unescorted access to category 1 or category 2 quantities of radioactive material. Written verification from the service provider shall be provided to the licensee. The licensee shall retain the documentation for a period of 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.

B. Fingerprinting, and the identification and criminal history records checks required by section 149 of the Atomic Energy Act of 1954, as amended, are not required for an individual who has had a favorably adjudicated U.S. Government criminal history records check within the last 5 years, under a com-

parable U.S. Government program involving fingerprinting and an FBI identification and criminal history records check provided that he or she makes available the appropriate documentation. Written confirmation from the agency/employer that reviewed the criminal history records check shall be provided to the licensee. The licensee shall retain this documentation for a period of 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material. These programs include, but are not limited to:

1. National Agency Check;
2. Transportation Worker Identification Credentials (TWIC) under 49 CFR part 1572;
3. Bureau of Alcohol, Tobacco, Firearms, and Explosives background check and clearances under 27 CFR part 555;
4. Health and Human Services security risk assessments for possession and use of select agents and toxins under 42 CFR part 73;
5. Hazardous Material security threat assessment for hazardous material endorsement to commercial driver's license under 49 CFR part 1572; and
6. Customs and Border Protection's Free and Secure Trade (FAST) Program.

Historical Note

New Section R9-7-1929 recodified from R12-1-1929 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1930. Reserved**Historical Note**

Section R9-7-1930 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1931. Protection of Information

- A. Each licensee who obtains background information on an individual under this Article shall establish and maintain a system of files and written procedures for protection of the record and the personal information from unauthorized disclosure.
- B. The licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his or her representative, or to those who have a need to have access to the information in performing assigned duties in the process of granting or denying unescorted access to category 1 or category 2 quantities of radioactive material, safeguards information, or safeguards information-modified handling. No individual authorized to have access to the information may disseminate the information to any other individual who does not have a need to know.
- C. The personal information obtained on an individual from a background investigation may be provided to another licensee:
1. Upon the individual's written request to the licensee holding the data to disseminate the information contained in his or her file; and
 2. The recipient licensee verifies information such as name, date of birth, social security number, gender, and other applicable physical characteristics.
- D. The licensee shall make background investigation records obtained under this Article available for examination by an authorized representative of the Department to determine compliance with the rules and laws.
- E. The licensee shall retain all fingerprint and criminal history records (including data indicating no record) received from the FBI, or a copy of these records if the individual's file has been transferred, on an individual for 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.

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Historical Note

New Section R9-7-1931 recodified from R12-1-1931 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1932. Reserved**Historical Note**

Section R9-7-1932 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1933. Access Authorization Program Review

- A. Each licensee shall be responsible for the continuing effectiveness of the access authorization program. Each licensee shall ensure that access authorization programs are reviewed to confirm compliance with the requirements of this Article and that comprehensive actions are taken to correct any noncompliance that is identified. The review program shall evaluate all program performance objectives and requirements. Each licensee shall periodically (at least annually) review the access program content and implementation.
- B. The results of the reviews, along with any recommendations, shall be documented. Each review report shall identify conditions that are adverse to the proper performance of the access authorization program, the cause of the condition(s), and, when appropriate, recommend corrective actions, and corrective actions taken. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas where indicated.
- C. Review records shall be maintained for 3 years.

Historical Note

New Section R9-7-1933 recodified from R12-1-1933 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1934. Reserved**Historical Note**

Section R9-7-1934 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1935. Reserved**Historical Note**

Section R9-7-1935 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1936. Reserved**Historical Note**

Section R9-7-1936 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1937. Reserved**Historical Note**

Section R9-7-1937 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1938. Reserved**Historical Note**

Section R9-7-1938 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1939. Reserved**Historical Note**

Section R9-7-1939 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1940. Reserved**Historical Note**

Section R9-7-1940 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1941. Security Program**A. Applicability:**

1. Each licensee that possesses an aggregated category 1 or category 2 quantity of radioactive material shall establish, implement, and maintain a security program in accordance with the requirements of this Article.
2. An applicant for a new license and each licensee that would become newly subject to the requirements of this Article upon application for modification of its license shall implement the requirements of this Article, as appropriate, before taking possession of an aggregated category 1 or category 2 quantity of radioactive material.
3. Any licensee that has not previously implemented the Security Orders or been subject to the provisions of R9-7-1941 through R9-7-1957 shall provide written notification to the Department, as specified in R9-7-1907, at least 90 days before aggregating radioactive material to a quantity that equals or exceeds the category 2 threshold.

B. General performance objective: Each licensee shall establish, implement, and maintain a security program that is designed to monitor and, without delay, detect, assess, and respond to an actual or attempted unauthorized access to category 1 or category 2 quantities of radioactive material.**C. Program features:** Each licensee's security program shall include the program features, as appropriate, described in R9-7-1943, R9-7-1945, R9-7-1947, R9-7-1949, R9-7-1951, R9-7-1953, and R9-7-1955.**Historical Note**

New Section R9-7-1941 recodified from R12-1-1941 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1942. Reserved**Historical Note**

Section R9-7-1942 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1943. General Security Program Requirements**A. Security plan:**

1. Each licensee identified in R9-7-1941(A) shall develop a written security plan specific to its facilities and operations. The purpose of the security plan is to establish the licensee's overall security strategy to ensure the integrated and effective functioning of the security program required by this Article. The security plan shall, at a minimum:
 - a. Describe the measures and strategies used to implement the requirements of this Article; and
 - b. Identify the security resources, equipment, and technology used to satisfy the requirements of this Article.
2. The security plan shall be reviewed and approved by the individual with overall responsibility for the security program.
3. A licensee shall revise its security plan as necessary to ensure the effective implementation of Department requirements. The licensee shall ensure that:
 - a. The revision has been reviewed and approved by the individual with overall responsibility for the security program; and
 - b. The affected individuals are instructed on the revised plan before the changes are implemented.

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4. The licensee shall retain a copy of the current security plan as a record for 3 years after the security plan is no longer required. If any portion of the plan is superseded, the licensee shall retain the superseded material for 3 years after the record is superseded.
- B. Implementing procedures:**
 1. The licensee shall develop and maintain written procedures that document how the requirements of this Article and the security plan will be met.
 2. The implementing procedures and revisions to these procedures shall be approved in writing by the individual with overall responsibility for the security program.
 3. The licensee shall retain a copy of the current procedure as a record for 3 years after the procedure is no longer needed. Superseded portions of the procedure shall be retained for 3 years after the record is superseded.
- C. Training:**
 1. Each licensee shall conduct training to ensure that those individuals implementing the security program possess and maintain the knowledge, skills, and abilities to carry out their assigned duties and responsibilities effectively. The training shall include instruction in:
 - a. The licensee's security program and procedures to secure category 1 or category 2 quantities of radioactive material, and in the purposes and functions of the security measures employed;
 - b. The responsibility to report promptly to the licensee any condition that causes or may cause a violation of Department requirements;
 - c. The responsibility of the licensee to report promptly to the local law enforcement agency and licensee any actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material; and
 - d. The appropriate response to security alarms.
 2. In determining those individuals who shall be trained on the security program, the licensee shall consider each individual's assigned activities during authorized use and response to potential situations involving actual or attempted theft, diversion, or sabotage of category 1 or category 2 quantities of radioactive material. The extent of the training shall be commensurate with the individual's potential involvement in the security of category 1 or category 2 quantities of radioactive material.
 3. Refresher training shall be provided at a frequency not to exceed 12 months and when significant changes have been made to the security program. This training shall include:
 - a. Review of the training requirements of subsection (c) and any changes made to the security program since the last training;
 - b. Reports on any relevant security issues, problems, and lessons learned;
 - c. Relevant results of Department inspections; and
 - d. Relevant results of the licensee's program review and testing and maintenance.
 4. The licensee shall maintain records of the initial and refresher training for 3 years from the date of the training. The training records shall include dates of the training, topics covered, a list of licensee personnel in attendance, and related information.
- D. Protection of information:**
 1. Licensees authorized to possess category 1 or category 2 quantities of radioactive material shall limit access to and unauthorized disclosure of their security plan, implementing procedures, and the list of individuals that have been approved for unescorted access.
 2. Efforts to limit access shall include the development, implementation, and maintenance of written policies and procedures for controlling access to, and for proper handling and protection against unauthorized disclosure of, the security plan and implementing procedures.
 3. Before granting an individual access to the security plan or implementing procedures, licensees shall:
 - a. Evaluate an individual's need to know the security plan or implementing procedures; and
 - b. If the individual has not been authorized for unescorted access to category 1 or category 2 quantities of radioactive material, safeguards information, or safeguards information-modified handling, the licensee shall complete a background investigation to determine the individual's trustworthiness and reliability. A trustworthiness and reliability determination shall be conducted by the reviewing official and shall include the background investigation elements contained in R9-7-1925(A)(2) through (A)(7).
 4. Licensees need not subject the following individuals to the background investigation elements for protection of information:
 - a. The categories of individuals listed in R9-7-1929(A); or
 - b. Security service provider employees, provided written verification that the employee has been determined to be trustworthy and reliable, by the required background investigation in R9-7-1925(A)(2) through (A)(7), has been provided by the security service provider.
 5. The licensee shall document the basis for concluding that an individual is trustworthy and reliable and should be granted access to the security plan or implementing procedures.
 6. Licensees shall maintain a list of persons currently approved for access to the security plan or implementing procedures. When a licensee determines that a person no longer needs access to the security plan or implementing procedures or no longer meets the access authorization requirements for access to the information, the licensee shall remove the person from the approved list as soon as possible, but no later than 7 working days, and take prompt measures to ensure that the individual is unable to obtain the security plan or implementing procedures.
 7. When not in use, the licensee shall store its security plan and implementing procedures in a manner to prevent unauthorized access. Information stored in non-removable electronic form shall be password protected.
 8. The licensee shall retain as a record for 3 years after the document is no longer needed:
 - a. A copy of the information protection procedures; and
 - b. The list of individuals approved for access to the security plan or implementing procedures.
 9. State officials, State employees, and other individuals, whether or not licensees of the Commission or an Agreement State, who receive schedule information of the kind specified in subsection (D)(1) shall protect that information against unauthorized disclosure as specified in subsection (D)(2).

Historical Note

New Section R9-7-1943 recodified from R12-1-1943 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-1944. Reserved**Historical Note**

Section R9-7-1944 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1945. Local Law Enforcement Agency (LLEA) Coordination

- A. A licensee subject to this Article shall coordinate, to the extent practicable, with an LLEA for responding to threats to the licensee's facility, including any necessary armed response. The information provided to the LLEA shall include:
1. A description of the facilities and the category 1 and category 2 quantities of radioactive materials along with a description of the licensee's security measures that have been implemented to comply with this Article; and
 2. A notification that the licensee will request a timely armed response by the LLEA to any actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of material.
- B. The licensee shall notify the Department as listed in R9-7-1907 of this Article within 3 business days if:
1. The LLEA has not responded to the request for coordination within 60 days of the coordination request; or
 2. The LLEA notifies the licensee that the LLEA does not plan to participate in coordination activities.
- C. The licensee shall document its efforts to coordinate with the LLEA. The documentation shall be kept for 3 years.
- D. The licensee shall coordinate with the LLEA at least every 12 months, or when changes to the facility design or operation adversely affect the potential vulnerability of the licensee's material to theft, sabotage, or diversion.

Historical Note

New Section R9-7-1945 recodified from R12-1-1945 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1946. Reserved**Historical Note**

Section R9-7-1946 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1947. Security Zones

- A. Licensees shall ensure that all aggregated category 1 and category 2 quantities of radioactive material are used or stored within licensee established security zones. Security zones may be permanent or temporary.
- B. Temporary security zones shall be established as necessary to meet the licensee's transitory or intermittent business activities, such as periods of maintenance, source delivery, and source replacement.
- C. Security zones shall, at a minimum, allow unescorted access only to approved individuals through:
1. Isolation of category 1 and category 2 quantities of radioactive materials by the use of continuous physical barriers that allow access to the security zone only through established access control points. A physical barrier is a natural or man-made structure or formation sufficient for the isolation of the category 1 or category 2 quantities of radioactive material within a security zone; or
 2. Direct control of the security zone by approved individuals at all times; or
 3. A combination of continuous physical barriers and direct control.

- D. For category 1 quantities of radioactive material during periods of maintenance, source receipt, preparation for shipment, installation, or source removal or exchange, the licensee shall, at a minimum, provide sufficient individuals approved for unescorted access to maintain continuous surveillance of sources in temporary security zones and in any security zone in which physical barriers or intrusion detection systems have been disabled to allow such activities.
- E. Individuals not approved for unescorted access to category 1 or category 2 quantities of radioactive material shall be escorted by an approved individual when in a security zone.

Historical Note

New Section R9-7-1947 recodified from R12-1-1947 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1948. Reserved**Historical Note**

Section R9-7-1948 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1949. Monitoring, Detection, and Assessment

- A. Monitoring and detection:
1. Licensees shall establish and maintain the capability to continuously monitor and detect without delay all unauthorized entries into its security zones. Licensees shall provide the means to maintain continuous monitoring and detection capability in the event of a loss of the primary power source, or provide for an alarm and response in the event of a loss of this capability to continuously monitor and detect unauthorized entries.
 2. Monitoring and detection shall be performed by:
 - a. A monitored intrusion detection system that is linked to an onsite or offsite central monitoring facility; or
 - b. Electronic devices for intrusion detection alarms that will alert nearby facility personnel; or
 - c. A monitored video surveillance system; or
 - d. Direct visual surveillance by approved individuals located within the security zone; or
 - e. Direct visual surveillance by a licensee designated individual located outside the security zone.
 3. A licensee subject to this Article shall also have a means to detect unauthorized removal of the radioactive material from the security zone. This detection capability shall provide:
 - a. For category 1 quantities of radioactive material, immediate detection of any attempted unauthorized removal of the radioactive material from the security zone. Such immediate detection capability shall be provided by:
 - i. Electronic sensors linked to an alarm; or
 - ii. Continuous monitored video surveillance; or
 - iii. Direct visual surveillance.
 - b. For category 2 quantities of radioactive material, weekly verification through physical checks, tamper indicating devices, use, or other means to ensure that the radioactive material is present.
- B. Assessment: Licensees shall immediately assess each actual or attempted unauthorized entry into the security zone to determine whether the unauthorized access was an actual or attempted theft, sabotage, or diversion.
- C. Personnel communications and data transmission: For personnel and automated or electronic systems supporting the licensee's monitoring, detection, and assessment systems, licensees shall:

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1. Maintain continuous capability for personnel communication and electronic data transmission and processing among site security systems; and
2. Provide an alternative communication capability for personnel, and an alternative data transmission and processing capability, in the event of a loss of the primary means of communication or data transmission and processing. Alternative communications and data transmission systems may not be subject to the same failure modes as the primary systems.

- D.** Response: Licensees shall immediately respond to any actual or attempted unauthorized access to the security zones, or actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material at licensee facilities or temporary job sites. For any unauthorized access involving an actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material, the licensee's response shall include requesting, without delay, an armed response from the LLEA.

Historical Note

New Section R9-7-1949 recodified from R12-1-1949 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1950. Reserved**Historical Note**

Section R9-7-1950 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1951. Maintenance and Testing

- A.** Each licensee subject to this R9-7-1941 through R9-7-1957 shall implement a maintenance and testing program to ensure that intrusion alarms, associated communication systems, and other physical components of the systems used to secure or detect unauthorized access to radioactive material are maintained in operable condition and are capable of performing their intended function when needed. The equipment relied on to meet the security requirements of this part shall be inspected and tested for operability and performance at the manufacturer's suggested frequency. If there is no suggested manufacturer's suggested frequency, the testing shall be performed at least annually, not to exceed 12 months.
- B.** The licensee shall maintain records on the maintenance and testing activities for 3 years. The record shall include:
1. The date of activity;
 2. Type of activity performed;
 3. A list of the equipment involved;
 4. The results of the activity;
 5. The name of the individual that conducted the activity;
 6. The repair or maintenance (if applicable) that was performed.

Historical Note

New Section R9-7-1951 recodified from R12-1-1951 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1952. Reserved**Historical Note**

Section R9-7-1952 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1953. Requirements for Mobile Devices

Each licensee that possesses mobile devices containing category 1 or category 2 quantities of radioactive material shall:

- A.** Have two independent physical controls that form tangible barriers to secure the material from unauthorized removal

when the device is not under direct control and constant surveillance by the licensee; and

- B.** For devices in or on a vehicle or trailer, unless the health and safety requirements for a site prohibit the disabling of the vehicle, the licensee shall utilize a method to disable the vehicle or trailer when not under direct control and constant surveillance by the licensee. Licensees shall not rely on the removal of an ignition key to meet this requirement.

Historical Note

New Section R9-7-1953 recodified from R12-1-1953 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1954. Reserved**Historical Note**

Section R9-7-1954 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1955. Security Program Review

- A.** Each licensee shall be responsible for the continuing effectiveness of the security program. Each licensee shall ensure that the security program is reviewed to confirm compliance with the requirements of this Article and that comprehensive actions are taken to correct any noncompliance that is identified. The review shall include the radioactive material security program content and implementation. Each licensee shall periodically (at least annually) review the security program content and implementation.
- B.** The results of the review, along with any recommendations, shall be documented. Each review report shall identify conditions that are adverse to the proper performance of the security program, the cause of the condition(s), and, when appropriate, recommend corrective actions, and corrective actions taken. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas where indicated.
- C.** The licensee shall maintain the review documentation for 3 years.

Historical Note

New Section R9-7-1955 recodified from R12-1-1955 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1956. Reserved**Historical Note**

Section R9-7-1956 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1957. Reporting of Events

- A.** The licensee shall immediately notify the LLEA after determining that an unauthorized entry resulted in an actual or attempted theft, sabotage, or diversion of a category 1 or category 2 quantity of radioactive material. As soon as possible after initiating a response, but not at the expense of causing delay or interfering with the LLEA response to the event, the licensee shall notify the Department. Notification shall be to a live person, a voice mail is not considered adequate notification. In no case shall the notification to the Department be later than 4 hours after the discovery of any attempted or actual theft, sabotage, or diversion.
- B.** The licensee shall assess any suspicious activity related to possible theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material and notify the LLEA as appropriate. As soon as possible but not later than 4 hours after notifying the LLEA, the licensee shall notify the Department.

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- C. The initial telephonic notification required by subsection (A) shall be followed within a period of 30 days by a written report submitted to the Department by an appropriate method listed in R9-7-1907. The report shall include sufficient information for Department analysis and evaluation, including identification of any necessary corrective actions to prevent future instances.

Historical Note

New Section R9-7-1957 recodified from R12-1-1957 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1958. Reserved**Historical Note**

Section R9-7-1958 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1959. Reserved**Historical Note**

Section R9-7-1959 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1960. Reserved**Historical Note**

Section R9-7-1960 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1961. Reserved**Historical Note**

Section R9-7-1961 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1962. Reserved**Historical Note**

Section R9-7-1962 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1963. Reserved**Historical Note**

Section R9-7-1963 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1964. Reserved**Historical Note**

Section R9-7-1964 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1965. Reserved**Historical Note**

Section R9-7-1965 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1966. Reserved**Historical Note**

Section R9-7-1966 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1967. Reserved**Historical Note**

Section R9-7-1967 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1968. Reserved**Historical Note**

Section R9-7-1968 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1969. Reserved**Historical Note**

Section R9-7-1969 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1970. Reserved**Historical Note**

Section R9-7-1970 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1971. Additional Requirements for Transfer of Category 1 and Category 2 Quantities of Radioactive Material

A licensee transferring a category 1 or category 2 quantity of radioactive material to a licensee of the Department, the NRC, or an Agreement State shall meet the license verification provisions listed below instead of those listed in sections of this chapter:

1. Any licensee transferring category 1 quantities of radioactive material to a licensee of the Department, the NRC, or an Agreement State, prior to conducting such transfer, shall verify with the Department's license verification system or the license issuing authority that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred and that the licensee is authorized to receive radioactive material at the location requested for delivery. If the verification is conducted by contacting the license issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.
2. Any licensee transferring category 2 quantities of radioactive material to a licensee of the Department, the NRC, or an Agreement State, prior to conducting such transfer, shall verify with the Department's license verification system or the license issuing authority that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred. If the verification is conducted by contacting the license issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.
3. In an emergency where the licensee cannot reach the license issuing authority and the license verification system is nonfunctional, the licensee may accept a written certification by the transferee that it is authorized by license to receive the type, form, and quantity of radioactive material to be transferred. The certification shall include the license number, current revision number, issuing agency, expiration date, and for a category 1 shipment the authorized address. The licensee shall keep a copy of the certification. The certification shall be confirmed by use of the NRC's license verification system or by contacting the license issuing authority by the end of the next business day.
4. The transferor shall keep a copy of the verification documentation as a record for 3 years.

Historical Note

New Section R9-7-1971 recodified from R12-1-1971 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1972. Reserved

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Historical Note

Section R9-7-1972 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1973. Applicability of Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material During Transit

- A. For shipments of category 1 quantities of radioactive material, each shipping licensee shall comply with the requirements for physical protection contained in Sections R9-7-1975(A) and (E); R9-7-1977; R9-7-1979(A)(1), (B)(1), and (C); and R9-7-1981(A), (C), (E), (G) and (H).
- B. For shipments of category 2 quantities of radioactive material, each shipping licensee shall comply with the requirements for physical protection contained in R9-7-1975(B) through (E); R9-7-1979(A)(2), (A)(3), (B)(2), and (C); and R9-7-1981(B), (D), (F), (G), and (H). For those shipments of category 2 quantities of radioactive material that meet the criteria of Article 15 of this Chapter, the shipping licensee shall also comply with the advance notification provisions of R9-7-1508 or R9-7-1512 as appropriate.
- C. The shipping licensee shall be responsible for meeting the requirements of R9-7-1971 through R9-7-1981 unless the receiving licensee has agreed in writing to arrange for the in-transit physical protection required under R9-7-1971 through R9-7-1981.
- D. Each licensee that imports or exports category 1 quantities of radioactive material shall comply with the requirements for physical protection during transit contained in R9-7-1975(A)(2) and (E); R9-7-1977; R9-7-1979(A)(1), (B)(1), and (C); and R9-7-1981(A), (C), (E), (G), and (H) for the domestic portion of the shipment.
- E. Each licensee that imports or exports category 2 quantities of radioactive material shall comply with the requirements for physical protection during transit contained in R9-7-1979(A)(2), (A)(3), and (B)(2); and R9-7-1981(B), (D), (F), (G), and (H) for the domestic portion of the shipment.

Historical Note

New Section R9-7-1973 recodified from R12-1-1973 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1974. Reserved**Historical Note**

Section R9-7-1974 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1975. Preplanning and Coordination of Shipment of Category 1 or Category 2 Quantities of Radioactive Material

- A. Each licensee that plans to transport, or deliver to a carrier for transport, licensed material that is a category 1 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall:
 - 1. Preplan and coordinate shipment arrival and departure times with the receiving licensee;
 - 2. Preplan and coordinate shipment information with the governor or the governor's designee of any State through which the shipment will pass to:
 - a. Discuss the State's intention to provide law enforcement escorts; and
 - b. Identify safe havens; and
 - 3. Document the preplanning and coordination activities.
- B. Each licensee that plans to transport, or deliver to a carrier for transport, licensed material that is a category 2 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall coordinate the shipment no-later-than arrival time and the expected shipment

arrival with the receiving licensee. The licensee shall document the coordination activities.

- C. Each licensee who receives a shipment of a category 2 quantity of radioactive material shall confirm receipt of the shipment with the originator. If the shipment has not arrived by the no-later-than arrival time, the receiving licensee shall notify the originator.
- D. Each licensee, who transports or plans to transport a shipment of a category 2 quantity of radioactive material, and determines that the shipment will arrive after the no-later-than arrival time provided pursuant to paragraph (B), shall promptly notify the receiving licensee of the new no-later-than arrival time.
- E. The licensee shall retain a copy of the documentation for preplanning and coordination and any revision thereof, as a record for 3 years.

Historical Note

New Section R9-7-1975 recodified from R12-1-1975 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1976. Reserved**Historical Note**

Section R9-7-1976 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1977. Advance Notification of Shipment of Category 1 Quantities of Radioactive Material

Each licensee shall provide advance notification to the Department and the governor of a State, or the governor's designee, of the shipment of licensed material in a category 1 quantity, through or across the boundary of the State, before the transport, or delivery to a carrier for transport of the licensed material outside the confines of the licensee's facility or other place of use or storage.

- 1. Procedures for submitting advance notification:
 - a. The notification shall be made to the Department and to the office of each appropriate governor or governor's designee. The contact information, including telephone and mailing addresses, of governors and governors' designees and participating Tribes is available on the NRC's website at <https://scp.nrc.gov/special/designee.pdf>. A list of the contact information is also available upon request from the Director, Division of Material Safety, Security, State, and Tribal Programs, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The notification to the Department may be made by email to ram@azdhs.gov or by fax to (602) 437-0705.
 - b. A notification delivered by mail shall be postmarked at least 7 days before transport of the shipment commences at the shipping facility.
 - c. A notification delivered by any means other than mail shall reach the Department at least 4 days before the transport of the shipment commences and shall reach the office of the governor or the governor's designee at least 4 days before transport of a shipment within or through the State.
- 2. Information to be furnished in advance notification of shipment: Each advance notification of shipment of category 1 quantities of radioactive material shall contain the following information, if available at the time of notification:
 - a. The name, address, and telephone number of the shipper, carrier, and receiver of the category 1 radioactive material;

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- b. The license numbers of the shipper and receiver;
 - c. A description of the radioactive material contained in the shipment, including the radionuclides and quantity;
 - d. The point of origin of the shipment and the estimated time and date that shipment will commence;
 - e. The estimated time and date that the shipment is expected to enter each State along the route;
 - f. The estimated time and date of arrival of the shipment at the destination; and
 - g. A point of contact, with a telephone number, for current shipment information.
3. Revision notice:
 - a. The licensee shall provide any information not previously available at the time of the initial notification, as soon as the information becomes available but not later than commencement of the shipment, to the governor of the State or the governor's designee and to the Department at the contact information available in R9-7-1907.
 - b. A licensee shall promptly notify the governor of the state or the governor's designee of any changes to the information provided in accordance with subsections (B) and (C)(1). The licensee shall also immediately notify the Department at the contact information available in R9-7-1907 of any such changes.
 4. Cancellation notice: Each licensee who cancels a shipment for which advance notification has been sent shall send a cancellation notice to the governor of each State or to the governor's designee previously notified and to the Department Director at the contact information available in R9-7-1907. The licensee shall send the cancellation notice before the shipment would have commenced or as soon thereafter as possible. The licensee shall state in the notice that it is a cancellation and identify the advance notification that is being cancelled.
 5. Records: The licensee shall retain a copy of the advance notification and any revision and cancellation notices as a record for 3 years.
 6. Protection of information: State officials, State employees, and other individuals, whether or not licensees of the Department, the NRC, or an Agreement State, who receive schedule information of the kind specified in this Section shall protect that information against unauthorized disclosure as specified in R9-7-1943(D) of this Article.
- Historical Note**
- New Section R9-7-1977 recodified from R12-1-1977 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).
- R9-7-1978. Reserved**
- Historical Note**
- Section R9-7-1978 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).
- R9-7-1979. Requirements for Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material During Shipment**
- A. Shipments by road:**
1. Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 1 quantity of radioactive material shall:
 - a. Ensure that movement control centers are established that maintain position information from a remote location. These control centers shall monitor shipments 24 hours a day, 7 days a week, and have the ability to communicate immediately, in an emergency, with the appropriate law enforcement agencies.
 - b. Ensure that redundant communications are established that allow the transport to contact the escort vehicle (when used) and movement control center at all times. Redundant communications may not be subject to the same interference factors as the primary communication.
 - c. Ensure that shipments are continuously and actively monitored by a telemetric position monitoring system or an alternative tracking system reporting to a movement control center. A movement control center shall provide positive confirmation of the location, status, and control over the shipment. The movement control center shall be prepared to promptly implement preplanned procedures in response to deviations from the authorized route or a notification of actual, attempted, or suspicious activities related to the theft, loss, or diversion of a shipment. These procedures will include, but not be limited to, the identification of and contact information for the appropriate LLEA along the shipment route.
 - d. Provide an individual to accompany the driver for those highway shipments with a driving time period greater than the maximum number of allowable hours of service in a 24-hour duty day as established by the Department of Transportation Federal Motor Carrier Safety Administration. The accompanying individual may be another driver.
 - e. Develop written normal and contingency procedures to address:
 - i. Notifications to the communication center and law enforcement agencies;
 - ii. Communication protocols. Communication protocols shall include a strategy for the use of authentication codes and duress codes and provisions for refueling or other stops, detours, and locations where communication is expected to be temporarily lost;
 - iii. Loss of communications; and
 - iv. Responses to an actual or attempted theft or diversion of a shipment.
 - f. Each licensee who makes arrangements for the shipment of category 1 quantities of radioactive material shall ensure that drivers, accompanying personnel, and movement control center personnel have access to the normal and contingency procedures.
 2. Each licensee that transports category 2 quantities of radioactive material shall maintain constant control and/or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance.
 3. Each licensee who delivers to a carrier for transport, in a single shipment, a category 2 quantity of radioactive material shall:
 - a. Use carriers that have established package tracking systems. An established package tracking system is

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a documented, proven, and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control and/or surveillance, the package tracking system shall allow the shipper or transporter to identify when and where the package was last and when it should arrive at the next point of control.

- b. Use carriers that maintain constant control and/or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance; and
- c. Use carriers that have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.

B. Shipments by rail:

1. Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 1 quantity of radioactive material shall:
 - a. Ensure that rail shipments are monitored by a telemetric position monitoring system or an alternative tracking system reporting to the licensee, third-party, or railroad communications center. The communications center shall provide positive confirmation of the location of the shipment and its status. The communications center shall implement preplanned procedures in response to deviations from the authorized route or to a notification of actual, attempted, or suspicious activities related to the theft or diversion of a shipment. These procedures will include, but not be limited to, the identification of and contact information for the appropriate LLEA along the shipment route.
 - b. Ensure that periodic reports to the communications center are made at preset intervals.
2. Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 2 quantity of radioactive material shall:
 - a. Use carriers that have established package tracking systems. An established package tracking system is a documented, proven, and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control and/or surveillance, the package tracking system shall allow the shipper or transporter to identify when and where the package was last and when it should arrive at the next point of control.
 - b. Use carriers that maintain constant control and/or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance; and
 - c. Use carriers that have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.

- C. Investigations: Each licensee who makes arrangements for the shipment of category 1 quantities of radioactive material shall immediately conduct an investigation upon the discovery that a category 1 shipment is lost or missing. Each licensee who makes arrangements for the shipment of category 2 quantities of radioactive material shall immediately conduct an investigation, in coordination with the receiving licensee, of any shipment that has not arrived by the designated no-later-than arrival time.

Historical Note

New Section R9-7-1979 recodified from R12-1-1979 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1980. Reserved**Historical Note**

Section R9-7-1980 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1981. Reporting of Events

- A. Within one hour of its determination that a shipment of category 1 quantities of radioactive material is lost or missing, a shipping licensee shall notify the appropriate LLEA and the Department. The Department shall be notified by calling (602) 255-4845 during business hours, or by calling the after-hours emergency Department of Public Safety dispatch line, at (602) 223-2212. The appropriate LLEA is the law enforcement agency in the area of the shipment's last confirmed location. During the investigation required by R9-7-1979(C), the shipping licensee shall provide agreed upon updates to the Department on the status of the investigation.
- B. Within four (4) hours of its determination that a shipment of category 2 quantities of radioactive material is lost or missing, a shipping licensee shall notify the appropriate LLEA and the Department. The Department shall be notified by calling (602) 255-4845 during business hours, or by calling the after-hours emergency Department of Public Safety dispatch line, at (602) 223-2212. If, after 24 hours of its determination that the shipment is lost or missing, the radioactive material has not been located and secured, the licensee shall immediately notify the Department.
- C. The shipping licensee shall notify the designated LLEA along the shipment route as soon as possible upon discovery of any actual or attempted theft or diversion of a shipment or suspicious activities related to the theft or diversion of a shipment of a category 1 quantity of radioactive material. As soon as possible after notifying the LLEA, the licensee shall notify the Department upon discovery of any actual or attempted theft or diversion of a shipment, or any suspicious activity related to the shipment of category 1 radioactive material. The Department shall be notified by calling (602) 255-4845 during business hours, or by calling the after-hours emergency Department of Public Safety dispatch line, at (602) 223-2212.
- D. The shipping licensee shall notify the Department as soon as possible upon discovery of any actual or attempted theft or diversion of a shipment, or any suspicious activity related to the shipment, of a category 2 quantity of radioactive material. The Department shall be notified by calling (602) 255-4845 during business hours, or by calling the after-hours emergency Department of Public Safety dispatch line, at (602) 223-2212.
- E. The shipping licensee shall notify the Department and the LLEA as soon as possible upon recovery of any lost or missing category 1 quantities of radioactive material. The Agency shall be notified by calling (602) 255-4845 during business hours, or by calling the after-hours emergency Department of Public Safety dispatch line, at (602) 223-2212.
- F. The shipping licensee shall notify the Department as soon as possible upon recovery of any lost or missing category 2 quantities of radioactive material. The Department shall be notified by calling (602) 255-4845 during business hours, or by calling the after-hours emergency Department of Public Safety dispatch line, at (602) 223-2212.
- G. The initial telephonic notification required by subsections (A) through (D) shall be followed within a period of 30 days by a written report submitted to the Department by an appropriate method listed in R9-7-1907. A written report is not required

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for notifications on suspicious activities required by subsections (C) and (D). The report shall set forth the following information:

1. A description of the licensed material involved, including kind, quantity, and chemical and physical form;
2. A description of the circumstances under which the loss or theft occurred;
3. A statement of disposition, or probable disposition, of the licensed material involved;
4. Actions that have been taken, or will be taken, to recover the material; and
5. Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed material.

H. Subsequent to filing the written report, the licensee shall also report any additional substantive information on the loss or theft within 30 days after the licensee learns of such information.

Historical Note

New Section R9-7-1981 recodified from R12-1-1981 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1982. Reserved

Historical Note

Section R9-7-1982 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1983. Reserved

Historical Note

Section R9-7-1983 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1984. Reserved

Historical Note

Section R9-7-1984 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1985. Reserved

Historical Note

Section R9-7-1985 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1986. Reserved

Historical Note

Section R9-7-1986 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1987. Reserved

Historical Note

Section R9-7-1987 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1988. Reserved

Historical Note

Section R9-7-1988 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1989. Reserved

Historical Note

Section R9-7-1989 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1990. Reserved

Historical Note

Section R9-7-1990 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1991. Reserved

Historical Note

Section R9-7-1991 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1992. Reserved

Historical Note

Section R9-7-1992 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1993. Reserved

Historical Note

Section R9-7-1993 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1994. Reserved

Historical Note

Section R9-7-1994 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1995. Reserved

Historical Note

Section R9-7-1995 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1996. Reserved

Historical Note

Section R9-7-1996 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1997. Reserved

Historical Note

Section R9-7-1997 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1998. Reserved

Historical Note

Section R9-7-1998 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1999. Reserved

Historical Note

Section R9-7-1999 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-19100. Reserved

Historical Note

Section R9-7-19100 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-19101. Form of Records

- A.** Each record required by this Article shall be legible throughout the retention period specified by each Department rule. The record may be the original or a reproduced copy or a microform, provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, and specifications, shall include all pertinent

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information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

- B.** The licensee who transferred the material shall retain each record of the transfer of source or byproduct material until the Department terminates each license that authorizes the activity that is subject to the recordkeeping requirement.

Historical Note

New Section R9-7-19101 recodified from R12-1-19101 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-19102. Reserved**Historical Note**

Section R9-7-19102 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-19103. Record Retention

Licensees shall maintain the records that are required by the rules in this Article for the period specified by the appropriate rule. If a retention period is not otherwise specified, these records shall be retained until the Department terminates the facility's license. All records related to this Article may be destroyed upon Department termination of the facility's license.

Historical Note

New Section R9-7-19103 recodified from R12-1-19103 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-19104. Reserved**Historical Note**

Section R9-7-19104 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-19105. Inspections

- A.** Each licensee shall afford to the Department, at all reasonable times, opportunity to inspect category 1 or category 2 quantities of radioactive material and the premises and facilities wherein the nuclear material is used, produced, or stored.
- B.** Each licensee shall make available to the Department for inspection, upon reasonable notice, records kept by the licensee pertaining to its receipt, possession, use, acquisition, import, export, or transfer of category 1 or category 2 quantities of radioactive material.

Historical Note

New Section R9-7-19105 recodified from R12-1-19105 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-19106. Reserved**Historical Note**

Section R9-7-19106 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-19107. Violations

- A.** The Department may obtain an injunction or other court order to prevent a violation of the provisions of:
1. A.R.S. § 30-685, as amended;
 2. A.A.C. Title 9, Chapter 7; or
 3. A rule or order issued by the Department pursuant to Statute or the rules under A.A.C. Title 9, Chapter 7.
- B.** The Department may obtain a court order for the payment of a civil penalty imposed under A.R.S. § 30-687, as amended:
1. For violations of:
 - a. The rules in A.A.C. Title 9, Chapter 7, as amended;
 - b. Nonpayment of fees listed in A.A.C. Title 9, Chapter 7, Article 13;
 - c. Any rule, or order issued pursuant to the sections specified in subsection (B)(1)(a);
 - d. Any term, condition, or limitation of any license issued under the sections specified in subsection (B)(1)(a).
 2. For any violation for which a license may be revoked.

Historical Note

New Section R9-7-19107 recodified from R12-1-19107 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-19108. Reserved**Historical Note**

Section R9-7-19108 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-19109. Criminal Penalties

Arizona Revised Statutes § 30-673, as amended, provides for criminal sanctions for willful violation of, attempted violation of, or conspiracy to violate, any rule issued under A.A.C. Title 9, Chapter 7. For purposes of this Section, all the rules in this Article are issued under A.R.S. § 30-673 or the rules of the Department.

Historical Note

New Section R9-7-19109 recodified from R12-1-19109 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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Appendix A. - Table 1 - Category 1 and Category 2 Threshold

The terabecquerel (TBq) values are the regulatory standard. The curie (Ci) values specified are obtained by converting from the TBq value. The curie values are provided for practical usefulness only.

| Radioactive Material | Category 1 (TBq) | Category 1 (Ci) | Category 2 (TBq) | Category 2 (Ci) |
|----------------------|------------------|-----------------|------------------|-----------------|
| Americium-241 | 60 | 1,620 | 0.6 | 16.2 |
| Americium-241/Be | 60 | 1,620 | 0.6 | 16.2 |
| Californium-252 | 20 | 540 | 0.2 | 5.40 |
| Cobalt-60 | 30 | 810 | 0.3 | 8.10 |
| Curium-244 | 50 | 1,350 | 0.5 | 13.5 |
| Cesium-137 | 100 | 2,700 | 1 | 27.0 |
| Gadolinium-153 | 1,000 | 27,000 | 10 | 270 |
| Iridium-192 | 80 | 2,160 | 0.8 | 21.6 |
| Plutonium-238 | 60 | 1,620 | 0.6 | 16.2 |
| Plutonium-239/Be | 60 | 1,620 | 0.6 | 16.2 |
| Promethium-147 | 40,000 | 1,080,000 | 400 | 10,800 |
| Radium-226 | 40 | 1,080 | 0.4 | 10.8 |
| Selenium-75 | 200 | 5,400 | 2 | 54.0 |
| Strontium-90 | 1,000 | 27,000 | 10 | 270 |
| Thulium-170 | 20,000 | 540,000 | 200 | 5,400 |
| Ytterbium-169 | 300 | 8,100 | 3 | 81.0 |

Note: Calculations Concerning Multiple Sources or Multiple Radionuclides

The “sum of fractions” methodology for evaluating combinations of multiple sources or multiple radionuclides is to be used in determining whether a location meets or exceeds the threshold and is thus subject to the requirements of this part.

1. If multiple sources of the same radionuclide and/or multiple radionuclides are aggregated at a location, the sum of the ratios of the total activity of each of the radionuclides shall be determined to verify whether the activity at the location is less than the category 1 or category 2 thresholds of Table 1, as appropriate. If the calculated sum of the ratios, using the equation below, is greater than or equal to 1.0, then the applicable requirements of this part apply.
2. First determine the total activity for each radionuclide from Table 1. This is done by adding the activity of each individual source, material in any device, and any loose or bulk material that contains the radionuclide. Then use the equation below to calculate the sum of the ratios by inserting the total activity of the applicable radionuclides from Table 1 in the numerator of the equation and the corresponding threshold activity from Table 1 in the denominator of the equation.

Calculations shall be performed in metric values (i.e., TBq) and the numerator and denominator values shall be in the same units.

R_1 = total activity for radionuclide 1

R_2 = total activity for radionuclide 2

R_n = total activity for radionuclide n

AR_1 = activity threshold for radionuclide 1

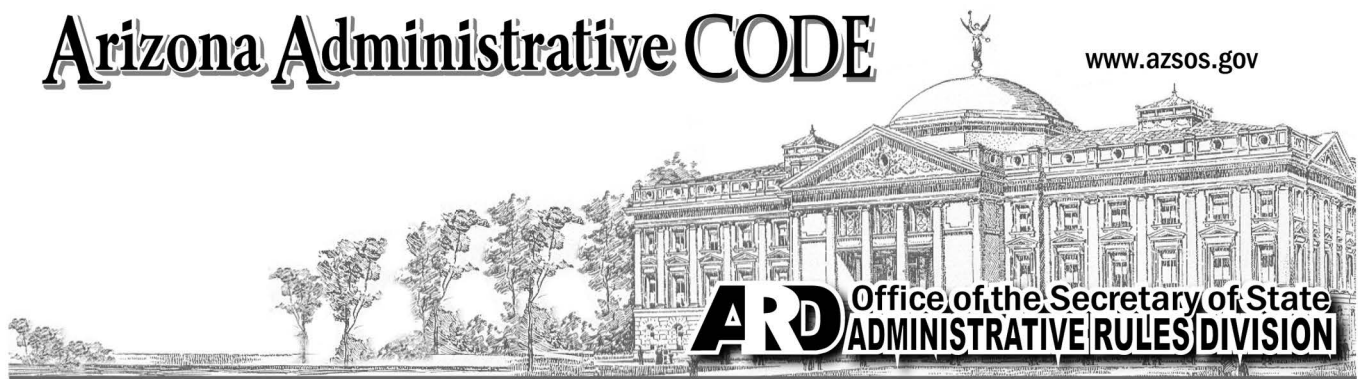
AR_2 = activity threshold for radionuclide 2

AR_n = activity threshold for radionuclide n

$$\frac{R_1}{AR_1} + \frac{R_2}{AR_2} + \dots + \frac{R_n}{AR_n} \geq 1.0$$

Historical Note

New Article 19, Appendix A, Table 1 recodified from 12 A.A.C. 1, Article 19, Appendix A, Table 1 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).



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CHAPTER 8. DEPARTMENT OF HEALTH SERVICES - FOOD, RECREATIONAL, AND INSTITUTIONAL SANITATION

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Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
January 1, 2024 through March 31, 2024

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The release of this Chapter in Supp. 24-1 replaces Supp. 21-2, 1-41 pages.

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

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

PERSONAL USE/COMMERCIAL USE

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division

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TITLE 9. HEALTH SERVICES

CHAPTER 8. DEPARTMENT OF HEALTH SERVICES - FOOD, RECREATIONAL, AND INSTITUTIONAL SANITATION

Authority: A.R.S. §§ 36-132(A)(1) and 36-136(G)

Supp. 24-1

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Article 4, consisting of Sections R9-8-411 through R9-8-416, R9-8-421, R9-8-426 through R9-8-428, and R9-8-431 through R9-8-433 renumbered as Article 5, Sections R18-8-501 through R18-8-513 (Supp. 87-3).

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ARTICLE 9. EXPIRED

Article 9, consisting of Sections R9-8-901 through R9-8-917, expired under A.R.S. § 41-1056(E) at 8 A.A.R. 2056, effective March 31, 2002 (Supp. 02-2).

Article 9, consisting of Sections R9-8-901 through R9-8-917, adopted effective October 30, 1998 (Supp. 98-4).

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ARTICLE 10. RENUMBERED

See Title 18, Chapter 5, Article 4.

ARTICLE 11. EXPIRED

Article 11, consisting of Sections R9-8-1102 through R9-8-1108, expired under A.R.S. § 41-1056(E) at 16 A.A.R. 2062, effective September 30, 2010 (Supp. 10-3).

Article 11, consisting of Section R9-8-1111, repealed effective April 10, 1997 (Supp. 97-2).

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| R9-8-1330. | Reserved | 41 |
| R9-8-1331. | Repealed | 41 |
| R9-8-1332. | Repealed | 41 |
| R9-8-1333. | Repealed | 41 |
| R9-8-1334. | Repealed | 41 |
| R9-8-1335. | Repealed | 41 |
| R9-8-1336. | Repealed | 41 |
| R9-8-1337. | Repealed | 41 |
| R9-8-1338. | Repealed | 41 |

ARTICLE 14. REPEALED*Article 14, consisting of Sections R9-8-1411 through R9-8-1413, repealed effective April 10, 1997 (Supp. 97-2).*

| | | |
|------------|----------------|----|
| Section | | |
| R9-8-1411. | Repealed | 41 |
| R9-8-1412. | Repealed | 41 |
| R9-8-1413. | Repealed | 41 |

ARTICLE 15. REPEALED**ARTICLE 16. REPEALED**

| | | |
|------------|----------------|----|
| Section | | |
| R9-8-1601. | Reserved | 41 |
| R9-8-1602. | Reserved | 41 |
| R9-8-1603. | Reserved | 41 |
| R9-8-1604. | Reserved | 41 |
| R9-8-1605. | Reserved | 41 |
| R9-8-1606. | Reserved | 41 |
| R9-8-1607. | Reserved | 41 |
| R9-8-1608. | Reserved | 41 |
| R9-8-1609. | Reserved | 41 |
| R9-8-1610. | Reserved | 41 |
| R9-8-1611. | Repealed | 41 |
| R9-8-1612. | Repealed | 41 |
| R9-8-1613. | Reserved | 41 |
| R9-8-1614. | Repealed | 41 |
| R9-8-1615. | Repealed | 41 |
| R9-8-1616. | Repealed | 41 |
| R9-8-1617. | Repealed | 41 |
| R9-8-1618. | Repealed | 41 |
| R9-8-1619. | Repealed | 41 |
| R9-8-1620. | Repealed | 41 |
| R9-8-1621. | Repealed | 42 |
| R9-8-1622. | Repealed | 42 |
| R9-8-1623. | Reserved | 42 |
| R9-8-1624. | Repealed | 42 |
| R9-8-1625. | Repealed | 42 |
| R9-8-1626. | Repealed | 42 |
| R9-8-1627. | Repealed | 42 |
| R9-8-1628. | Repealed | 42 |
| R9-8-1629. | Repealed | 42 |
| R9-8-1630. | Repealed | 42 |
| R9-8-1631. | Repealed | 42 |
| R9-8-1632. | Repealed | 42 |
| R9-6-1633. | Repealed | 42 |
| R9-8-1634. | Repealed | 42 |
| R9-8-1635. | Repealed | 42 |
| R9-8-1636. | Repealed | 42 |
| R9-8-1637. | Repealed | 42 |
| R9-8-1638. | Repealed | 42 |
| R9-8-1639. | Repealed | 42 |
| R9-8-1640. | Repealed | 42 |
| R9-8-1641. | Repealed | 42 |
| R9-8-1642. | Repealed | 42 |
| R9-8-1643. | Repealed | 42 |
| R9-8-1644. | Repealed | 42 |
| R9-8-1645. | Repealed | 42 |
| R9-8-1646. | Repealed | 42 |
| R9-8-1647. | Repealed | 43 |
| R9-8-1648. | Repealed | 43 |
| R9-8-1649. | Repealed | 43 |

ARTICLE 17. RENUMBERED**ARTICLE 18. RENUMBERED****ARTICLE 19. EMERGENCY EXPIRED**

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ARTICLE 1. FOOD ESTABLISHMENTS

R9-8-101. Purpose and Definitions

- A. The Department incorporates by reference the United States Food and Drug Administration publication, Food Code: 2017 Recommendations of the United States Public Health Service, Food and Drug Administration and shall comply with the 2017 Food Code (FC) as specified in this Article. This incorporation by reference contains no future editions or amendments. The incorporated material is on file with the Department and is available for order at: <https://www.fda.gov/Food/Resources-ForYou/Consumers/ucm239035.htm>, refer to publication number IFS17.
- B. The Department incorporates FC Chapter 1 in whole, unless otherwise specified:
1. Part 1-1 Title, Intent, Scope; and
 2. Part 1-2 Definitions in part.
- C. In FC Part 1-2, Section 1-201.10(B), the Department:
1. Uses the word "License" in place of the word "Permit."
 2. Uses the word "License holder" in place of the word "Permit holder."
 3. Modifies the following:
 - a. "Additive" means:
 - i. "Food additive" means the same as in A.R.S. § 36-901(7), but also includes marijuana and marijuana concentrate, as defined in A.R.S. § 36-2850, when used by a marijuana establishment in compliance with and according to A.R.S. Title 36, Chapter 28.2 and 9 A.A.C. 18; and
 - ii. "Color additive" means the same as in A.R.S. § 36-901(2).
 - b. "Adulterated" means possessing one or more of the conditions enumerated in A.R.S. § 36-904(A), but does not include the addition of marijuana or marijuana concentrate, as defined in A.R.S. § 36-2850, when used by a marijuana establishment in compliance with and according to A.R.S. Title 36, Chapter 28.2 and 9 A.A.C. 18.
 - c. "Approved" means acceptable to the REGULATORY AUTHORITY or to the FOOD regulatory agency that has jurisdiction based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.
 - d. "Consumer" means a PERSON who is a member of the public, takes possession of FOOD, is not functioning in the capacity of an operator of a FOOD ESTABLISHMENT and does not offer the FOOD for resale.
 - e. "Food Establishment" does not include:
 - i. An establishment that offers only prePACKAGED FOOD that are not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD;
 - ii. A produce stand that only offers whole, uncut fresh fruits and vegetables;
 - iii. A kitchen in a private home if only FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD, is prepared for sale or service at a function such as a religious or charitable (organization's bake sale if allowed by LAW and if the CONSUMER is informed by a clearly visible placard at the sales or service location that the FOOD is prepared in a kitchen that is not subject to regulation and inspection by the REGULATORY AUTHORITY;
 - iv. An area where FOOD that is prepared as specified in Subparagraph (iii) of this definition is sold or offered for human consumption;
 - v. A kitchen in a private home, such as a small family day-care provider; or a bed-and-breakfast operation that prepares and offers FOOD to guests if the home is owner occupied, the number of available guest bedrooms does not exceed 6, breakfast is the only meal offered, the number of guests served does not exceed 18, and the CONSUMER is informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the FOOD is prepared in a kitchen that is not regulated and inspected by the REGULATORY AUTHORITY; or
 - vi. A private home that receives catered or home-delivered FOOD.
 - f. "Packaged" means bottled, canned, cartoned, securely bagged, or securely wrapped compliant with LAW.
 - g. "Person in charge" means the individual present at a FOOD ESTABLISHMENT who is responsible for the management of the operation of the FOOD ESTABLISHMENT at the time of inspection.
 - h. "Regulatory authority" means the Department or a public health services district, local health department, department of environmental services, or department of environmental quality carrying out delegated functions, powers, and duties on behalf of the Department.
- D. In addition to the requirements in FC Part 1-2, Section 1-201.10(B), the Department requires definitions for:
1. "Administrative completeness review time-frame" means the same as in A.R.S. § 41-1072.
 2. "Agency" means any board, commission, department, office, or other administrative unit of the federal government, the state, or a political subdivision of the state.
 3. "Applicant" means an individual requesting a FOOD ESTABLISHMENT license.
 4. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.
 5. "Department" means the Arizona Department of Health Services.
 6. "Developmental disability" means the same as in A.R.S. § 36-551.
 7. "FC" means the United States Food and Drug Administration publication, Food Code: 2017 Recommendations of the United States Public Health Service, Food and Drug Administration incorporated by reference in subsection (A).
 8. "Inspection report" means a document used to record the compliance status of a FOOD ESTABLISHMENT and conveys compliance information to the license holder or PERSON IN CHARGE at the conclusion of an inspection.
 9. "License" means the same as "permit" as in the FC.

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10. "License holder" means the same as "permit holder" as in the FC.
11. "Marijuana" means the same as in A.R.S. § 36-2850.
12. "Marijuana concentrate" means the same as in A.R.S. § 36-2850.
13. "Marijuana establishment" means the same as in A.R.S. § 36-2850.
14. "Overall time-frame" means the same as in A.R.S. § 41-1072.
15. "Public health nuisance" means an act, condition, or thing, specified in A.R.S. § 36-601, or any practice contrary to the health laws of this state that is harmful to the health of the public.
16. "Substantive review time-frame" means the same as in A.R.S. § 41-1072.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). Amended by final rulemaking at 17 A.A.R. 2608, effective February 4, 2012 (Supp. 11-4). Section repealed; new Section made by final rulemaking at 26 A.A.R. 1516, with an immediate effective date of July 8, 2020 (Supp. 20-3). Section amended by exempt rulemaking at 27 A.A.R. 693, effective May 3, 2021 (Supp. 21-2).

R9-8-102. Management and Personnel

- A. The Department incorporates FC Chapter 2 in whole unless otherwise specified:
 1. Part 2-1 Supervision;
 2. Part 2-2 Employee Health in part;
 3. Part 2-3 Personal Cleanliness;
 4. Part 2-4 Hygienic Practices; and
 5. Part 2-5 Responding to Contamination Events.
- B. In addition to the requirements in FC Part 2-2, the Department in:
 1. Section 2-201.12(B)(3), adds hepatitis A virus requirements specified in A.A.C. R9-6-343(B)(1) through (3);
 2. Section 2-201.13(C)(2),
 - a. Deletes "The FOOD EMPLOYEE provides to the PERSON IN CHARGE written medical documentation from a HEALTH PRACTITIONER that states the FOOD EMPLOYEE is free from Typhoid fever.P" and
 - b. Adds Typhoid fever requirements in A.A.C. R9-6-388(A)(4)(a) and (b).

Historical Note

New Section made by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 317, effective March 14, 2003 (Supp. 03-1). Amended by final rulemaking at 12 A.A.R. 2768, effective September 9, 2006 (Supp. 06-3). Amended by final rulemaking at 17 A.A.R. 2608, effective February 4, 2012 (Supp. 11-4). Amended by final rulemaking at 24 A.A.R. 1817, with an immediate effective date of June 8, 2018 (Supp. 18-2). Amended by final expedited rulemaking at 25 A.A.R. 1547, with an immediate effective date of June 5, 2019 (Supp. 19-2). Section R9-8-102 renumbered to R9-8-118; new Section made by final rulemaking at 26 A.A.R. 1516, with an immediate effective date of July 8, 2020 (Supp. 20-3).

R9-8-103. Food

- A. The Department incorporates FC Chapter 3 in whole, unless otherwise specified:

1. Part 3-1 Characteristics;
2. Part 3-2 Sources, Specifications, and Original Containers and Records;
3. Part 3-3 Protection From Contamination After Receiving in part;
4. Part 3-4 Destruction of Organisms of Public Health Concern;
5. Part 3-5 Limitation of Growth of Organisms of Public Health Concern;
6. Part 3-6 Food Identity, Presentation, and On-Premises Labeling;
7. Part 3-7 Contaminated Food; and
8. Part 3-8 Special Requirements for Highly Susceptible Populations.

B. In FC Part 3-3, the Department:

1. In paragraph 3-301.11(B), requires employees to use "non-latex SINGLE-USE gloves."
2. In paragraph 3-304.15(E), requires "Latex gloves may not be used in direct contact with FOOD."

Historical Note

New Section made by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). Section repealed; new Section made by final rulemaking at 26 A.A.R. 1516, with an immediate effective date of July 8, 2020 (Supp. 20-3).

R9-8-104. Equipment, Utensils, and Linens

The Department incorporates FC Chapter 4 in whole:

1. Part 4-1 Materials for Construction and Repair;
2. Part 4-2 Design and Construction;
3. Part 4-3 Numbers and Capacities;
4. Part 4-4 Location and Installation;
5. Part 4-5 Maintenance and Operation;
6. Part 4-6 Cleaning of Equipment;
7. Part 4-7 Sanitization of Equipment and Utensils;
8. Part 4-8 Laundering; and
9. Part 4-9 Protection of Clean Items.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). Section repealed; new Section made by final rulemaking at 26 A.A.R. 1516, with an immediate effective date of July 8, 2020 (Supp. 20-3).

Table 1. Repealed**Historical Note**

New Table made by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). Table 1, Time-Frames (in days) repealed by final rulemaking at 26 A.A.R. 1516, with an immediate effective date of July 8, 2020 (Supp. 20-3).

R9-8-105. Water, Plumbing, and Waste

- A. The Department incorporates FC Chapter 5 in whole, unless otherwise specified:
 1. Part 5-1 Water in part;
 2. Part 5-2 Plumbing System;
 3. Part 5-3 Mobile Water Tank and Mobile Food Establishment Water Tank;
 4. Part 5-4 Sewage, Other Liquid Waste, and Rainwater; and
 5. Part 5-5 Refuse, Recyclables, and Returnable.
- B. In FC Part 5-1, the Department in Section 5-101.13 requires "BOTTLED DRINKING WATER used or sold in a FOOD

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ESTABLISHMENT shall be obtained from APPROVED sources in accordance with LAW.”

Historical Note

New Section made by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). Section repealed; new Section made by final rulemaking at 26 A.A.R. 1516, with an immediate effective date of July 8, 2020 (Supp. 20-3).

R9-8-106. Physical Facilities

- A.** The Department incorporates FC Chapter 6 in whole:
1. Part 6-1 Materials for Construction and Repair;
 2. Part 6-2 Design, Construction, and Installation;
 3. Part 6-3 Numbers and Capacities;
 4. Part 6-4 Location and Placement; and
 5. Part 6-5 Maintenance and Operation.
- B.** In addition to the requirements in FC Part 6-5, the Department requires:
1. A license holder for a VENDING MACHINE to affix to a VENDING MACHINE a permanent sign that includes:
 - a. A unique identifier for the VENDING MACHINE, and
 - b. A telephone number for CONSUMERS to contact the license holder.
 2. A license holder operating a water vending machine shall comply with A.A.C. R18-4-216 and other applicable LAW.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). Section repealed; new Section made by final rulemaking at 26 A.A.R. 1516, with an immediate effective date of July 8, 2020 (Supp. 20-3).

R9-8-107. Poisonous or Toxic Materials

- The Department incorporates FC Chapter 7 in whole:
1. Part 7-1 Labeling and Identification;
 2. Part 7-2 Operational Supplies and Applications; and
 3. Part 7-3 Stock and Retail Sale.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 2768, effective September 9, 2006 (Supp. 06-3). Section repealed; new Section made by final rulemaking at 26 A.A.R. 1516, with an immediate effective date of July 8, 2020 (Supp. 20-3).

R9-8-108. Compliance and Enforcement

- A.** The Department incorporates FC Chapter 8 in whole, unless otherwise specified:
1. Part 8-1 Code Applicability;
 2. Part 8-2 Plans Submission and Approval;
 3. Part 8-3 Permit to Operate in part;
 4. Part 8-4 Inspection and Correction of Violations in part; and
 5. Part 8-5 Prevention of Foodborne Disease Transmission by Employees.
- B.** In FC Part 8-3, the Department does not accept requirement in Section 8-303.30, Denial of Application for Permit, Notice.
- C.** In addition to the requirements in FC Part 8-3, Section 8-302.14, the Department requires an applicant for a FOOD ESTABLISHMENT application include:
1. The name, title, address, and telephone number of the owner's statutory agent or the individual designated by the owner to accept service of process and subpoenas;
 2. Whether the applicant agrees to allow the REGULATORY AUTHORITY to submit a supplemental request for additional information or documentation in subsection (E);
 3. An attestation that the applicant authorizes the REGULATORY AUTHORITY to verify all information provided in the application packet; and
 4. An applicant who operates FOOD ESTABLISHMENTS at multiple locations shall submit an application for each location.
- D.** In addition to the requirements in FC Part 8-3, Section 8-303.20, the Department requires a licensee for a FOOD ESTABLISHMENT license renewal include:
1. Except for a FOOD ESTABLISHMENT operated by a state prison or behavioral health facility licensed by the Department, a FOOD ESTABLISHMENT'S license number and expiration date;
 2. Whether the applicant agrees to allow the REGULATORY AUTHORITY to submit supplemental request for additional information or documentation in subsection (E); and
 3. An attestation that the applicant authorizes the REGULATORY AUTHORITY to verify all information provided in the application packet.
- E.** In addition to FC Part 8-3, the Department adds application and license renewal time-frame requirements:
1. The overall time-frame begins, for:
 - a. An application packet, on the date a REGULATORY AUTHORITY receives the applicant's application packet.
 - b. A license renewal packet, on the date a REGULATORY AUTHORITY receives the applicant's license renewal packet.
 2. An applicant and a REGULATORY AUTHORITY may agree in writing to extend the substantive review time-frame and the overall time-frame. The substantive review time-frame and the overall time-frame may not be extended by more than 25% of the overall time-frame.
 3. Within the administrative completeness review time-frame specified in Table 1.1, a REGULATORY AUTHORITY shall:
 - a. Provide a notice of administrative completeness to an applicant; or
 - b. Provide a notice of deficiencies to an applicant, including a list of the missing information or documents.
 4. If the REGULATORY AUTHORITY provides a notice of deficiencies to an applicant:
 - a. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice of deficiencies until the date the REGULATORY AUTHORITY receives the missing information or documents from the applicant;
 - b. If the applicant submits the missing information or documents to the REGULATORY AUTHORITY within the time-frame in Table 1.1, the substantive review time-frame resumes on the date the REGULATORY AUTHORITY receives the missing information or documents; and
 - c. If the applicant does not submit the missing information or documents to the regulatory authority within

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- the time-frame in Table 1.1, the regulatory authority shall consider the application withdrawn.
5. If a REGULATORY AUTHORITY issues a license or notice of approval during the administrative completeness review time-frame, the REGULATORY AUTHORITY may choose not to issue a separate written notice of administrative completeness.
 6. Within the substantive review time-frame specified in Table 1.1, a REGULATORY AUTHORITY:
 - a. Shall approve or deny:
 - i. An application, or
 - ii. A license renewal;
 - b. May make one written comprehensive request for additional information or documentation; and
 - c. May make supplemental requests for additional information and documentation if agreed to by the applicant or license holder.
 7. If a REGULATORY AUTHORITY provides a written comprehensive request for additional information or documentation or a supplemental request to an applicant or license holder:
 - a. The substantive review time-frame and overall time-frame are suspended from the date of the written comprehensive request or supplemental request until the date the REGULATORY AUTHORITY receives the information and documents requested; and
 - b. An applicant or license holder shall submit the information and documents listed in the written comprehensive request in a format provided by the REGULATORY AUTHORITY within 15 calendar days after the date of the written comprehensive request or supplemental request.
 8. The REGULATORY AUTHORITY shall issue to an applicant or license holder, as applicable:
 - a. An approval for:
 - i. An application, or
 - ii. A license renewal; or
 - b. A denial, including the reason for the denial and the appeal process in A.R.S. Title 41, Chapter 6, Article 10, if an applicant or license holder:
 - i. Does not submit all of the information and documentation listed in a written comprehensive request or supplemental request for additional information or documentation; or
 - ii. Does not comply with A.R.S. § 36-136 and this Article.
- F. In FC Part 8-4, the Department:
1. In Section 8-402.11 requires "The REGULATORY AUTHORITY to comply with A.R.S. § 41-1009 when performing inspections."
 2. Does not accept requirements in:
 - a. Section 8-402.20, Refusal, Notification of Right to Access, and Final Request for Access;
 - b. Section 8-402.30, Refusal, Reporting;
 - c. Section 8-402.40, Inspection Order to Gain Access; and
 - d. Section 8-403.10, Documenting Information and Observation.
 3. In Section 8-403.50 requires "A REGULATORY AUTHORITY treat the inspection report as a public document and shall make it available for disclosure to a PERSON who requests it as provided in LAW."
 4. In Section 8-404.12 requires "A REGULATORY AUTHORITY approve or deny resumption of operations within five days after receipt of the license holder's request to resume operations."

Historical Note

New Section made by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). Section repealed; new Section made by final rulemaking at 26 A.A.R. 1516, with an immediate effective date of July 8, 2020 (Supp. 20-3).

Table 1.1. Time-frames (in calendar days)

| Type of Approval | Statutory Authority | Overall Time-frame | Administrative Completeness Review | Respond to Deficiency Notice | Substantive Review |
|------------------|-----------------------|--------------------|------------------------------------|------------------------------|--------------------|
| Application | A.R.S. § 36-136(I)(4) | 90 | 45 | 180 | 45 |
| License Renewal | A.R.S. § 36-136(I)(4) | 90 | 45 | 180 | 45 |

Historical Note

New Table 1.1 made by final rulemaking at 26 A.A.R. 1516, with an immediate effective date of July 8, 2020 (Supp. 20-3).

R9-8-109. Repealed**Historical Note**

New Section made by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). Repealed by final rulemaking at 26 A.A.R. 1516, with an immediate effective date of July 8, 2020 (Supp. 20-3).

R9-8-110. Mobile Food Units

- A. In addition to the definitions in A.R.S. § 36-1761 and in this Article, the following definitions apply to this Section, unless otherwise specified:

1. "Commissary" means a facility that:
 - a. Is APPROVED by a REGULATORY AUTHORITY as safe and sanitary for FOOD preparation consistent with the FC and other state statutes and laws; and
2. "Commercially processed" means FOOD prepared or packaged by a FOOD manufacturer or licensed-permanent FOOD ESTABLISHMENT compliant with LAW.
3. "County" means a public health services district, local health department, department of environmental services,
- b. Provides support and servicing activities to a mobile food unit that may include:
 - i. A cooking facility or commercial kitchen used to prepare FOOD for sale and consumption;
 - ii. A space for storing FOOD, including refrigeration, and supplies;
 - iii. A source for potable water and disposing of wastewater;
 - iv. A source for refuse disposal; and
 - v. An area for cleaning equipment or a mobile food unit.

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- or department of environmental quality authorized to issue a mobile food unit state-license.
4. "Individually packaged" means pre-packaged FOOD that are ready for consumption and are not re-packaged prior to sale to consumers.
 5. "Food manufacturer" means a business engaged in making FOOD from one or more ingredients, or synthesizing, preparing, treating, modifying or manipulating FOOD, including FOOD crops or ingredients.
 6. "Other servicing area" means a facility that may provide one or more services, such as:
 - a. Disposing of refuse,
 - b. Disposing of wastewater,
 - c. Recharging potable water tank,
 - d. Disposing of excreta, or
 - e. Cleaning mobile food unit.
 7. "Permit" means a document issued by a county authorizing a state-licensed mobile food unit, whose state-license was issued by a different county, to operate in the county issuing the permit according to A.R.S. § 36-1761(A)(3).
 8. "Pre-packaged foods" means edible products sealed in a box, bag, can, or other container and sold to retailers or consumers in the same packaged box, bag, can, or other container.
 9. "State-license" means a document:
 - a. Issued by the county where a mobile food unit's commissary is located according to A.R.S. 36-1761(A)(3)(c); and
 - b. Authorizes the mobile food unit to dispense FOOD for immediate service and human consumption.
 10. "Statewide inspection" means a visual examination of a mobile food unit to ensure that the mobile food unit meets the standards specified A.R.S. § 36-1761 and in this Article.
- B.** A mobile food vendor shall not operate a mobile food unit:
1. Without a state-license authorizing the mobile food unit to dispense FOOD for immediate service and human consumption;
 2. Without a service agreement with an APPROVED commissary according to A.R.S. § 36-1761(A);
 3. In another county, other than the county that issued the mobile food unit's state-license, without a permit authorizing the mobile food unit to dispense FOOD for immediate service and human consumption; and
 4. If the mobile food unit maintains or engages in a public health nuisance specified A.R.S. § 36-601.
- C.** A mobile food vendor shall for each mobile food unit:
1. Obtain a state-license that includes a statewide inspection specified in subsection (H).
 2. Obtain a renewal state-license annually that includes a statewide inspection specified in subsection (H).
 3. Except for the county in which a mobile food unit has a state-license, obtain a permit annually for each county where the mobile food unit operates.
 4. Ensure all employees have a valid food handler card or a certificate from an accredited food handler training-provider as specified in the FC.
 5. Comply with random statewide inspections at no additional cost except as provided in A.R.S. § 11-269.24.
- D.** A mobile food unit:
1. Shall display in a conspicuous location for public viewing the mobile food unit's:
 - a. State-license, and
 - b. County permits, if applicable.
 2. Shall clearly indicate on the sides or back of the exterior of the vehicle in permanent letters the name of the licensed FOOD ESTABLISHMENT.
 3. Shall report to a commissary or other serving area, as applicable, at least every 96 hours following A.R.S. § 11-269.24 or as determined by the county in which the mobile food unit's commissary is located for receiving necessary services during operations to ensure public health and safety.
 4. May sell a cottage FOOD prepared for commercial purposes specified in R9-8-118(B)(13).
 5. Is not required to operate a specific distance from the perimeter of an existing commercial establishment or restaurant.
 6. Shall operate during hours determined by the mobile food vendor.
 7. Shall ensure toilet facilities are accessible to employees at a location where the mobile food unit is proposed to stay during all hours of operation.
- E.** A mobile food unit's state-license shall indicate the mobile food unit classification based on the type of FOOD dispensed and the amount of handling and preparation required:
1. Type I mobile food unit is a FOOD ESTABLISHMENT that dispenses FOOD that are commercially processed, individually PACKAGED and frozen that requires time/temperature control for safety.
 2. Type II mobile food unit is a FOOD ESTABLISHMENT that dispenses FOOD that requires limited handling and preparation and:
 - a. Includes assemble-serve, heat-serve, and hold-serve of commercially processed FOOD;
 - b. Except for bacon-wrapped hotdogs pre-wrapped at a mobile food unit's commissary, shall not cook raw animal FOOD for service from the mobile food unit;
 - c. Shall only use produce that is commercially pre-washed or washed in advance at a commissary; and
 - d. All cooking, processing, preparing, grilling, assembling, storage, and service of any FOOD shall be conducted from the mobile food unit and commissary.
 3. Type III mobile food unit is a FOOD ESTABLISHMENT that prepares, cooks, holds, and serves FOOD and:
 - a. Includes assemble-serve, heat-serve, cook-serve, and hold-serve of commercially processed FOOD;
 - b. May prepare raw animal FOOD for service from the mobile food unit; and
 - c. All cooking, processing, preparing, grilling, assembling, storage, and service of any FOOD shall be conducted inside the mobile food unit and commissary.
- F.** A mobile food vendor for each mobile food unit shall have a written agreement with a commissary or other servicing area, as applicable, located in the county that issues a mobile food unit's state-license:
1. Is APPROVED by a REGULATORY AUTHORITY as safe and sanitary for FOOD preparation consistent with the FC and other state statutes and laws;
 2. Has a signed agreement with a commissary that includes:
 - a. The commissary's name, address, and telephone number;
 - b. The commissary's permit number issued by a REGULATORY AUTHORITY;
 - c. The mobile food vendor's name, address, and telephone number;

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- d. The manager's name, address, and telephone number, if applicable;
- e. A list of services to be provided to the mobile food vendor; and
- f. The expiration date of the agreement, if applicable; or
- 3. Has a signed agreement with an other servicing area that includes:
 - a. The other servicing area's name, address, and telephone number;
 - b. The other servicing area's permit number, if applicable, issued by a REGULATORY AUTHORITY or other jurisdiction having authority to regulate the other servicing area;
 - c. The mobile food vendor's name, address, and telephone number;
 - d. The manager's name, address, and telephone number, if applicable;
 - e. A list of services to be provided to the mobile food vendor; and
 - f. The expiration date of the agreement, if applicable.
- G.** A mobile food vendor for each mobile food unit shall maintain a service log in a Department-provided format that:
 - 1. Documents the type of services, specified in subsection (E), and dates received;
 - 2. Is maintained in the mobile food unit for at least a period of 30 days; and
 - 3. Is made available to a REGULATORY AUTHORITY upon request.
- H.** In addition to complying with the FC incorporated by reference in this Article, a mobile food unit is required to maintain general physical and operation requirements for:
 - 1. Installation of compressors, generators, and similar mechanical units that are not an integral part of the FOOD preparation or storage equipment;
 - 2. Waste disposal requirements during and after operation on public or private property, which may not include the size or dimensions of any required solid waste receptacle; and
 - 3. A mobile food unit and equipment used in the mobile food unit shall:
 - a. Be free of dirt, debris, insects, and vermins;
 - b. Be maintained in a clean and sanitary condition;
 - c. Be in good repair and maintained according to manufacturer's requirement, as applicable;
 - d. Be properly ventilated; and
 - e. Not maintain or engage a public health nuisance.
- I.** A mobile food unit statewide inspection shall ensure:
 - 1. A Type I mobile food unit:
 - a. Has equipment, including compressors, generators, and similar mechanical units approved by the National Sanitation Foundation or American National Standards Institute;
 - b. If selling or dispensing open FOOD, has a handwashing station that:
 - i. Is at least a 5 gallon insulated container for potable water that ensures proper handwashing consistent with FC;
 - ii. Has a catch-bucket to retain waste water generated from handwashing that is 15% greater than the potable water tank; and
 - iii. Has adequate soap and paper towels for time in service; and
 - c. Does not cook, prepare, or assemble FOOD.
 - 2. A Type II mobile food unit:
 - a. Has equipment, including compressors, generators, and similar mechanical units are approved by the National Sanitation Foundation or American National Standards Institute;
 - b. Has a potable water tank that is at least five gallons;
 - c. Has a waste water tank that is 15% greater than the potable water tank and any other applicable hot water storage or water storage capacity;
 - d. Has a handwash sink;
 - e. Has a combination mixing faucet of hot and cold water at all sinks;
 - f. Has plumbing connections;
 - g. Has a waste water tank to drain at lowest point of tank;
 - h. Has a water tank with a fill connection located at the top;
 - i. Has a National Sanitation Foundation or American National Standards Institute approved FOOD grade water hose;
 - j. Has a water heater or other APPROVED hot water source; and
 - k. Has a quick-disconnect design for sewer and potable water.
 - 3. In addition to subsection (I)(2)(a) through (k), a Type III mobile food unit:
 - a. Has a three-compartment sink that includes:
 - i. A potable water system under pressure, supplying hot and cold water with a minimum capacity of 30 gallons permanently installed for warewashing, sanitization, and handwashing;
 - ii. A waste water capacity that is 15% greater than the potable water tank; and
 - iii. A minimum flow rate of one-half gallon per minute; and
 - b. May include a FOOD preparation sink for the purpose of washing product if an additional 20 gallons of potable water is available for use.
- J.** Except for the Department, regulatory authorities through delegation in the county where a mobile food vendor's commissary is located shall issue state licensure and statewide inspection standards adopted pursuant to this Section.

Historical Note

New Section made by final rulemaking at 26 A.A.R. 1516, with an immediate effective date of July 8, 2020 (Supp. 20-3).

R9-8-111. Compliance and Enforcement, Annex 1

- A.** The Department incorporates FC Annex 1 in whole, unless otherwise specified:
 - 1. Section 1, Purpose;
 - 2. Section 2, Explanation;
 - 3. Section 3, Principle;
 - 4. Section 4, Recommendation; and
 - 5. Section 5, Parts in part.
- B.** In Annex 1, Section 5, the Department does not accept Part 8-911.10(B).
- C.** In addition to Annex 1, Section 5, the Department adds licensure suspension or revocation requirements that:
 - 1. A REGULATORY AUTHORITY may suspend or revoke a FOOD ESTABLISHMENT license if the license holder:
 - a. Maintains or engages in a public health nuisance;

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- b. Falsifies records to interfere with or obstruct an investigation or regulatory process of the REGULATORY AUTHORITY; or
 - c. Provides false or misleading information to a regulatory authority.
2. A license revocation or suspension hearing shall be conducted as follows:
- a. If a REGULATORY AUTHORITY is the Department, a hearing shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10;
 - b. If a REGULATORY AUTHORITY is a public health district, local health department, department of environmental services, or department of environmental quality, the hearing shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 6 or Article 10.
- D.** In addition to Annex 1, Section 5, the Department adds cease and desist requirements that:
- 1. If a REGULATORY AUTHORITY determines a FOOD ESTABLISHMENT is creating, maintaining, or engaging a public health nuisance the REGULATORY AUTHORITY shall serve the FOOD ESTABLISHMENT'S license holder a written cease and desist order pursuant to A.R.S. Title 36, Chapter 6, Article 1.
 - 2. If a written notice of appeal is not provided as specified in A.R.S. § 36-601(B), the cease and desist order shall become final.

Historical Note

Amended effective July 10, 1979 (Supp. 79-4). Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). New Section made by final rulemaking at 26 A.A.R. 1516, with an immediate effective date of July 8, 2020 (Supp. 20-3).

R9-8-112. References, Annex 2

The Department incorporates FC Annex 2 in whole:

- 1. Section 1, United States Code and Code of Federal Regulations;
- 2. Section 2, Bibliography;
- 3. Section 3, Principle; and
- 4. Section 4, Food Defense Guidance from Farm to Table.

Historical Note

Former Section R9-8-112 repealed, new Section R9-8-112 adopted effective July 10, 1979 (Supp. 79-4). Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). New Section made by final rulemaking at 26 A.A.R. 1516, with an immediate effective date of July 8, 2020 (Supp. 20-3).

R9-8-113. Public Health Reasons and Administrative Guidelines, Annex 3

The Department incorporates FC Annex 3 in whole:

- 1. Section 1, Purpose and Definitions;
- 2. Section 2, Management and Personnel;
- 3. Section 3, Food;
- 4. Section 4, Equipment, Utensils, and Linens;
- 5. Section 5, Water, Plumbing, and Waste;
- 6. Section 6, Physical Facilities;
- 7. Section 7, Poisonous or Toxic Materials; and
- 8. Section 8, Compliance and Enforcement.

Historical Note

Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). New Section made by final rulemaking at 26 A.A.R. 1516, with an

immediate effective date of July 8, 2020 (Supp. 20-3).

R9-8-114. Management of Food Safety Practices, Annex 4

The Department incorporates FC Annex 4 in whole:

- 1. Section 1, Active Managerial Control;
- 2. Section 2, Introduction to HACCP;
- 3. Section 3, The HACCP Principles;
- 4. Section 4, The Process Approach - A Practical Application of HACCP;
- 5. Section 5, FDA Retail HACCP Manuals;
- 6. Section 6, Advantages of Using the Principles of HACCP;
- 7. Section 7, Summary;
- 8. Section 8, Acknowledgements; and
- 9. Section 9, Resources and References.

Historical Note

Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). New Section made by final rulemaking at 26 A.A.R. 1516, with an immediate effective date of July 8, 2020 (Supp. 20-3).

R9-8-115. Conducting Risk-based Inspections, Annex 5

The Department incorporates FC Annex 5 in whole:

- 1. Section 1, Purpose and Scope;
- 2. Section 2, Risk-Based Routine Inspections;
- 3. Section 3, What is Needed to Properly Conduct a Risk-Based Inspection;
- 4. Section 4, Risk-Based Inspection Methodology;
- 5. Section 5, Achieving On-Site and Long-Term Compliance;
- 6. Section 6, Inspection Form and Scoring;
- 7. Section 7, Closing Conference; and
- 8. Section 8, Summary.

Historical Note

Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). New Section made by final rulemaking at 26 A.A.R. 1516, with an immediate effective date of July 8, 2020 (Supp. 20-3).

R9-8-116. Food Processing Criteria, Annex 6

The Department incorporates FC Annex 6 in whole:

- 1. Section 1, Introduction;
- 2. Section 2, Reduced Oxygen Packaging; and
- 3. Section 3, Smoking and Curing.

Historical Note

Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). New Section made by final rulemaking at 26 A.A.R. 1516, with an immediate effective date of July 8, 2020 (Supp. 20-3).

R9-8-117. Model Forms, Guides, and Other Aids, Annex 7

The Department incorporates FC Annex in whole:

- 1. Section 1, Employee Health Information;
- 2. Section 2, Adoption Information; and
- 3. Section 3, Summary Information.

Historical Note

Corrected Article reference (Supp. 77-3). Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). New Section made by final rulemaking at 26 A.A.R. 1516, with an immediate effective date of July 8, 2020 (Supp. 20-3).

R9-8-118. Exempt from Requirements and Inspections

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- A.** Except as provided in subsection (B), this Article applies to any FOOD ESTABLISHMENT.
- B.** This Article does not apply to the following, which are not subject to routine inspection or other regulatory activities by a REGULATORY AUTHORITY:
1. The beneficial use of wildlife meat authorized in A.R.S. § 17-240 and 12 A.A.C. 4, Article 1;
 2. Group homes, as defined in A.R.S. § 36-551;
 3. Child care group homes, as defined in A.R.S. § 36-897 and licensed under 9 A.A.C. 3;
 4. Residential group care facilities, as defined in A.A.C. R6-5-7401 that have 20 or fewer clients;
 5. Assisted living homes, as defined in A.R.S. § 36-401(A) and licensed under 9 A.A.C. 10, Article 8;
 6. Adult day health care facilities, as defined in A.R.S. § 36-401(A) and licensed under 9 A.A.C. 10, Article 11, that are authorized by the Department to provide services to 15 or fewer participants;
 7. Behavioral health residential facilities, as defined in A.A.C. R9-10-101 and licensed under 9 A.A.C. 10, Article 7, that are authorized by the Department to provide services to 10 or fewer residents;
 8. Hospice inpatient facilities, as defined in A.A.C. R9-10-101 and licensed under 9 A.A.C. 10, Article 6, that are authorized by the Department to provide services for 20 or fewer patients;
 9. Substance abuse transitional facilities, as defined in A.A.C. R9-10-101 and licensed under 9 A.A.C. 10, Article 14, that are authorized by the Department to provide services to 10 or fewer participants;
 10. Behavioral health respite homes, as defined in A.A.C. R9-10-101 and licensed under 9 A.A.C. 10, Article 16;
 11. Adult behavioral health therapeutic homes, as defined in A.A.C. R9-10-101 and licensed under 9 A.A.C. 10, Article 18;
 12. FOOD that is:
 - a. Served at a noncommercial social event, such as a potluck;
 - b. Prepared at a cooking school if:
 - i. The cooking school is conducted in the kitchen of an owner-occupied home,
 - ii. Only one meal per day is prepared and served by students of the cooking school,
 - iii. The meal prepared at the cooking school is served to not more than 15 students of the cooking school, and
 - iv. The students of the cooking school are provided with written notice that the FOOD is prepared in a kitchen that is not regulated or inspected by a REGULATORY AUTHORITY;
 - c. Not time/temperature control for safety food and prepared in a kitchen of a private home for occasional sale or distribution for noncommercial purposes;
 - d. Prepared or served at an employee-conducted function that lasts less than four hours and is not regularly scheduled, such as an employee recognition, an employee fund-raising, or an employee social event;
 - e. A demonstration of FOOD preparation or cooking class offered by:
 - i. A culinary school or educational institution and all FOOD prepared is consumed by attending students;
 - ii. A school or business and samples are not offered for human consumption; and
 - iii. A business where an individual provides, prepares, cooks, and consumes their own FOOD.
 - f. Offered at a child care facility and limited to commercially pre-packaged FOOD that is not time/temperature control for safety food and whole fruits and vegetables that are washed and cut onsite for immediate consumption; or
 - g. Offered at locations that sell only commercially pre-packaged FOOD that is not time/temperature control for safety food;
 13. A cottage FOOD product, as defined in A.R.S. § 36-136(Q), prepared for commercial purposes that:
 - a. Is not time/temperature control for safety food as defined in A.R.S. § 36-136(I)(4)(g); or
 - b. Is not a FOOD that requires time and temperature control for safety to limit pathogenic microorganism growth or toxin formation; and
 - c. Is prepared in the kitchen of a home by a food preparer or under the supervision of an individual who:
 - i. Has a certificate of completion from completing a food handler training course from an accredited program;
 - ii. Maintains an active certification of completion; and
 - iii. If a food preparer, is registered with the Department, as required in A.R.S. § 36-136(I)(4)(g) and specified in subsection (D); and
 - d. Is PACKAGED at the home with an attached label that includes:
 - i. The name, and registration number of the food preparer registered with the Department as specified in subsection (D);
 - ii. A list of the ingredients in the cottage FOOD;
 - iii. The date the cottage FOOD was prepared; and
 - iv. The statement: This product was produced in a home kitchen that may process common FOOD allergens and is not subject to public health inspection; and
 - v. If applicable, a statement that the cottage FOOD was prepared in the home kitchen of a facility for individuals with developmental disabilities.
 14. Fruits and vegetables grown in a garden at a public school, as defined in A.R.S. § 15-101, that are washed and cut on-site for immediate consumption.
 15. Microbreweries, farm wineries, or craft distilleries licensed by the Department of Liquor Licenses and Control that sell only commercially prepackaged wrapped foods, crackers, or pretzels that are not time or temperature controlled and are served for immediate consumption.
 16. Spirituous liquor, as defined in A.R.S. § 4-101, produced on the premises licensed by the Department of Liquor Licenses and Control including the area in which production and manufacturing of spirituous liquor occurs and does not provide, allow, or expose a common use cup, glass, or other receptacle used for drinking purposes without the receptacle being thoroughly cleansed and sanitized between consecutive uses, as specified in A.R.S. § 36-136.

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- C. A food preparer who meets the requirements in subsection (B)(13) is authorized to prepare cottage FOOD for commercial purpose.
- D. To be exempt from the requirements in this Article, a food preparer identified in subsection (C) shall:
1. Complete a food handler training course from an accredited program;
 2. Register with the Department by submitting:
 - a. An application in a Department-provided format that includes:
 - i. The food preparer's name, address, telephone number, and email address;
 - ii. If the food preparer is supervised, the supervisor's name, address, telephone number, and email address;
 - iii. The address, including the county, of the home where the cottage FOOD is prepared;
 - iv. Whether the home where the cottage FOOD is prepared is a facility for developmentally disabled individuals; and
 - v. A description of each cottage FOOD prepared for commercial purposes;
 - b. A copy of the food preparer's certificate of completion for the completed food handler training course;
 - c. If the food preparer is supervised, the supervisor's certificate of completion for the completed food handler training course; and
 - d. An attestation in a Department-provided format that the food preparer:
 - i. Has reviewed Department-provided information on FOOD safety and safe FOOD handling practices;
 - ii. Based on the Department-provided information, believes that the cottage FOOD prepared for commercial purposes is not time/temperature control for safety food or is not a FOOD that requires time or temperature control for safety to limit pathogenic microorganism growth or toxin formation; and
 - iii. Includes the food preparer's printed name and date.
 3. Maintain an active certification of completion for the completed food handler training course;
 4. Renew the registration in subsection (D)(2) every three years;
 5. Submit any change to the information or documents provided according to subsection (D)(2)(a) through (c) to the Department within 30 calendar days after the change; and
 6. Display the food preparer's certificate of registration when operating as a temporary FOOD ESTABLISHMENT and selling cottage FOOD.
- E. Food establishments shall have until January 31, 2022 to comply with the certified food protection manager requirement specified in this Article.

Historical Note

Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). New Section R9-8-118 renumbered from R9-8-102 and amended by final rulemaking at 26 A.A.R. 1516, with an immediate effective date of July 8, 2020 (Supp. 20-3). Amended by final expedited rulemaking at 30 A.A.R. 237 (February 2, 2024), with an immediate effective date of January 10,

2024 (Supp. 24-1).

R9-8-119. Manufactured Food Plants

- A. The following definitions apply to this Section, unless otherwise specified:
1. "Consumer" means a person who:
 - a. Is a member of the public,
 - b. Takes possession of FOOD,
 - c. Is not functioning in the capacity of an operator of a manufacture food plant, and
 - d. Does not offer the FOOD for resale.
 2. "FOOD PROCESSING PLANT" means a commercial operation that:
 - a. Manufactures, packages, labels, or stores FOOD for human consumption;
 - b. Provides FOOD for sale or distribution to other business entities such as FOOD ESTABLISHMENTS and retailers; and
 - c. Does not provide FOOD directly to a consumer.
- B. In FC Part 3-2, Subpart 3-202, the Department:
1. In paragraph 3-203.11(A) requires "Except as specified in (B), (C), and (D) of this Section, MOLLUSCAN SHELL-FISH may not be removed from the container in which they are received other than immediately before sale, preparation for service, or preparation in a FOOD PROCESSING PLANT licensed by the REGULATORY AUTHORITY."
 2. In paragraph 3-203.12(C) requires "The identity of the source of SHELLSTOCK that are prepared by a FOOD PROCESSING PLANT licensed by the REGULATORY AUTHORITY, sold, or served shall be maintained by retaining SHELLSTOCK tags or labels for 90 calendar days from the date the container is emptied by:
 - a. Using an APPROVED record keeping system that keeps the tags or labels in chronological order correlated to the date when, or dates during which, the SHELLSTOCK are prepared by a FOOD PROCESSING PLANT licensed by the REGULATORY AUTHORITY, sold, or served; and
 - b. If SHELLSTOCK are removed from their tagged or labeled container:
 - i. Using only one tagged or labeled container at a time, or
 - ii. Using more than one tagged or labeled container at a time and obtaining a VARIANCE from the REGULATORY AUTHORITY as specified in § 8-103.10 based on a HACCP PLAN that:
 - (a) Is submitted by the license holder and APPROVED as specified under § 8-103.11,
 - (b) Preserves source identification by using a record keeping system as specified under Subparagraph (B)(1) of this Section, and
 - (c) Ensures that SHELLSTOCK from one tagged or labeled container are not commingled with SHELLSTOCK from another container before being ordered by the CONSUMER or prepared by a FOOD PROCESSING PLANT licensed by the REGULATORY AUTHORITY."

Historical Note

Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). New Section

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made by final rulemaking at 26 A.A.R. 1516, with an immediate effective date of July 8, 2020 (Supp. 20-3).

R9-8-120. Reserved**R9-8-121. Repealed****Historical Note**

Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2).

R9-8-122. Repealed**Historical Note**

Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2).

R9-8-123. Repealed**Historical Note**

Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2).

R9-8-124. Repealed**Historical Note**

Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2).

R9-8-125. Repealed**Historical Note**

Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2).

R9-8-126. Repealed**Historical Note**

Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2).

R9-8-127. Repealed**Historical Note**

Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2).

R9-8-128. Reserved**R9-8-129. Reserved****R9-8-130. Reserved****R9-8-131. Repealed****Historical Note**

Former Section R9-8-131 repealed, new Section R9-8-131 adopted effective July 10, 1979 (Supp. 79-4). Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2).

R9-8-132. Repealed**Historical Note**

Adopted effective July 10, 1979 (Supp. 79-4). Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2).

R9-8-133. Repealed**Historical Note**

Adopted effective July 10, 1979 (Supp. 79-4). Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2).

R9-8-134. Repealed**Historical Note**

Adopted effective July 10, 1979 (Supp. 79-4). Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2).

R9-8-135. Repealed**Historical Note**

Adopted effective July 10, 1979 (Supp. 79-4). Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2).

R9-8-136. Repealed**Historical Note**

Adopted effective July 10, 1979 (Supp. 79-4). Amended effective August 6, 1990 (Supp. 90-3). Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2).

R9-8-137. Repealed**Historical Note**

Adopted effective July 10, 1979 (Supp. 79-4). Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2).

R9-8-138. Repealed**Historical Note**

Adopted effective July 10, 1979 (Supp. 79-4). Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2).

R9-8-139. Repealed**Historical Note**

Adopted effective July 10, 1979 (Supp. 79-4). Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2).

R9-8-140. Repealed**Historical Note**

Adopted effective July 10, 1979 (Supp. 79-4). Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2).

R9-8-141. Reserved**R9-8-142. Reserved****R9-8-143. Reserved****R9-8-144. Reserved****R9-8-145. Reserved****R9-8-146. Reserved****R9-8-147. Reserved****R9-8-148. Reserved****R9-8-149. Reserved****R9-8-150. Reserved****R9-8-151. Repealed****Historical Note**

Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2).

R9-8-152. Reserved**R9-8-153. Reserved**

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| R9-8-154. | Reserved | effective October 3, 2001 (Supp. 01-2). |
| R9-8-155. | Reserved | |
| R9-8-156. | Repealed | |
| | Historical Note | |
| | Correction of reference from R9-1-415(B) to R9-1-415(A) (Supp. 83-3). Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). | |
| R9-8-157. | Reserved | |
| R9-8-158. | Reserved | |
| R9-8-159. | Reserved | |
| R9-8-160. | Repealed | |
| | Historical Note | |
| | Adopted effective January 18, 1977 (Supp. 77-1). Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). | |
| R9-8-161. | Repealed | |
| | Historical Note | |
| | Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). | |
| R9-8-162. | Repealed | |
| | Historical Note | |
| | Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). | |
| R9-8-163. | Repealed | |
| | Historical Note | |
| | Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). | |
| R9-8-164. | Repealed | |
| | Historical Note | |
| | Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). | |
| R9-8-165. | Repealed | |
| | Historical Note | |
| | Adopted effective January 18, 1977 (Supp. 77-1). Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). | |
| R9-8-166. | Reserved | |
| R9-8-167. | Reserved | |
| R9-8-168. | Reserved | |
| R9-8-169. | Reserved | |
| R9-8-170. | Reserved | |
| R9-8-171. | Repealed | |
| | Historical Note | |
| | Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). | |
| R9-8-172. | Repealed | |
| | Historical Note | |
| | Section repealed by final rulemaking at 7 A.A.R. 1719, | |
| R9-8-173. | Repealed | |
| | Historical Note | |
| | Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). | |
| R9-8-174. | Repealed | |
| | Historical Note | |
| | Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). | |
| R9-8-175. | Repealed | |
| | Historical Note | |
| | Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). | |
| R9-8-176. | Repealed | |
| | Historical Note | |
| | Correction, subsection (A), reference R9-1-412(D) should read R9-1-415(B) (Supp. 83-3). Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). | |
| R9-8-177. | Repealed | |
| | Historical Note | |
| | Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). | |
| R9-8-178. | Repealed | |
| | Historical Note | |
| | Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). | |
| R9-8-179. | Reserved | |
| R9-8-180. | Reserved | |
| R9-8-181. | Repealed | |
| | Historical Note | |
| | Legislative enactment transferred function of meat inspection to the Livestock Sanitary Board by Laws 1973, Ch. 158. Responsibility for meat inspection returned to Department of Health Services by Laws 1977, Ch. 92, effective May 26, 1977. Amended as an emergency effective June 6, 1977 (Supp. 77-3). Emergency filings valid for 90 days pursuant to A.R.S. § 41-1003. New Section R9-8-181 adopted effective March 29, 1978 (Supp. 78-2). Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). | |
| R9-8-182. | Repealed | |
| | Historical Note | |
| | Legislative enactment transferred function of meat inspection to the Livestock Sanitary Board by Laws 1973, Ch. 158. Responsibility for meat inspection returned to Department of Health Services by Laws 1977, Ch. 92, effective May 26, 1977. Amended as an emergency effective June 6, 1977 (Supp. 77-3). Emergency filings valid for 90 days pursuant to A.R.S. § 41-1003. New Section R9-8-182 adopted effective March 29, 1978 (Supp. 78-2). Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2). | |
| R9-8-183. | Repealed | |

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Historical Note

Legislative enactment transferred function of meat inspection to the Livestock Sanitary Board by Laws 1973, Ch. 158. Responsibility for meat inspection returned to Department of Health Services by Laws 1977, Ch. 92, effective May 26, 1977. Amended as an emergency effective June 6, 1977 (Supp. 77-3). Emergency filings valid for 90 days pursuant to A.R.S. § 41-1003. New Section R9-8-183 adopted effective March 29, 1978 (Supp. 78-2). Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2).

R9-8-184. Repealed**Historical Note**

Legislative enactment transferred function of meat inspection to the Livestock Sanitary Board by Laws 1973, Ch. 158. Responsibility for meat inspection returned to Department of Health Services by Laws 1977, Ch. 92, effective May 26, 1977. Amended as an emergency effective June 6, 1977 (Supp. 77-3). Emergency filings valid for 90 days pursuant to A.R.S. § 41-1003. New Section R9-8-184 adopted effective March 29, 1978 (Supp. 78-2). Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2).

R9-8-185. Repealed**Historical Note**

Legislative enactment transferred function of meat inspection to the Livestock Sanitary Board by Laws 1973, Ch. 158. Responsibility for meat inspection returned to Department of Health Services by Laws 1977, Ch. 92, effective May 26, 1977. Amended as an emergency effective June 6, 1977 (Supp. 77-3). Emergency filings valid for 90 days pursuant to A.R.S. § 41-1003. New Section R9-8-185 adopted effective March 29, 1978 (Supp. 78-2). Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2).

R9-8-186. Repealed**Historical Note**

Legislative enactment transferred function of meat inspection to the Livestock Sanitary Board by Laws 1973, Ch. 158. Responsibility for meat inspection returned to Department of Health Services by Laws 1977, Ch. 92, effective May 26, 1977. Amended as an emergency effective June 6, 1977 (Supp. 77-3). Emergency filings valid for 90 days pursuant to A.R.S. § 41-1003. New Section R9-8-186 adopted effective March 29, 1978 (Supp. 78-2). Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2).

R9-8-187. Repealed**Historical Note**

Legislative enactment transferred function of meat inspection to the Livestock Sanitary Board by Laws 1973, Ch. 158. Responsibility for meat inspection returned to Department of Health Services by Laws 1977, Ch. 92, effective May 26, 1977. Amended as an emergency effective June 6, 1977 (Supp. 77-3). Emergency filings valid for 90 days pursuant to A.R.S. § 41-1003. New Section R9-8-187 adopted effective March 29, 1978 (Supp. 78-2). Section repealed by final rulemaking at 7

A.A.R. 1719, effective October 3, 2001 (Supp. 01-2).

R9-8-188. Repealed**Historical Note**

Legislative enactment transferred function of meat inspection to the Livestock Sanitary Board by Laws 1973, Ch. 158. Responsibility for meat inspection returned to Department of Health Services by Laws 1977, Ch. 92, effective May 26, 1977. Amended as an emergency effective June 6, 1977 (Supp. 77-3). Emergency filings valid for 90 days pursuant to A.R.S. § 41-1003. New Section R9-8-188 adopted effective March 29, 1978 (Supp. 78-2). Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2).

R9-8-189. Repealed**Historical Note**

Adopted effective March 29, 1978 (Supp. 78-2). Section repealed by final rulemaking at 7 A.A.R. 1719, effective October 3, 2001 (Supp. 01-2).

R9-8-190. Reserved**R9-8-191. Repealed****Historical Note**

Repealed effective August 6, 1990 (Supp. 90-3).

ARTICLE 2. BOTTLED WATER**R9-8-201. Definitions**

In this Article, unless the context otherwise requires:

1. "Applicant" has the same meaning as in R9-8-101.
2. "Aquifer" means a layer of underground sand, gravel or porous rock where water collects.
3. "Artesian well" means a drilled well that accesses an aquifer with a water level that stands above the bottom of the confining bed of the aquifer.
4. "Bottled water" has the same meaning as in 21 CFR 165.110(a)(1) (2016), incorporated by reference, on file with the Department, including no future editions or amendments, and available from the U.S. Government Printing Office, 732 N. Capitol Street, N.W. Washington, D.C. 20401-001.
5. "Bottled water plant" means a food establishment that processes and sells bottled water.
6. "CFR" means the Code of Federal Regulations.
7. "Confining bed" means a layer of ground that resists water penetration.
8. "Department" means the Arizona Department of Health Services.
9. "Drilled well" means a hole bored into the ground to reach underground water.
10. "Food establishment" has the same meaning as in A.A.C. Title 9, Chapter 8, Article 1.
11. "Licensed laboratory" means a laboratory licensed by the Department under A.R.S. Title 36, Chapter 4.3, Article 1.
12. "Plant operator" means an individual designated by the applicant to operate a specific bottled water plant.
13. "Processes" means the steps taken to ensure source water meets the quality standards for bottled water in 21 CFR 165.110(b) (2016), incorporated by reference, on file with the Department, including no future editions or amendments, and available from the U.S. Government Printing Office, 732 N. Capitol Street, N.W. Washington, D.C. 20401-001.

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14. "Public water system" has the same meaning as in A.R.S. § 49-352(B)(1).
15. "Source" means an artesian well, drilled well, public water system, or spring.
16. "Source water" means water from an artesian well, drilled well, public water system, or spring.
17. "Spring" has the same meaning as "spring water" in 21 CFR 165.110(a)(2)(vi) (2016), incorporated by reference, on file with the Department, including no future editions or amendments, and available from the U.S. Government Printing Office, 732 N. Capitol Street, N.W. Washington, D.C. 20401-001.

Historical Note

Adopted effective August 6, 1990 (Supp. 90-3).
Amended by final rulemaking at 10 A.A.R. 4178, effective November 23, 2004 (Supp. 04-3). Section R9-8-201(4), (13) and (17) corrected to include the incorporated by reference material date (Supp. 07-2). Section amended by final expedited rulemaking at 24 A.A.R. 263, effective January 10, 2018 (Supp. 18-1).

R9-8-202. General Requirements

A food establishment that processes and sells bottled water in Arizona shall use a source approved by the Department.

Historical Note

Adopted effective August 6, 1990 (Supp. 90-3). Section repealed; new Section made by final rulemaking at 10 A.A.R. 4178, effective November 23, 2004 (Supp. 04-3).

R9-8-203. Application for an Approval of a Source

- A. An applicant shall complete and submit to the Department, an application for an approval of a source on a form provided by the Department that includes:
 1. The name, mailing address, and telephone number of the applicant;
 2. The name, street address, and telephone number of the bottled water plant;
 3. The location of the source used at the bottled water plant;
 4. The applicant's signature; and
 5. The date the application is signed.
- B. With the completed application, an applicant shall include test results from a licensed laboratory that has tested the bottled water according to the quality requirements for bottled water in 21 CFR 165.110(b) (2016), incorporated by reference, on file with the Department, including no future editions or amendments, and available from the U.S. Government Printing Office, 732 N. Capitol Street, N.W. Washington, D.C. 20401-001.
- C. An applicant shall comply with subsections (A) and (B) for each source used at the bottled water plant.

Historical Note

Adopted effective August 6, 1990 (Supp. 90-3). Section repealed; new Section made by final rulemaking at 10 A.A.R. 4178, effective November 23, 2004 (Supp. 04-3). Section R9-8-203(B) corrected to include the incorporated by reference material date (Supp. 07-2). Section amended by final expedited rulemaking at 24 A.A.R. 263, effective January 10, 2018 (Supp. 18-1).

R9-8-204. Time-frames

- A. The overall time-frame described in A.R.S. § 41-1072 for the Department to act on an application for an approval of a source is 60 days. The applicant and the Department may agree in writing to extend the substantive review time-frame and the

overall time-frame by no more than 25% of the overall time-frame.

- B. The administrative completeness review time-frame described in A.R.S. § 41-1072 for an application for an approval of a source is 30 days and begins on the date the application is received.
 1. The Department shall mail notice of administrative completeness or deficiencies to the applicant within the administrative completeness review time-frame.
 - a. A notice of deficiencies shall list each deficiency and the information and documentation needed to complete the application.
 - b. If the Department issues a notice of deficiencies within the administrative completeness review time-frame, the administrative completeness review time-frame and the overall time-frame are suspended from the date that the notice is issued until the date the Department receives the missing information from the applicant.
 - c. If the applicant fails to submit to the Department all the information and documents listed in the notice of deficiencies within 60 days of the date the Department mailed the notice of deficiencies, the Department deems the application for approval of a source withdrawn.
 2. If the Department issues an approval of a source to the applicant during the administrative completeness review time-frame, the Department does not issue a separate written notice of administrative completeness.
- C. The substantive review time-frame described in A.R.S. § 41-1072 is 30 days and begins on the date the notice of administrative completeness is mailed to the applicant.
 1. The Department shall mail an approval of a source or a written notification of denial of approval to the applicant within the substantive review time-frame.
 2. If the Department issues a comprehensive written request or supplemental request for information, the substantive review time-frame and the overall time-frame are suspended from the date the Department issues the request until the date the Department receives all of the information.
 3. If the Department denies approval of a source, the Department shall send the applicant a written notice of disapproval that lists the reasons for disapproval and all other information required in A.R.S. § 41-1076.
- D. If a time-frame's last day is on a Saturday, Sunday, or legal holiday, the Department considers the next business day as the time-frame's last day.

Historical Note

Adopted effective August 6, 1990 (Supp. 90-3). Section repealed; new Section made by final rulemaking at 10 A.A.R. 4178, effective November 23, 2004 (Supp. 04-3).

R9-8-205. Quality Testing Requirements

- A. To maintain approval of its source, a plant operator shall have a licensed laboratory test the quality of the bottled water at the times stated in 21 CFR 129.80(g) (2016), incorporated by reference, on file with the Department, including no future editions or amendments, and available from the U.S. Government Printing Office, 732 N. Capitol Street, N.W. Washington, D.C. 20401-001.
- B. A plant operator shall maintain records of the quality testing of the bottled water on the bottled water plant premises for two years from the date the bottled water is tested and ensure that

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the records are readily available for inspection by the Department.

Historical Note

Adopted effective August 6, 1990 (Supp. 90-3). Section repealed; new Section made by final rulemaking at 10 A.A.R. 4178, effective November 23, 2004 (Supp. 04-3). Section R9-8-205(A) corrected to include the incorporated by reference material date (Supp. 07-2). Section amended by final expedited rulemaking at 24 A.A.R. 263, effective January 10, 2018 (Supp. 18-1).

R9-8-206. Labeling Requirements

In addition to the labeling requirements in 9 A.A.C. 8, Article 1, a plant operator shall ensure the bottled water processed and sold is labeled according to 21 CFR 129.80(e) (2016), incorporated by reference, on file with the Department, including no future editions or amendments, and available from the U.S. Government Printing Office, 732 N. Capitol Street, N.W. Washington, D.C. 20401-001.

Historical Note

Adopted effective August 6, 1990 (Supp. 90-3). Section repealed; new Section made by final rulemaking at 10 A.A.R. 4178, effective November 23, 2004 (Supp. 04-3). Section R9-8-206 corrected to include the incorporated by reference material date (Supp. 07-2). Section amended by final expedited rulemaking at 24 A.A.R. 263, effective January 10, 2018 (Supp. 18-1).

R9-8-207. Repealed**Historical Note**

Adopted effective August 6, 1990 (Supp. 90-3). Section repealed by final rulemaking at 10 A.A.R. 4178, effective November 23, 2004 (Supp. 04-3).

R9-8-208. Repealed**Historical Note**

Adopted effective August 6, 1990 (Supp. 90-3). Section repealed by final rulemaking at 10 A.A.R. 4178, effective November 23, 2004 (Supp. 04-3).

R9-8-209. Repealed**Historical Note**

Adopted effective August 6, 1990 (Supp. 90-3). Section repealed by final rulemaking at 10 A.A.R. 4178, effective November 23, 2004 (Supp. 04-3).

ARTICLE 3. PUBLIC PORTABLE TOILETS

Editor's Note: Former Article 3 renumbered to Title 18, Chapter 9, Article 8 (Supp. 87-3).

R9-8-301. Definitions

In this Article:

1. "Clean" means free of dirt, litter, and the remains of something that has broken or torn into pieces.
2. "Complaint" means information indicating the need for inspection due to possible violations of this Article.
3. "Durable" means capable of withstanding expected use and remaining easily cleanable.
4. "Food establishment" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption.
5. "Human excreta" means fecal and urinary discharges and includes any waste that contains this material.

6. "Leakproof" means designed and constructed to prevent a substance from escaping.
7. "Non-absorbent" means incapable of being penetrated by liquid, such as a material coated or treated with rubber, plastic, or other sealing surface.
8. "Portable hand-wash station" means a transportable sink or basin with a faucet for cleaning hands that supplies water and is:
 - a. Not connected to a sewage collection system,
 - b. Connected to a leakproof tank to receive and store waste water, and
 - c. Located in a public place.
9. "Portable toilet enclosure" means a structure that is capable of being moved and that houses a public portable toilet.
10. "Public nuisance" means activities or conditions that may be subject to A.R.S. § 36-601.
11. "Public place" means all or any portion of an area, land, or structure that is open to or may be accessed by any individual.
12. "Public portable toilet" means a toilet seat and toilet, or toilet seat, toilet, and urinal that is:
 - a. Not connected to a sewage collection system,
 - b. Connected to a leakproof tank to receive and store sewage temporarily,
 - c. Located in a public place, and
 - d. Housed in a portable toilet enclosure.
13. "Public restroom" means a structure or room that:
 - a. Is not connected to living or sleeping quarters;
 - b. Contains a lavatory and water closet or a lavatory, water closet, and urinal connected to a sewage collection system; and
 - c. Is located in a public place.
14. "Refuse" means the same as in A.A.C. R18-13-302.
15. "Regular basis" means at recurring, fixed, or uniform intervals.
16. "Regulatory authority" means:
 - a. The Arizona Department of Health Services; or
 - b. One of the following entities as specified in A.R.S. § 36-136(E):
 - i. A local health department;
 - ii. A county environmental department; or
 - iii. A public health services district.
17. "Responsible person" means an individual, partnership, corporation, association, governmental subdivision, state agency, or a public or private organization of any character that owns or manages the direct use of a public portable toilet within the state.
18. "Sanitary" means free from filth, bacteria, viruses, mold, and fungi.
19. "Sewage" means the waste from a toilet, urinal, sink, and portable hand-wash station.
20. "Sewage collection system" has the same meaning as in A.A.C. R18-9-101.
21. "Sewage storage tank" means a receptacle for the collection and holding of the waste from a portable toilet.
22. "Toilet" means a water-flushed, chemical-flushed, or no-flush bowl for the disposal of human excreta.
23. "Toilet seat" means a detachable, split or U-shaped seat made of non-absorbent material hinged to the top of a toilet and used for sitting.
24. "Urinal" means a water-flushed, chemical-flushed, or no-flush upright basin used for urination only.

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25. "Vent pipe" means a hollow cylinder of metal, plastic, or other material that allows gas to escape from a sewage storage tank.
26. "Water closet" means the same as in A.R.S. § 45-311.

Historical Note

Adopted effective April 10, 1997 (Supp. 97-2). Amended by final expedited rulemaking at 24 A.A.R. 389, effective February 7, 2018 (Supp. 18-1).

R9-8-302. General Requirements

- A. A responsible person or the responsible person's designee shall comply with the requirements in this Article and with federal and state laws and rules and local codes and ordinances governing public portable toilets.
- B. A violation of this Article shall constitute a public nuisance under A.R.S. § 36-601.

Historical Note

Adopted effective April 10, 1997 (Supp. 97-2). Section repealed; new Section made by final expedited rulemaking at 24 A.A.R. 389, effective February 7, 2018 (Supp. 18-1).

R9-8-303. Public Portable Toilet Requirements

- A. A responsible person or the responsible person's designee shall ensure that:
1. A public portable toilet:
 - a. Is clean;
 - b. Is sanitary;
 - c. Is maintained to avoid odors and insect or vermin infestation;
 - d. Has a non-absorbent, durable, smooth, leakproof, and rustproof floor, wall, ceiling, and door materials;
 - e. Has a vent pipe connected to a sewage storage tank that:
 - i. Is wide enough in diameter to prevent the build up of gasses, and
 - ii. Extends upwards from the sewage storage tank through the roof of the portable toilet enclosure;
 - f. Has a supply of toilet paper that is replenished before running out; and
 - g. Has a self-closing door and privacy latch on the door;
 2. Except as provided in subsection (B), one public portable toilet is deployed for the first 100 individuals using or expected to use public portable toilet facilities and one additional public portable toilet is deployed for each additional 100 individuals;
 3. Each public portable toilet's sewage storage tank is pumped out on a regular basis to keep the public portable toilet operating as designed;
 4. Facilities for washing or sanitizing hands are provided as follows:
 - a. Except as provided in subsection (B), working portable hand-wash stations are deployed at a minimum rate of one per 10 public portable toilets;
 - b. Soap, water, and single use towels are continuously provided at each portable hand-wash station; and
 - c. Where conditions make the use of soap and water impractical, the regulatory authority may allow sanitizing gel in place of soap and water; and
 5. Public portable toilets are located a minimum of 100 feet from any food establishment.

- B. A responsible person or the responsible person's designee shall ensure that sewage, human excreta, and refuse produced in a public portable toilet:
1. Does not create a public nuisance; and
 2. Is disposed of according to 18 A.A.C. 13, Article 3 or 18 A.A.C. 13, Article 11.
- C. The regulatory authority may adjust the number of public portable toilets required in subsection (A)(2) and portable hand-wash stations required in (A)(5)(a) provided based on the estimated number of users, the duration of use, and the availability of public restrooms within 200 feet of the public portable toilet.

Historical Note

Adopted effective April 10, 1997 (Supp. 97-2). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 2967, effective June 17, 2002 (Supp. 02-2). New Section made by final expedited rulemaking at 24 A.A.R. 389, effective February 7, 2018 (Supp. 18-1).

R9-8-304. Inspections

- A. If a regulatory authority receives a complaint regarding a public portable toilet, the regulatory authority may conduct an inspection.
- B. If a regulatory authority conducts an inspection, the regulatory authority's inspector shall conduct the inspection according to A.R.S. § 41-1009.

Historical Note

Adopted effective April 10, 1997 (Supp. 97-2). Section repealed; new Section made by final expedited rulemaking at 24 A.A.R. 389, effective February 7, 2018 (Supp. 18-1).

R9-8-305. Expired**Historical Note**

Adopted effective April 10, 1997 (Supp. 97-2). Section expired under A.R.S. § 41-1056(E) at 13 A.A.R. 2169, effective May 31, 2007 (Supp. 07-2).

R9-8-306. Repealed**Historical Note**

Adopted effective April 10, 1997 (Supp. 97-2). Section repealed by final expedited rulemaking at 24 A.A.R. 389, effective February 7, 2018 (Supp. 18-1).

R9-8-307. Repealed**Historical Note**

Adopted effective April 10, 1997 (Supp. 97-2). Section repealed by final expedited rulemaking at 24 A.A.R. 389, effective February 7, 2018 (Supp. 18-1).

R9-8-308. Expired**Historical Note**

Adopted effective April 10, 1997 (Supp. 97-2). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 2967, effective June 17, 2002 (Supp. 02-2).

ARTICLE 4. CHILDREN'S CAMPS

Article 4, consisting of Sections R9-8-401 through R9-8-403, made by final rulemaking at 8 A.A.R. 3716, effective August 9, 2002 (Supp. 02-3).

R9-8-401. Definitions

In this Article, unless otherwise requires:

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1. "Applicant" means an individual requesting a license from the Department or a county to operate a children's camp.
2. "Bathing place" has the same meaning as in 9 A.A.C. 8, Article 8.
3. "Camp director" means an individual who runs, maintains, or otherwise controls or directs the functions of a children's camp.
4. "Children's camp" has the same meaning as in A.R.S. § 36-3901.
5. "County" means a governmental entity that has a delegation agreement with the Department as prescribed in A.R.S. § 36-3915.
6. "Delegation agreement" has the same meaning as in A.R.S. § 41-1001.
7. "Department" means the Arizona Department of Health Services.
8. "Food establishment" has the same meaning as in 9 A.A.C. 8, Article 1.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3716, effective August 9, 2002 (Supp. 02-3). Section amended by final expedited rulemaking at 24 A.A.R. 266, effective January 10, 2018 (Supp. 18-1).

R9-8-402. Initial and Renewal License Application Process

- A. An applicant shall submit a completed license application form in subsection (B) to:
 1. The county in which the children's camp is located, if the county has a delegation agreement with the Department under A.R.S. § 36-3915; or
 2. The Department, if there is no delegation agreement.
- B. An applicant shall submit a completed license application form provided by the Department or a county that contains:
 1. The name, mailing address, and telephone number of the children's camp;
 2. The county in which the children's camp is located;
 3. The name, telephone number, and mailing address of the applicant;
 4. The name, telephone number, and if applicable, e-mail address of the camp director;
 5. The dates of operation of the children's camp;
 6. The number of individuals the children's camp can accommodate;
 7. Whether there is a food establishment in the children's camp;
 8. Whether there is a bathing place in the children's camp;
 9. The potable water supply source at the children's camp;
 10. The type of sewage disposal system;
 11. Whether the application is for an initial or a renewal license; and
 12. The signature of the applicant.
- C. With the completed license application, an applicant shall include a map that specifies the location of the children's camp, and:
 1. For an initial license:
 - a. If applying to the Department, a fee of \$100, or
 - b. If applying to a county, a fee established according to A.R.S. § 36-3903.
 2. For a renewal license:
 - a. If applying to the Department, a fee of \$25 or
 - b. If applying to a county, a fee established according to A.R.S. § 36-3903.

- D. The Department or a county begins reviewing applications on May 1 of each year.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3716, effective August 9, 2002 (Supp. 02-3). Section amended by final expedited rulemaking at 24 A.A.R. 266, effective January 10, 2018 (Supp. 18-1).

R9-8-403. Time-frames

- A. The overall time-frame described in A.R.S. § 41-1072 for an initial or a renewal license granted by the Department or county is 60 days. The applicant and the Department or a county may agree in writing to extend the substantive review time-frame and the overall time-frame. An extension of the substantive time-frame and the overall time-frame shall not exceed 25% of the overall time-frame.
- B. The administrative completeness review time-frame described in A.R.S. § 41-1072 for an initial or a renewal license granted by the Department or a county is 30 days and begins on May 1 of each year or on the date the application is received if after May 1.
 1. The Department or a county shall provide written notice of administrative completeness or deficiencies to the applicant within the administrative completeness review time-frame.
 - a. A notice of deficiencies shall list each deficiency and the information and documentation needed to complete the license application.
 - b. If the Department or a county issues a notice of deficiencies within the administrative completeness review time-frame, the administrative completeness review time-frame and the overall time-frame are suspended from the date that the notice is issued until the date the Department or a county receives the missing information from the applicant.
 - c. If the applicant fails to submit to the Department or a county all the information and documents listed in the notice of deficiencies within 60 days of the date the Department or a county provided the notice of deficiencies, the Department or county deems the license application withdrawn.
 2. If the Department or a county issues a license to the applicant during the administrative completeness review time-frame, the Department or a county does not issue a separate written notice of administrative completeness.
- C. The substantive review time-frame described in A.R.S. § 41-1072 is 30 days and begins on the date the notice of administrative completeness is provided to the applicant.
 1. The Department or a county shall provide a children's camp license or a written notification of denial of the license application to the applicant within the substantive review time-frame.
 2. As part of the substantive-review time-frame for a children's camp license, the Department or a county may conduct an inspection of the children's camp to determine whether the children's camp has complied with the applicable requirements in subsection (C)(4) or (C)(5).
 3. If the Department or a county issues a comprehensive written request or supplemental request for information, the substantive review time-frame and the overall time-frame are suspended from the date the Department or a county issues the request until the date the Department or a county receives all of the information.

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4. If an applicant applying to the Department meets all the requirements under A.R.S. Title 36, Chapter 39, Article 1, and these rules, the Department shall issue a license to the applicant.
5. If an applicant applying to a county meets all the requirements under A.R.S. Title 36, Chapter 39, Article 1, these rules, and county requirements consistent with A.R.S. Title 8, Chapter 6, Article 1, a county shall issue a license to the applicant.
6. If the Department or a county disapproves a license application, the Department or a county shall send the applicant a written notice of disapproval setting forth the reasons for disapproval and all other information required in A.R.S. § 41-1076.
- D. If a time-frame's last day is on a Saturday, Sunday, or legal holiday, the Department or a county considers the next business day as the time-frame's last day.
11. "Faucet" means a fixture connected to a distribution system that provides and regulates the flow of potable water.
12. "Fixture" means an attachment to a structure.
13. "Food" means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for human consumption.
14. "Human excreta" means fecal and urinary discharges and includes any waste that contains this material.
15. "Independent recreational vehicle" means a vehicular type that has a toilet, bathtub, or shower room.
16. "Lavatory" means a sink or a basin with a faucet that supplies potable water and with a drain connected to a sewage collection system.
17. "Non-absorbent" means incapable of being penetrated by liquid, such as a material coated or treated with rubber, plastic, or other sealing substance.
18. "Owns" means to have the right to possess, use, and convey the interest.
19. "Person" means an individual, partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any character or another agency.
20. "Political subdivision" means the same as in A.R.S. § 38-382.
21. "Potable water" means water safe for human consumption that meets the requirements of 18 A.A.C. 4 or satisfies the requirements in R9-8-505(6).
22. "Public health nuisance" means the activities or conditions dangerous to public health that are subject to A.R.S. § 36-601.
23. "Recreational vehicle" has the same meaning as in A.R.S. § 33-2102.
24. "Recreational vehicle park" or "trailer coach park" specified in A.R.S. § 36-136(I)(8) is defined in this Article to mean a place or portion of a place that offers two or more dwelling spaces for recreational vehicles to use overnight, regardless of whether or not compensation is exchanged.
25. "Refuse" has the same meaning as in A.A.C. R18-13-302.
26. "Refuse container" means a receptacle that is capable of being moved and is used for refuse storage.
27. "Regulatory authority" means
 - a. The Department; or
 - b. Under delegation, the following entities as specified in A.R.S. § 36-136(E):
 - i. A local health department,
 - ii. A county environmental department, or
 - iii. A public health services district.
28. "Responsible party" means a person who owns a recreational vehicle park or a designee of the person who owns the recreational vehicle park.
29. "Sanitary" means free from filth, bacteria, viruses, mold, and fungi.
30. "Sewage" has the same meaning as in A.A.C. R18-9-101.
31. "Sewage collection system" has the same meaning as in A.A.C. R18-9-101.
32. "Shower head" means a fixture connected to a distribution system that allows potable water to fall on a user's body.
33. "Shower room" means a structure or room that contains at least one shower head and at least one floor drain.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3716, effective August 9, 2002 (Supp. 02-3). Amended by final expedited rulemaking at 30 A.A.R. 237 (February 2, 2024), with an immediate effective date of January 10, 2024 (Supp. 24-1).

ARTICLE 5. RECREATIONAL VEHICLES AND PARKS**R9-8-501. Definitions**

In this Article, unless otherwise specified:

1. "Bathroom" means a structure or room that contains at least one toilet and lavatory.
2. "Bedding" has the same meaning as in A.R.S. § 36-796.
3. "Clean" means free from dirt or debris.
4. "Common area" means an area of a recreational vehicle park, excluding areas within dwelling spaces, that is provided by the recreational vehicle park for general use.
5. "Community kitchen" means a structure or room in a common area that is provided by a recreational vehicle park for preparing food.
6. "Compensation" means money or other consideration, including goods, services, vouchers, time, government or public expenditures, government or public funding, or another benefit that is received as payment.
7. "Dependent recreational vehicle" means a recreational vehicle that does not have a toilet, bathtub, or shower room.
8. "Distribution system" has the same meaning as in A.A.C. R18-4-103(B).
9. "Dwelling space" means a plot of ground designated to accommodate one recreational vehicle for dwelling or sleeping purposes for more than 30 days, and does not include a plot of ground that is:
 - a. Designated to accommodate one recreational vehicle and is occupied by the owner of the plot of ground; or
 - b. Exclusively designated to:
 - i. Accommodate a recreational vehicle specified in A.R.S. § 33-2102, and
 - ii. Remains on the plot of ground for dwelling for more than 180 consecutive days specified in A.R.S. § 33-2101.
10. "Easily cleanable" means a characteristic of a surface that allows effective removal of dirt and debris by normal cleaning methods based on the material, design, construction, and installation of the surface.

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34. "Stored" means holding refuse before the refuse is disposed of according to A.A.C. R18-13-311 and R18-13-312.
35. "Toilet" means a water-flushed, chemical-flushed, or no-flush bowl for the disposal of human excreta.
36. "Toilet alternative" means any system other than a toilet that:
- Is designed or used for the purpose of collecting human excreta; and
 - Has a process for waste treatment, such as composting, incinerating, chemical flushing, oil flushing, or a privy system.
37. "Utensil" means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 748, effective March 6, 2019 (Supp. 19-1).

R9-8-502. General Provisions

- A. This Article does not apply:
- To a recreational vehicle park located on federal or tribal land within the state;
 - If an agency of the state or federal government or a political subdivision of the state provides land for overnight parking and restrictions for use of such areas are posted; or
 - To recreational vehicles exempt under A.R.S. § 36-136(I)(8).

- B. A violation of this Article is a public health nuisance and may be subject to abatement pursuant to A.R.S. § 36-602.
- C. Inspections of recreational vehicle parks shall be conducted in accordance with A.R.S. § 36-136(I)(8) by the regulatory authority.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 748, effective March 6, 2019 (Supp. 19-1).

R9-8-503. Bathroom, Toilet Alternative, and Shower Room Management

- A. A responsible party shall ensure that a recreational vehicle park provides a bathroom or toilet alternative if it accommodates a recreational vehicle that does not have a toilet.
- B. A responsible party shall ensure that:
- No dwelling space offered for use by a recreational vehicle is more than 400 feet from a bathroom or toilet alternative;
 - Signs plainly indicate the locations of bathrooms, toilet alternatives, and shower rooms provided by the recreational vehicle park; and
 - The recreational vehicle park has a sufficient number of bathrooms or toilet alternatives according to Table 5.1.
- C. A responsible party shall ensure that each bathroom, toilet alternative, and shower room provided by the recreational vehicle park meets the requirements listed in Table 5.2.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 748, effective March 6, 2019 (Supp. 19-1).

Table 5.1. Bathroom or Toilet Alternative Requirements

| Number of Dependent Recreational Vehicles Occupying the Recreational Vehicle Park | Number of Bathrooms or Toilet Alternatives |
|-----------------------------------------------------------------------------------|--------------------------------------------|
| 1-25 | 1 |
| 26-50 | 2 |
| 51-75 | 3 |
| Every additional 1-25 | +1 additional |

Historical Note

Table 5.1 made by final rulemaking at 25 A.A.R. 748, effective March 6, 2019 (Supp. 19-1).

Table 5.2. Bathroom, Toilet Alternative, and Shower Room Management

| Requirement | Bathroom | Toilet Alternative | Shower Room |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|----------|--------------------|-------------|
| Is clean and sanitary | X | X | X |
| Is ventilated by an openable window, air conditioning, or other mechanical device | X | X | X |
| Has toilet paper | X | X | |
| Is maintained free from public health nuisance and free from insect and vermin infestation | X | X | X |
| Has refuse containers as specified in R9-8-507(1) | X | X | X |
| Has surfaces that are easily cleanable, sanitary and free from gaps other than ventilation | X | X | X |
| Has single-use soap or soap inside a dispenser at each provided lavatory | X | | X |
| Has single-use paper towels or air hand dryers at each provided lavatory | X | | X |
| Has a floor drain connected to a sewage collection system and, if built after the effective date of this Article, has floors that slope to the drain. | | | X |
| Has potable water from all shower heads | | | X |
| Has floors and walls of a non-absorbent material | X | | X |

Historical Note

Table 5.2 made by final rulemaking at 25 A.A.R. 748, effective March 6, 2019 (Supp. 19-1).

R9-8-504. Common Area Management

A responsible party shall ensure that the following requirements are met:

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1. Each common area:
 - a. Is clean and sanitary,
 - b. Is ventilated by an openable window, air conditioning, or other mechanical device,
 - c. Is maintained free from public health nuisance and free from insect and vermin infestations, and
 - d. Has refuse containers as specified in R9-8-507(1).
 2. Bedding and cloth towels provided by the recreational vehicle park are:
 - a. Maintained in good-repair;
 - b. Clean and sanitary; and
 - c. Kept free of ectoparasites including bedbugs, lice, and mites.
 3. A community kitchen provided by a recreational vehicle park:
 - a. Is maintained in a clean and sanitary condition; and
 - b. Complies with 9 A.A.C. 8, Article 1, if operating as a food establishment.
 4. Any multi-use utensils and equipment provided by a recreational vehicle park in a common areas or community kitchen are easily cleanable and either:
 - a. Are washed, rinsed, and made sanitary before use by each separate individual; or
 - b. A conspicuously located sign identifies which multi-use utensils and equipment provided by the recreational vehicle park are not washed, rinsed, and made sanitary before use by each separate individual.
 5. A recreational vehicle park shall comply with 9 A.A.C. 8 Article 8, if within a common area, the recreational vehicle park provides a:
 - a. Natural bathing place as defined in A.A.C. R18-5-201,
 - b. Semi-artificial bathing place as defined in R9-8-801,
 - c. Spa as defined in A.A.C. R18-5-201, or
 - d. Swimming pool as defined in A.A.C. R18-5-201.
- i. No coliform bacteria or other fecal indicator present, and
 - ii. Nitrate (as N) no greater than 10 mg/l.
 - b. The potable water provided is routinely monitored to determine:
 - i. The presence or absence of total coliform bacteria at least once every month of operation, and
 - ii. The concentration of nitrates at least once every 3 months.
 - c. Water samples collected in accordance with this Section shall be analyzed by a laboratory that is licensed according to 9 A.A.C. 14, Article 6.
 - d. Records of water sample results analyzed in accordance with this Section shall be:
 - i. Maintained at the recreational vehicle park for at least 12 months, and
 - ii. Made available to the regulatory authority upon request.
 - e. Written notification must be provided to the regulatory authority within 24 hours when any water quality requirement listed in subsection (6)(a) out-of-compliance.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 748, effective March 6, 2019 (Supp. 19-1).

R9-8-506. Sewage Disposal

A responsible party shall ensure that sewage and human excreta produced within the recreational vehicle park:

1. Does not create a public health nuisance, and
2. Is collected and disposed of by systems designed, constructed and operated in compliance with the requirements in 18 A.A.C. 9, Articles 3 and 7.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 748, effective March 6, 2019 (Supp. 19-1).

R9-8-507. Refuse Management

A responsible party shall ensure that the following requirements are met:

1. The recreational vehicle park has conspicuously located refuse containers capable of adequately servicing all dwelling spaces that are:
 - a. Constructed of non-absorbent material that is capable of withstanding expected use and remaining easily cleanable, and
 - b. Covered.
2. Signs plainly indicate the locations of refuse containers.
3. Refuse produced within the recreational vehicle park:
 - a. Does not create a public health nuisance; and
 - b. Is collected, stored, and disposed of according to 18 A.A.C. 13, Article 3.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 748, effective March 6, 2019 (Supp. 19-1).

R9-8-508. Reserved**R9-8-509. Reserved****R9-8-510. Reserved****R9-8-511. Expired****Historical Note****Historical Note**

New Section made by final rulemaking at 25 A.A.R. 748, effective March 6, 2019 (Supp. 19-1).

R9-8-505. Water Supply

A responsible party shall ensure that the following requirements are met:

1. All water provided by the recreational vehicle park for human consumption is potable water.
2. Any source of water provided by the recreational vehicle park that is not potable is clearly identified with "not for human consumption" signage at each access point.
3. The potable water supply and distribution system provided by the recreational vehicle park is designed to provide sufficient quantity at a minimum pressure of 20 pounds per square inch at ground level at each bathroom, shower room, and permanent water fixture provided at by the recreational vehicle park.
4. No dwelling space is more than 300 feet from a potable water source.
5. If water is hauled to the recreational vehicle park as a potable water supply, the water and transport shall meet the requirements of A.A.C. R18-4-214.
6. If potable water provided by the recreational vehicle park is not from a public water system as defined by 18 A.A.C. 4:
 - a. The potable water provided is tested prior to use with results of:

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Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3256, effective June 17, 2002 (Supp. 02-3).

R9-8-512. Repealed**Historical Note**

Section repealed by final rulemaking at 25 A.A.R. 748, effective March 6, 2019 (Supp. 19-1).

R9-8-513. Reserved**R9-8-514. Reserved****R9-8-515. Reserved****R9-8-516. Reserved****R9-8-517. Reserved****R9-8-518. Reserved****R9-8-519. Reserved****R9-8-520. Reserved****R9-8-521. Repealed****Historical Note**

Section repealed by final rulemaking at 25 A.A.R. 748, effective March 6, 2019 (Supp. 19-1).

R9-8-522. Repealed**Historical Note**

Section repealed by final rulemaking at 25 A.A.R. 748, effective March 6, 2019 (Supp. 19-1).

R9-8-523. Repealed**Historical Note**

Section repealed by final rulemaking at 25 A.A.R. 748, effective March 6, 2019 (Supp. 19-1).

R9-8-524. Reserved**R9-8-525. Reserved****R9-8-526. Reserved****R9-8-527. Reserved****R9-8-528. Reserved****R9-8-529. Reserved****R9-8-530. Reserved****R9-8-531. Repealed****Historical Note**

Section repealed by final rulemaking at 25 A.A.R. 748, effective March 6, 2019 (Supp. 19-1).

R9-8-532. Reserved**R9-8-533. Repealed****Historical Note**

Section repealed by final rulemaking at 25 A.A.R. 748, effective March 6, 2019 (Supp. 19-1).

R9-8-534. Reserved**R9-8-535. Reserved****R9-8-536. Reserved****R9-8-537. Reserved****R9-8-538. Reserved****R9-8-539. Reserved****R9-8-540. Reserved****R9-8-541. Repealed****Historical Note**

Section repealed by final rulemaking at 25 A.A.R. 748, effective March 6, 2019 (Supp. 19-1).

R9-8-542. Repealed**Historical Note**

Section repealed by final rulemaking at 25 A.A.R. 748, effective March 6, 2019 (Supp. 19-1).

R9-8-543. Repealed**Historical Note**

Section R9-8-543 and Table repealed by final rulemaking at 25 A.A.R. 748, effective March 6, 2019 (Supp. 19-1).

R9-8-544. Repealed**Historical Note**

Section repealed by final rulemaking at 25 A.A.R. 748, effective March 6, 2019 (Supp. 19-1).

R9-8-545. Reserved**R9-8-546. Reserved****R9-8-547. Reserved****R9-8-548. Reserved****R9-8-549. Reserved****R9-8-550. Reserved****R9-8-551. Repealed****Historical Note**

Section repealed by final rulemaking at 25 A.A.R. 748, effective March 6, 2019 (Supp. 19-1).

R9-8-552. Reserved**R9-8-553. Reserved****R9-8-554. Reserved****R9-8-555. Reserved****R9-8-556. Reserved****R9-8-557. Reserved****R9-8-558. Reserved****R9-8-559. Reserved****R9-8-560. Reserved****R9-8-561. Expired****Historical Note**

Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3256, effective June 17, 2002 (Supp. 02-3).

ARTICLE 6. CAMPGROUNDS**R9-8-601. Definitions**

In this Article, unless otherwise specified:

1. "Bathroom" means a structure or room that contains at least one toilet or urinal.
2. "Bedding" has the same meaning as in A.R.S. § 36-796.

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3. "Campground" means land or a portion of land that is designated for the purpose of outdoor activities and offers campsites.
4. "Camping shelter" means either of the following:
 - a. A recreational vehicle offered for overnight use that:
 - i. Provides an individual a covered space; and
 - ii. Does not provide sleeping material; or
 - b. A structure offered for overnight use, such as a cabin or teepee, that:
 - i. Provides an individual a covered space; and
 - ii. Does not provide:
 - (a) Sleeping material,
 - (b) A lavatory, or
 - (c) A toilet.
5. "Campsite" means a plot of ground offered by a campground for overnight sleeping activities for an individual or a group of individuals to engage in any of the following uses for less than 30 days:
 - a. Erecting a self-provided tent,
 - b. Arranging self-provided sleeping material,
 - c. Occupying a camping shelter, or
 - d. Parking a self-provided motor vehicle as defined in A.R.S. § 44-281 or a self-provided recreational vehicle as defined in A.R.S. § 33-2102.
6. "Clean" means free from dirt or debris.
7. "Common area" means an area of a campground, excluding areas within a campsite, that is provided by a campground for general use.
8. "Community kitchen" means a structure or room, excluding areas within a campsite, that is provided by a campground for preparing food.
9. "Distribution system" has the same meaning as in A.A.C. R18-4-103(B).
10. "Easily cleanable" means a characteristic of a surface that allows effective removal of dirt and debris by normal cleaning methods based on the material, design, construction, and installation of the surface.
11. "Faucet" means a fixture connected to a distribution system that provides and regulates the flow of potable water.
12. "Fixture" means an attachment to a structure.
13. "Food" means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for human consumption.
14. "Human excreta" means fecal and urinary discharges and includes any waste that contains this material.
15. "Lavatory" means a sink or a basin with a faucet that supplies potable water capable of reaching at least 85° F and with a drain connected to a sewage collection system.
16. "Non-absorbent" means incapable of being penetrated by liquid, such as a material coated or treated with rubber, plastic, or other sealing substance.
17. "Owns" means to have the right to possess, use, and convey the interest.
18. "Person" means an individual, partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any character or another agency.
19. "Potable water" means water safe for human consumption that meets the requirements of 18 A.A.C. 4 or satisfies the requirements in R9-8-605(4).
20. "Public health nuisance" means the activities or conditions dangerous to public health that are subject to A.R.S. § 36-601.
21. "Recreational vehicle" has the same meaning as in A.R.S. § 33-2102.
22. "Refuse" has the same meaning as in A.A.C. R18-13-302.
23. "Refuse container" means a receptacle that is capable of being moved and is used for refuse storage.
24. "Regulatory authority" means
 - a. The Department; or
 - b. Under delegation, the following entities as specified in A.R.S. § 36-136(E):
 - i. A local health department,
 - ii. A county environmental department, or
 - iii. A public health services district.
25. "Responsible party" means a person who owns a campground or a designee of the person who owns the campground.
26. "Sanitary" means free from filth, bacteria, viruses, mold, and fungi.
27. "Sewage" has the same meaning as in A.A.C. R18-9-101.
28. "Sewage collection system" has the same meaning as in A.A.C. R18-9-101.
29. "Shower head" means a fixture connected to a distribution system that allows potable water to fall on a user's body.
30. "Shower room" means a structure or room that contains at least one shower head and at least one floor drain.
31. "Sleeping material" means any of the following:
 - a. A sheet,
 - b. A pillow,
 - c. A pillowcase,
 - d. A blanket, or
 - e. A sleeping bag.
32. "Stored" means holding refuse before the refuse is disposed of according to A.A.C. R18-13-311 and R18-13-312.
33. "Tent" means a collapsible structure that is designed for overnight sleeping purposes and capable of being moved.
34. "Toilet" means a water-flushed, chemical-flushed, or no-flush bowl for the disposal of human excreta.
35. "Toilet alternative" means any system other than a toilet that:
 - a. Is designed or used for the purpose of collecting human excreta; and
 - b. Has a process for waste treatment, such as composting, incinerating, chemical flushing, oil flushing, or a privy system.
36. "Urinal" means a water-flushed, chemical-flushed, or no-flush upright basin used for urination only.
37. "Utensil" means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 756, effective March 6, 2019 (Supp. 19-1).

R9-8-602. General Provisions

- A. This Article does not apply to:
 1. Primitive camp and picnic grounds as defined in A.R.S. § 36-136(I)(8), or
 2. Campgrounds located on federal or tribal land within the state.
- B. A violation of this Article is a public health nuisance and may be subject to abatement pursuant to A.R.S. § 36-602.

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- C. Inspections of campgrounds shall be conducted in accordance with A.R.S. § 36-136(I)(8) by the regulatory authority.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 756, effective March 6, 2019 (Supp. 19-1).

R9-8-603. Bathroom, Toilet Alternative, and Shower Room Management

A responsible party shall ensure that:

1. No campsite is more than 400 feet from a toilet or toilet alternative;

2. Signs plainly indicate the locations of toilets and showers provided by the campground;
3. The campground has a sufficient number of toilets or toilet alternatives according to Table 6.1, and
4. Each bathroom, toilet alternative, and shower room provided by the campground meets the requirements listed in Table 6.2.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 756, effective March 6, 2019 (Supp. 19-1).

Table 6.1. Toilet or Toilet Alternative Requirements

| Number of Individuals Occupying the Campground | Number of Toilets or Toilet Alternatives |
|------------------------------------------------|------------------------------------------|
| 1-25 | 1 |
| 26-50 | 2 |
| 51-75 | 3 |
| Every additional 1-25 | +1 additional |

Historical Note

Table 6.1 made by final rulemaking at 25 A.A.R. 756, effective March 6, 2019 (Supp. 19-1).

Table 6.2. Bathroom, Toilet Alternative, and Shower Room Management

| Requirement | Bathroom | Toilet Alternative | Shower Room |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|----------|--------------------|-------------|
| Is clean and sanitary | X | X | X |
| Is ventilated by an openable window, air conditioning, or other mechanical device | X | X | X |
| Has toilet paper | X | X | |
| Is maintained free from public health nuisance and free from insect and vermin infestation | X | X | X |
| Has refuse containers as specified in R9-8-607(1) | X | X | X |
| Has surfaces that are easily cleanable, sanitary, and free from gaps other than ventilation | X | X | X |
| Has soap and single-use paper towels or air hand dryers at each lavatory | X | | |
| Has a floor drain connected to a sewage collection system and, if built after the effective date of this Article, has floors that slope to the drain. | | | X |
| Has potable water from all shower heads | | | X |
| Has floors and walls of a non-absorbent material | | | X |

Historical Note

Table 6.2 made by final rulemaking at 25 A.A.R. 756, effective March 6, 2019 (Supp. 19-1).

R9-8-604. Common Area Management

A responsible party shall ensure that the following requirements are met:

1. Bedding and towels provided by the campground are:
 - a. Maintained in good-repair;
 - b. Clean and sanitary; and
 - c. Kept free of ectoparasites including bedbugs, lice, and mites.
2. A community kitchen provided by a campground:
 - a. Is maintained in a clean and sanitary condition; and
 - b. Complies with 9 A.A.C. 8, Article 1 if operating as a food establishment.
3. Any multi-use utensils and equipment provided by the campground are easily cleanable and either:
 - a. Are washed, rinsed, and made sanitary before use by each separate individual; or

- b. A conspicuously located sign identifies which multi-use utensils and equipment provided by the campground are not washed, rinsed, and made sanitary before use by each separate individual.
4. A campground shall comply with 9 A.A.C. 8 Article 8, if within a common area, the campground provides a:
 - a. Natural bathing place as defined in A.A.C. R18-5-201,
 - b. Semi-artificial bathing place as defined in R9-8-801,
 - c. Spa as defined in A.A.C. R18-5-201, or
 - d. Swimming pool as defined in A.A.C. R18-5-201.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 756, effective March 6, 2019 (Supp. 19-1).

R9-8-605. Water Supply

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A responsible party shall ensure that the following requirements are met:

1. All water provided by the campground for human consumption is potable water.
2. Any source of water provided by the campground that is not potable is clearly identified with "not for human consumption" signage at each access point.
3. The potable water supply and distribution system provided by the campground is designed to provide sufficient quantity at a minimum pressure of 20 pounds per square inch at ground level at each bathroom, shower room, and permanent water fixture provided by the campground.
4. No campsite is more than 300 feet from a potable water source.
5. If water is hauled to the campground as a potable water supply, the water and transport shall meet the requirements of A.A.C. R18-4-214.
6. If potable water provided by the campground is not from a public water system as defined by 18 A.A.C. 4:
 - a. The potable water provided is tested prior to use with results of:
 - i. No coliform bacteria or other fecal indicator present; and
 - ii. Nitrate (as N) no greater than 10 mg/l.
 - b. The potable water provided is routinely monitored to determine:
 - i. The presence or absence of total coliform bacteria at least once every month of operation, and
 - ii. The concentration of nitrates at least once every 3 months.
 - c. Water samples collected in accordance with this section shall be analyzed by a laboratory that is licensed by the Arizona State Laboratory Office of Laboratory Services and licensed according to 9 A.A.C. 14, Article 6.
 - d. Records of water sample results analyzed in accordance with this Section shall be:
 - i. Maintained at the campground for at least 12 months and
 - ii. Made available to the Department upon request.
 - e. Written notification must be provided to the regulatory authority within 24 hours when any water quality requirement listed in subsection (a) is out-of-compliance.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 756, effective March 6, 2019 (Supp. 19-1).

R9-8-606. Sewage Disposal

A responsible party shall ensure that sewage and human excreta produced within the campground:

1. Does not create a public health nuisance; and
2. Is collected and disposed of by systems designed, constructed and operated in compliance with the requirements in 18 A.A.C. 9, Articles 3 and 7.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 756, effective March 6, 2019 (Supp. 19-1).

R9-8-607. Refuse Management

A responsible party shall ensure that the following requirements are met:

1. The campground has conspicuously located refuse containers that are:
 - a. Constructed of non-absorbent material that is capable of withstanding expected use and remaining easily cleanable, and
 - b. Covered.
2. Signs plainly indicate the locations of refuse containers.
3. No campsite is more than 200 feet from a refuse container.
4. Refuse produced within the campground:
 - a. Does not create a public health nuisance; and
 - b. Is collected, stored, and disposed of according to 18 A.A.C. 13, Article 3.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 756, effective March 6, 2019 (Supp. 19-1).

R9-8-608. Camping Shelter Management

A responsible party shall ensure that the following requirements are met:

1. A camping shelter is:
 - a. Clean and sanitary;
 - b. Ventilated by an openable window, air conditioning, or other mechanical device; and
 - c. Maintained free from public health nuisance and free from insect and vermin infestation.
2. Bedding and towels provided in a camping shelter are:
 - a. Maintained in good-repair;
 - b. Clean and sanitary; and
 - c. Kept free of ectoparasites including bedbugs, lice, and mites.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 756, effective March 6, 2019 (Supp. 19-1).

R9-8-609. Reserved**R9-8-610. Reserved****R9-8-611. Repealed****Historical Note**

Section repealed by final rulemaking at 25 A.A.R. 756, effective March 6, 2019 (Supp. 19-1).

R9-8-612. Repealed**Historical Note**

Section repealed by final rulemaking at 25 A.A.R. 756, effective March 6, 2019 (Supp. 19-1).

R9-8-613. Repealed**Historical Note**

Section repealed by final rulemaking at 25 A.A.R. 756, effective March 6, 2019 (Supp. 19-1).

R9-8-614. Repealed**Historical Note**

Section repealed by final rulemaking at 25 A.A.R. 756, effective March 6, 2019 (Supp. 19-1).

R9-8-615. Repealed**Historical Note**

Section repealed by final rulemaking at 25 A.A.R. 756,

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effective March 6, 2019 (Supp. 19-1).

R9-8-616. Repealed**Historical Note**

Section repealed by final rulemaking at 25 A.A.R. 756, effective March 6, 2019 (Supp. 19-1).

R9-8-617. Repealed**Historical Note**

Section repealed by final rulemaking at 25 A.A.R. 756, effective March 6, 2019 (Supp. 19-1).

ARTICLE 7. PUBLIC SCHOOLS**R9-8-701. Definitions**

In this Article, unless otherwise specified:

1. "Animal" means a mammal, bird, reptile, amphibian, fish or invertebrate, such as an insect, spider, worm, snail, clam, crab, or starfish.
2. "Bathroom" means a restroom that contains a shower head or bathtub.
3. "Bathtub" means a receptacle, in which a user sits, with a faucet that supplies hot and cold water, or warm water, for filling the receptacle and a drain connected to a sewage collection system.
4. "Bottled water" means the same as in R9-8-201.
5. "Bottled water cooler" means a device that is not connected to a plumbing system and provides a vertically falling stream of drinking water from a source approved by the Department under 9 A.A.C. 8, Article 2, or that complies with 18 A.A.C. 4; 18 A.A.C. 11, Articles 4 and 5, or A.R.S. § 45-811.01.
6. "Classroom" means an interior area of a school used primarily for instruction of students.
7. "Clean" means free of dirt, litter, or the remains of something that has been broken or torn into pieces.
8. "Cold water" means water with a temperature from 33° F to 74° F.
9. "Common drinking cup" means a hand-held container not connected to a plumbing system that:
 - a. Holds liquid for human consumption,
 - b. Comes into contact with a user's mouth, and
 - c. Is used by more than one individual.
10. "Department" means the Arizona Department of Health Services.
11. "Device" means a piece of equipment that performs a specific function.
12. "Drinking fountain" means a fixture connected to a plumbing system that provides a non-vertical stream of drinking water from an opening and drains into a sewage collection system.
13. "Drinking water" means water for human consumption that meets the requirements of 18 A.A.C. 4, or 18 A.A.C. 11, Article 4.
14. "Dumpster" means a container designed for mechanical lifting and dumping by a refuse collection vehicle that transports the container's contents.
15. "Faucet" means a fixture connected to a plumbing system that provides and regulates the flow of drinking water from the plumbing system.
16. "Fixture" means a permanent attachment to a structure.
17. "Floor drain" means an opening in a floor surface that leads to a sewage collection system.
18. "Food establishment" means an entity that stores, prepares, packages, serves, or otherwise provides food for human consumption directly to a consumer or indirectly through a delivery service.
19. "Habitat" means a place where an animal is kept while on school grounds.
20. "Hot water" means water with a temperature from 95° F to 120° F.
21. "Human consumption" means an individual's use of water for activities such as drinking, bathing, showering, handwashing, cooking, dishwashing, laundering, cleaning, or using a water closet.
22. "Lavatory" means a sink or a basin with a faucet that supplies hot and cold water, or warm water, and with a drain connected to a sewage collection system.
23. "Non-absorbent" means not capable of absorbing or soaking up liquids.
24. "Non-classroom" means an indoor area in a school, such as the school office, nurse's office, library, or cafeteria, that are not used primarily for instruction of students.
25. "Overflow rim" means the raised edge around a drinking fountain's basin.
26. "Participant" means:
 - a. A member of the staff or a student of a school, or
 - b. A member of the staff or a student from another school, when the individual is present on the grounds of the school specified in subsection (a) for a school-organized activity.
27. "Plumbing system" means fixtures, pipes, and related parts assembled to carry drinking water into a structure and carry sewage out of the structure.
28. "Portable water container" means any type of device, not connected to a plumbing system, provided by a school, such as a bottle, cup, pitcher, or insulated cylindrical cooler, in which drinking water is held or carried.
29. "Private school" means the same as in A.R.S. § 15-101.
30. "Public water system" means the same as in A.R.S. § 49-352.
31. "Refuse" means the same as in A.A.C. R18-13-302.
32. "Refuse container" means a portable receptacle used for refuse storage until the refuse is placed into a dumpster.
33. "Regulatory authority" means:
 - a. The Arizona Department of Health Services; or
 - b. One of the following entities as specified in A.R.S. § 36-136(E):
 - i. A local health department;
 - ii. A county environmental department; or
 - iii. A public health services district.
34. "Responsible person" means:
 - a. For an accommodation school defined in A.R.S. § 15-101, the county school superintendent with the powers and duties prescribed in A.R.S. Title 15, Chapter 3, Article 1;
 - b. For a charter school defined in A.R.S. § 15-101, the governing board defined in A.A.C. R7-2-1401;
 - c. For the Arizona State Schools for the Deaf and the Blind, the board of directors for the Arizona State Schools for the Deaf and the Blind established under A.R.S. Title 15, Chapter 11, Article 2;
 - d. For a school operated by a school district, the school district's governing board defined in A.R.S. § 15-101.
35. "Restroom" means a structure or room that contains at least one lavatory and water closet or at least one lavatory, water closet, and urinal.

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36. "Sanitize" means using heat, chemical agents, or germicidal solutions to disinfect and reduce pathogen counts, including bacteria, viruses, mold, and fungi.
37. "School" means an institution offering instruction:
- That is:
 - An accommodation school defined in A.R.S. § 15-101;
 - The Arizona State Schools for the Deaf and the Blind established under A.R.S. Title 15, Chapter 11, Article 1;
 - A charter school defined in A.R.S. § 15-101; or
 - A school operated by a school district defined in A.R.S. § 15-101; and
 - That is not a private school.
38. "Sewage" means the same as in A.A.C. R18-13-1102.
39. "Sewage collection system" means a system of pipelines, conduits, manholes, pumping stations, force mains, and all other structures, devices, and appurtenances that collect, contain, and convey sewage from its sources to the entry of a sewage treatment facility or on-site wastewater treatment facility serving sources other than a single-family dwelling.
40. "Shower head" means a fixture connected to a plumbing system that allows drinking water to fall on a user's body.
41. "Shower room" means a structure or room that contains at least one shower head and one floor drain, but does not contain a bathtub, lavatory, water closet, or urinal.
42. "Underground water source" means:
- An aquifer defined in A.R.S. § 49-201;
 - A constructed underground storage facility defined in A.R.S. § 45-802.01; or
 - A managed underground storage facility defined in A.R.S. § 45-802.01.
43. "Urinal" means the same as in A.R.S. § 45-311.
44. "Warm water" means water with a temperature from 75° F to 94° F.
45. "Water closet" means the same as in A.R.S. § 45-311.
46. "Water cooler" means a fixture connected to a plumbing system for cooling water and dispensing a vertically falling stream of drinking water.
- A.** A responsible person shall ensure that a school provides restrooms or bathrooms that:
- Are clean; and
 - Have:
 - Floors of a non-absorbent material;
 - Floors that slope to a drain connected to a sewage collection system;
 - Water closets with seats of the split or U-shaped type made of non-absorbent material;
 - Interior surfaces that are clean, washable, and free from gaps;
 - Toilet paper at all water closets; and
 - Soap and single-use paper towels or air hand dryers at all lavatories.
- B.** If a school provides a shower room, the responsible person shall ensure that the shower room:
- Is clean;
 - Does not have a school-provided cloth towel unless, after each use, the cloth towel is machine washed with detergent and machine dried; and
 - Has:
 - Hot and cold, or warm water from all shower heads;
 - Floors of a non-absorbent material;
 - Floors that slope to a drain connected to a sewage collection system; and
 - Interior surfaces that are clean, washable, and free of gaps.
- C.** A responsible person shall ensure that restrooms, bathrooms, and shower rooms are maintained to avoid odors.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 282, effective March 11, 2006 (Supp. 06-1). Amended by final expedited rulemaking at 30 A.A.R. 237 (February 2, 2024), with an immediate effective date of January 10, 2024 (Supp. 24-1).

R9-8-704. Cafeterias and Food Service

- A.** A responsible person for a school that stores, prepares, or serves food on the premises shall ensure that the school complies with 9 A.A.C. 8, Article 1, except when the food is brought to the school by staff or a student for personal consumption.
- B.** If a school contracts with a food establishment to prepare and deliver food to the school, the responsible person shall:
- Ensure that the food establishment has a current license or permit issued under 9 A.A.C. 8, Article 1; and
 - Retain a copy of the food establishment's current license or permit, required in subsection (B)(1), for inspection.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 282, effective March 11, 2006 (Supp. 06-1).

R9-8-705. Indoor Areas

- A responsible person shall ensure that:
- Indoor classroom and non-classroom areas are clean; and
 - If a classroom has a lavatory in it, the lavatory has soap and single-use paper towels or an air hand dryer.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 282, effective March 11, 2006 (Supp. 06-1). Amended by final expedited rulemaking at 30 A.A.R. 237 (February 2, 2024), with an immediate effective date of January 10,

Historical Note

New Section made by final rulemaking at 12 A.A.R. 282, effective March 11, 2006 (Supp. 06-1). Amended by final expedited rulemaking at 30 A.A.R. 237 (February 2, 2024), with an immediate effective date of January 10, 2024 (Supp. 24-1).

R9-8-702. General Provisions

- A.** A responsible person shall ensure that a school complies with the provisions of this Article and with federal and state statutes and rules and local ordinances governing subjects included in A.R.S. § 36-136(I)(9).
- B.** A violation of this Article is a public nuisance under A.R.S. § 36-601.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 282, effective March 11, 2006 (Supp. 06-1). Amended by final expedited rulemaking at 30 A.A.R. 237 (February 2, 2024), with an immediate effective date of January 10, 2024 (Supp. 24-1).

R9-8-703. Restroom, Bathroom, and Shower Room Requirements

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2024 (Supp. 24-1).

R9-8-706. Water Supply

- A. A responsible person shall ensure that a school has an ample water supply that:
1. Maintains water quality and water pressure, and water temperature as specified in R9-8-703(B)(3)(a), for the school's drinking fountains, showers, lavatories, water closets, and urinals at all times, and
 2. Is provided by an approved water supplier in accordance with 18 A.A.C. 4.
- B. A responsible person shall ensure that a school's drinking water is dispensed from:
1. A clean drinking fountain that:
 - a. Provides, from an opening, a stream of water that does not touch anything before reaching a user's mouth;
 - b. Has an opening that is higher than the overflow rim to prevent the opening's submersion; and
 - c. Has a device to prevent a user's mouth from touching the opening from which the water streams;
 2. A clean and sanitized water cooler;
 3. A clean and sanitized bottled water cooler;
 4. A clean and sanitized lavatory faucet; or
 5. A clean and sanitized portable water container.
- C. If a portable water container or the bottle from a school's bottled water cooler is to be refilled, a responsible person shall ensure that the portable water container or the bottle is:
1. Maintained by a food establishment regulated by 9 A.A.C. 8, Article 1; and
 2. Filled with water from an approved water supplier specified in subsection (A).
- D. A responsible person shall ensure that a school does not provide a common drinking cup to students.
- E. A responsible person shall ensure that a school provides:
1. Drinking fountains, water coolers, or bottled water coolers according to Tables 1 and 2; and
 2. At least one drinking fountain, water cooler, or bottled water cooler on each floor of the school that contains a classroom, regardless of the number of students.
- F. A responsible person shall ensure a school provides drinking water that is:
1. Accessible from the school grounds; and
 2. Sufficient to maintain the hydration of all participants at school-organized outdoor activities.

Historical Note

New Section, including Tables 1 and 2, made by final rulemaking at 12 A.A.R. 282, effective March 11, 2006 (Supp. 06-1). Amended by final expedited rulemaking at 30 A.A.R. 237 (February 2, 2024), with an immediate effective date of January 10, 2024; Tables 1 and 2 located under R9-8-706(E) separated from this Section to conform with the A.A.C. codification scheme (Supp. 24-1).

Table 1. Kindergarten to Eighth Grade

| Number of Students | Minimum Number of Drinking Fountains, Water Coolers, or Bottled Water Coolers* |
|--------------------|--------------------------------------------------------------------------------|
| 1-50 | 1 |
| 51-100 | 2 |
| 101-150 | 3 |
| 151-200 | 4 |
| 201-250* | 5 |

*For each additional 1-50 students, another drinking fountain, water cooler, or bottled water cooler is required.

Historical Note

Table 1 has been separated from R9-8-706 to conform with the A.A.C. codification scheme. This Table was originally made in Supp. 06-1 by final rulemaking at 12 A.A.R. 282, effective March 11, 2006. (Supp. 24-1).

Table 2. Ninth Grade to Twelfth Grade

| Number of Students | Minimum Number of Drinking Fountains, Water Coolers, or Bottled Water Coolers* |
|--------------------|--------------------------------------------------------------------------------|
| 1-100 | 1 |
| 101-200 | 2 |
| 201-300 | 3 |
| 301-400 | 4 |
| 401-500* | 5 |

*For each additional 1-100 students, another drinking fountain, water cooler, or bottled water cooler is required.

Historical Note

Table 2 has been separated from R9-8-706 to conform with the A.A.C. codification scheme. This Table was originally made in Supp. 06-1 by final rulemaking at 12 A.A.R. 282, effective March 11, 2006. (Supp. 24-1).

R9-8-707. Sewage Disposal

A responsible person shall ensure that a school's:

1. Water closets and urinals flush sewage to a sewage collection system;
2. Lavatories, showers, bathtubs, and other plumbing fixtures drain sewage to a sewage collection system; and
3. Sewage collection systems are maintained in accordance with the recommendations of the regulatory authority.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 282, effective March 11, 2006 (Supp. 06-1). Amended by final expedited rulemaking at 30 A.A.R. 237 (February 2, 2024), with an immediate effective date of January 10, 2024 (Supp. 24-1).

R9-8-708. Refuse Management

A responsible person shall ensure that a school:

1. Stores refuse in durable, non-absorbent, and washable containers;
2. Provides:
 - a. Indoor refuse containers in each classroom and in each non-classroom area; and
 - b. Accessible outdoor refuse containers;
3. Maintains refuse containers so that refuse does not accumulate in school buildings or on school grounds; and
4. Disposes of refuse by using an approved collection agency and approved disposal sites that are maintained and operated according to 18 A.A.C. 13, Article 3.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 282, effective March 11, 2006 (Supp. 06-1). Amended by final expedited rulemaking at 30 A.A.R. 237 (February 2, 2024), with an immediate effective date of January 10, 2024 (Supp. 24-1).

R9-8-709. Animal Standards

A. A responsible person shall ensure that an animal in a school:

1. Is kept in a habitat that:
 - a. Has water free of algae, insects, and particulate matter;
 - b. Is maintained to avoid odors from rotting food or excess animal wastes; and

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- c. Is not in the same room as food preparation areas, as specified in 9 A.A.C. 8, Article 1;
2. May be removed from the animal's habitat at the direction of a teacher;
3. When out of the animal's habitat, is under the control of a teacher or a student of the school, if the animal is:
 - a. A bird, reptile, amphibian, or invertebrate;
 - b. A large mammal, such as a horse, sheep, pig, goat, or cow;
 - c. A rabbit or hare; or
 - d. A rodent, such as a mouse, rat, hamster, guinea pig, or gerbil;
4. Has a current immunization against rabies, if the animal is a dog, cat or ferret, as documented by:
 - a. A dog license issued by a state or county agency;
 - b. A rabies immunization certificate from a veterinarian licensed under 3 A.A.C. 11;
 - c. A receipt for veterinary services, showing the administration of a rabies vaccine; or
 - d. A written statement attesting to the current immunization of the animal against rabies; and
5. Is not:
 - a. A non-human primate;
 - b. A deer mouse, or other wild mouse of the genus *Peromyscus*; and
 - c. A bat, skunk, raccoon, fox, wolf-hybrid or coyote, except when brought into a classroom for an educational display, as defined in A.A.C. R12-4-401, by a person who has complied with provisions in 12 A.A.C. 4, Article 4, obtained a permit or license issued by the Arizona Game and Fish Department, and is experienced in handling the animal.
- B. A responsible person shall ensure that a room, in which an animal in a school is kept:
 1. Is free of animal waste, except in the habitat; and
 2. Has:
 - a. A lavatory with soap and single-use paper towels or air hand dryers; or
 - b. A product to sanitize the hands of an individual who touches an animal or its habitat.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 282, effective March 11, 2006 (Supp. 06-1).

R9-8-710. Pest Control

A responsible person shall ensure that indoor classroom and non-classroom areas are kept free of insects and rodents, except when the insects or rodents are being kept as specified in R9-8-709 or are food for animals being kept as specified in R9-8-709.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 282, effective March 11, 2006 (Supp. 06-1).

R9-8-711. Inspections

The regulatory authority shall inspect:

1. A school for compliance with this Article at least once each calendar year, January 1 through December 31, and
2. Areas of a school pertinent to the details of a complaint upon receipt of the complaint.

Historical Note

Section repealed; new Section made by final rulemaking at 12 A.A.R. 282, effective March 11, 2006 (Supp. 06-1).

Amended by final expedited rulemaking at 30 A.A.R. 237 (February 2, 2024), with an immediate effective date

of January 10, 2024 (Supp. 24-1).

R9-8-712. Repealed**Historical Note**

Section repealed by final rulemaking at 12 A.A.R. 282, effective March 11, 2006 (Supp. 06-1).

R9-8-713. Repealed**Historical Note**

Section repealed by final rulemaking at 12 A.A.R. 282, effective March 11, 2006 (Supp. 06-1).

R9-8-714. Repealed**Historical Note**

Section repealed by final rulemaking at 12 A.A.R. 282, effective March 11, 2006 (Supp. 06-1).

R9-8-715. Repealed**Historical Note**

Section repealed by final rulemaking at 12 A.A.R. 282, effective March 11, 2006 (Supp. 06-1).

R9-8-716. Repealed**Historical Note**

Section repealed by final rulemaking at 12 A.A.R. 282, effective March 11, 2006 (Supp. 06-1).

R9-8-717. Repealed**Historical Note**

Section repealed by final rulemaking at 12 A.A.R. 282, effective March 11, 2006 (Supp. 06-1).

ARTICLE 8. PUBLIC AND SEMIPUBLIC SWIMMING POOLS AND BATHING PLACES**R9-8-801. Definitions**

In this Article, unless otherwise specified:

1. "Artificial lake" has the same meaning as in A.A.C. R18-5-201.
2. "Backwash" has the same meaning as in A.A.C. R18-5-201.
3. "Bathing place" means a volume of water that is used for water contact recreation.
4. "Clean" means free from slime, scum, dirt, or other debris.
5. "Deck" has the same meaning as in A.A.C. R18-5-201.
6. "Department" means the Arizona Department of Health Services.
7. "Incontinent" means unable to restrain a bowel movement.
8. "Local health department" has the same meaning as in A.R.S. § 36-671.
9. "Maximum bathing load" has the same meaning as in A.A.C. R18-5-201.
10. "Natural bathing place" has the same meaning as in A.A.C. R18-5-201.
11. "Operate" has the same meaning as in A.A.C. R18-5-201.
12. "Operator" means an individual who owns, runs, maintains, or otherwise controls or directs the functioning of a bathing place.
13. "Oxidation-reduction potential" means the measurement in millivolts of the potential for transfer of electrons from one atom or molecule to another in water.

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14. "Potable water" has the same meaning as in A.A.C. R18-5-201.
15. "Ppm" means parts per million.
16. "Private residential spa" has the same meaning as in A.A.C. R18-5-201.
17. "Private residential swimming pool" has the same meaning as in A.A.C. R18-5-201.
18. "Public health services district" has the same meaning as "district" in A.R.S. § 48-5801.
19. "Public spa" has the same meaning as in A.A.C. R18-5-201.
20. "Public swimming pool" has the same meaning as in A.A.C. R18-5-201.
21. "Regulatory authority" means the Department or a local health department or public health services district operating under a delegation of authority from the Department.
22. "Sanitary facility" means a designated area that includes a toilet, urinal, sink, or shower.
23. "Scum" means a film that forms on the surface of water.
24. "Semi-artificial bathing place" means a lake, pond, river, stream, swimming hole, or hot spring that is modified to be used for water contact recreation.
25. "Semipublic spa" has the same meaning as in A.A.C. R18-5-201.
26. "Semipublic swimming pool" has the same meaning as in A.A.C. R18-5-201.
27. "Shallow area" has the same meaning as in A.A.C. R18-5-201.
28. "Shock treatment" means adding chlorine to water to elevate the free chlorine residual to 20 ppm and destroy ammonia and nitrogenous and organic contaminants in the water.
29. "Slime" means a glutinous or viscous liquid matter.
30. "Spa" has the same meaning as in A.A.C. R18-5-201.
31. "Swimming pool" has the same meaning as in A.A.C. R18-5-201.
32. "Turnover rate" has the same meaning as in A.A.C. R18-5-201.
33. "Wading pool" has the same meaning as in A.A.C. R18-5-201.
34. "Water circulation system" has the same meaning as in A.A.C. R18-5-201.
35. "Water circulation system components" has the same meaning as in A.A.C. R18-5-201.
36. "Water fountain" means a bathing place that functions by using mechanical means to propel a stream of water out of an opening or structure.
37. "Water contact recreation" means an activity for enjoyment in which an individual wets all or part of the individual's body with water.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3645, effective August 9, 2002 (Supp. 02-3). Amended by final expedited rulemaking at 30 A.A.R. 237 (February 2, 2024), with an immediate effective date of January 10, 2024 (Supp. 24-1).

R9-8-802. Applicability

This Article does not apply to:

1. A private residential swimming pool,
2. A private residential spa,
3. A bathing place used for medical treatment or physical therapy supervised by licensed medical personnel, or

4. A body of water that is not used as a bathing place.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3645, effective August 9, 2002 (Supp. 02-3).

R9-8-803. Public and Semipublic Swimming Pool and Spa Water Quality and Disinfection Standards

- A. An operator of a public or semipublic swimming pool or spa shall ensure that:
 1. The swimming pool or spa is filled only with potable water;
 2. The water in the swimming pool or spa:
 - a. Complies with the water quality standards in this Section when the swimming pool or spa is open for water contact recreation;
 - b. Maintains a pH of between 7.2 and 7.8;
 - c. Maintains a total alkalinity of between 60 and 100 ppm; and
 - d. Is sufficiently clear so that the main drain in the swimming pool or spa is visible from the deck of the swimming pool or spa;
 3. The surface of the water in the swimming pool or spa is free from scum and floating debris;
 4. The bottom and sides of the swimming pool or spa are free from sediment, dirt, slime, and algae;
 5. The chemical disinfection level, pH, total alkalinity, and temperature of the water is tested at least once daily; and
 6. A daily operating log that includes the results of the tests in subsection (A)(5) is maintained for 12 months from the date of the test and is available to a regulatory authority or a member of the public upon request.
- B. An operator of a public or semipublic swimming pool or spa:
 1. Shall not use chloramine as a primary disinfectant in the swimming pool or spa;
 2. Shall not add gaseous disinfectant directly into the swimming pool;
 3. Shall not add dry or liquid disinfectant directly into the swimming pool or spa for routine disinfection; and
 4. May add dry or liquid disinfectant directly into the swimming pool or spa for shock treatment.
- C. An operator of a public or semipublic swimming pool or spa using chlorinated isocyanurates or cyanuric acid stabilizer for disinfection and stabilization in the swimming pool or spa shall ensure that the water in the swimming pool or spa maintains an oxidation-reduction potential equal to or greater than 650 millivolts and that cyanuric acid levels, whether from chlorinated isocyanurates or from the separate addition of cyanuric acid stabilizer, do not exceed 150 ppm.
- D. An operator of a public or semipublic swimming pool shall ensure that the water in the swimming pool meets one of the following chemical disinfection standards:
 1. A free chlorine residual between 1.0 and 3.0 ppm as measured by the N, N-Diethyl-p-phenylenediamine test,
 2. A free bromine residual between 2.0 and 4.0 ppm as measured by the N, N-Diethyl-p-phenylenediamine test, or
 3. An oxidation-reduction potential equal to or greater than 650 millivolts.
- E. An operator of a public or semipublic spa shall ensure that:
 1. A chlorine gas disinfection system is not used in the spa;
 2. The water temperature in the spa does not exceed 40EC; and
 3. The water in the spa meets one of the following chemical disinfection standards:

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- a. A free chlorine residual between 3.0 and 5.0 ppm as measured by the N, N-Diethyl-p-phenylenediamine test,
- b. A free bromine residual between 3.0 and 5.0 ppm as measured by the N, N-Diethyl-p-phenylenediamine test, or
- c. An oxidation-reduction potential equal to or greater than 650 millivolts.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3645, effective August 9, 2002 (Supp. 02-3).

R9-8-804. Public and Semipublic Swimming Pool and Spa Water Circulation Requirements

- A. An operator of a public or semipublic swimming pool or spa shall ensure that:
1. The swimming pool or spa water circulation system complies with the water circulation requirements in 18 A.A.C. 5, Article 2; and
 2. The swimming pool or spa is equipped with:
 - a. A flow meter as specified in 18 A.A.C. 5, Article 2; and
 - b. A vacuum cleaning system as specified in 18 A.A.C. 5, Article 2.
- B. An operator may draw water from a swimming pool for a water slide or a water fountain without filtering or disinfecting the water.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3645, effective August 9, 2002 (Supp. 02-3).

R9-8-805. Public and Semipublic Swimming Pool and Spa Maximum Bathing Loads

An operator of a public or semipublic swimming pool or spa shall ensure that the maximum bathing load, as specified in 18 A.A.C. 5, Article 2, is not exceeded.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3645, effective August 9, 2002 (Supp. 02-3).

R9-8-806. Posting Requirements

An operator of a public or semipublic swimming pool or spa shall ensure that a sign is posted within 50 feet of the swimming pool or spa, that includes the following instructions:

1. Use the toilet before entering the pool or spa;
2. Take a shower before entering the pool or spa;
3. Do not enter the pool with a cold, skin or other body infection, open wound, diarrhea, or any other contagious condition;
4. If incontinent, wear tight fitting rubber or plastic pants or a swim diaper; and
5. Observe all safety regulations.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3645, effective August 9, 2002 (Supp. 02-3).

R9-8-807. Public and Semipublic Swimming Pool and Spa and Bathing Place Facility Sanitation

- A. An operator of a public or semipublic swimming pool or spa shall ensure that a sanitary facility at the public or semipublic swimming pool is maintained in a clean condition.
- B. An operator of a public or semipublic swimming pool or bathing place shall provide a soap dispenser with liquid or powdered soap at each sink in a sanitary facility.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3645, effective August 9, 2002 (Supp. 02-3).

R9-8-808. Bathing Place Towels

If a towel is provided by a bathing place to an individual using the bathing place, an operator of the bathing place shall ensure that the towel is washed with soap or detergent and hot water and thoroughly dried after each individual use.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3645, effective August 9, 2002 (Supp. 02-3).

R9-8-809. Disposal of Sewage, Filter Backwash, and Wasted Swimming Pool or Spa Water

An operator of a public or semipublic swimming pool or spa shall ensure that sewage, filter backwash, and swimming pool or spa water are disposed of according to A.A.C. R18-5-236.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3645, effective August 9, 2002 (Supp. 02-3).

R9-8-810. Fecal Contamination in Public and Semipublic Swimming Pools and Spas

- A. If solid feces are found in a public or semipublic swimming pool or spa, an operator of the swimming pool or spa shall ensure that:
1. Each individual in the swimming pool or spa exits the swimming pool or spa and the swimming pool or spa is closed,
 2. The feces in the swimming pool or spa are removed and disposed of in a toilet,
 3. The chemical disinfection level of the water in the swimming pool or spa is tested to determine whether the water complies with the water quality and disinfection standards in R9-8-803, and
 4. The swimming pool or spa is not reopened until a test conducted under subsection (A)(3) indicates that the water complies with the water quality and disinfection standards in R9-8-803.
- B. If liquid feces are found in a public or semipublic swimming pool or spa, an operator of the swimming pool or spa shall ensure that:
1. Each individual in the swimming pool or spa exits the swimming pool or spa and the swimming pool or spa is closed;
 2. The swimming pool or spa is closed for at least 24 hours;
 3. As much of the liquid feces as possible in the swimming pool or spa is removed and disposed of in a toilet;
 4. The swimming pool or spa is chemically treated with a shock treatment;
 5. The water in the swimming pool or spa is tested 24 hours after applying the shock treatment to determine whether the water complies with the water quality and disinfection standards in R9-8-803; and
 6. The swimming pool or spa is not reopened until a test conducted under subsection (B)(5) indicates that the water complies with the water quality and disinfection standards in R9-8-803.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3645, effective August 9, 2002 (Supp. 02-3).

R9-8-811. Natural and Semi-artificial Bathing Place and

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Artificial Lake Water Quality Standards

An operator of a public or semipublic natural bathing place, a semi-artificial bathing place, or an artificial lake shall ensure that the public or semipublic natural bathing place, semi-artificial bathing place, or artificial lake meets the narrative and numeric water quality standards in 18 A.A.C. 11, Article 1 when the public or semipublic natural bathing place, semi-artificial bathing place, or artificial lake is open for water contact recreation.

Historical Note

Section repealed; new Section made by final rulemaking at 8 A.A.R. 3645, effective August 9, 2002 (Supp. 02-3).

R9-8-812. Inspections

- A. A regulatory authority shall inspect a bathing place to determine whether the bathing place complies with this Article.
- B. A regulatory authority shall inspect a public swimming pool at least once each month that the swimming pool is open for water contact recreation.

Historical Note

Section repealed; new Section made by final rulemaking at 8 A.A.R. 3645, effective August 9, 2002 (Supp. 02-3).

R9-8-813. Cease and Desist and Abatement

- A. Engaging in any practice in violation of this Article is a public nuisance.
- B. If a regulatory authority has reasonable cause to believe that an operator of a public or semipublic swimming pool or bathing place is creating or maintaining a public nuisance at the public or semipublic swimming pool or bathing place, the regulatory authority shall order the operator to discontinue the activity and to abate the public nuisance as follows:
 1. The regulatory authority shall serve on the operator a written cease and desist and abatement order requiring the operator to discontinue the activity and to remove the public nuisance at the operator's expense within 24 hours after service of the order. The order shall contain:
 - a. A reference to the statute or rule that is alleged to have been violated or on which the order is based,
 - b. A description of the operator's right to request a hearing, and
 - c. A description of the operator's right to request an informal settlement conference.
 2. The regulatory authority shall serve the order and any subsequent notices by personal delivery or certified mail, return receipt requested, to the operator or other party's last address of record with the regulatory authority or by any other method reasonably calculated to effect actual notice to the operator or other party.
 3. The operator or another party whose rights are determined by the order may obtain a hearing to appeal the order by filing a written notice of appeal with the regulatory authority within 30 days after service of the order. The operator or other party appealing the order shall serve the notice of appeal upon the regulatory authority by personal delivery or certified mail, return receipt requested, to the office of the regulatory authority or by any other method reasonably calculated to effect actual notice on the regulatory authority. Appealing an order does not release the operator from the obligation to comply with the order.
 4. If a notice of appeal is timely filed, the regulatory authority shall do one of the following:
 - a. If the regulatory authority is the Department or a local health department or public health services dis-

trict to which the duty to comply with A.R.S. Title 41, Chapter 6, Article 10 is delegated, the notification and hearing shall comply with A.R.S. Title 41, Chapter 6, Article 10 and any rules promulgated by the Office of Administrative Hearings.

- b. For all other regulatory authorities, the notification and hearing shall comply with the procedures adopted by a county board of supervisors as required by A.R.S. § 36-183.04(E).
5. If a written notice of appeal is not timely filed, the order becomes final.
6. A regulatory authority shall inspect the public or semipublic swimming pool or bathing place 24 hours after service of the order to determine whether the operator has complied with the order. If the regulatory authority determines upon inspection that the operator has not ceased the activity and abated the public nuisance, the regulatory authority shall cause the public nuisance to be removed.

Historical Note

Section repealed; new Section made by final rulemaking at 8 A.A.R. 3645, effective August 9, 2002 (Supp. 02-3).

R9-8-814. Repealed**Historical Note**

Section repealed by final rulemaking at 8 A.A.R. 3645, effective August 9, 2002 (Supp. 02-3).

R9-8-815. Repealed**Historical Note**

Section repealed by final rulemaking at 8 A.A.R. 3645, effective August 9, 2002 (Supp. 02-3).

R9-8-816. Repealed**Historical Note**

Section repealed by final rulemaking at 8 A.A.R. 3645, effective August 9, 2002 (Supp. 02-3).

R9-8-817. Repealed**Historical Note**

Section repealed by final rulemaking at 8 A.A.R. 3645, effective August 9, 2002 (Supp. 02-3).

R9-8-818. Reserved**R9-8-819. Reserved****R9-8-820. Reserved****R9-8-821. Repealed****Historical note**

R9-8-821 repealed by summary action with an interim effective date of July 6, 1998; filed in the Office of the Secretary of State June 8, 1998 (Supp. 98-2). Adopted summary rules filed October 9, 1998; interim effective date of July 6, 1998, now the permanent effective date (Supp. 98-4).

R9-8-822. Repealed**Historical note**

R9-8-822 repealed by summary action with an interim effective date of July 6, 1998; filed in the Office of the Secretary of State June 8, 1998 (Supp. 98-2). Adopted summary rules filed October 9, 1998; interim effective date of July 6, 1998, now the permanent effective date

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(Supp. 98-4).

R9-8-823. Repealed**Historical Note**

Section repealed by final rulemaking at 8 A.A.R. 3645, effective August 9, 2002 (Supp. 02-3).

R9-8-824. Repealed**Historical Note**

Section repealed by final rulemaking at 8 A.A.R. 3645, effective August 9, 2002 (Supp. 02-3).

R9-8-825. Reserved**R9-8-826. Reserved****R9-8-827. Reserved****R9-8-828. Reserved****R9-8-829. Reserved****R9-8-830. Reserved****R9-8-831. Repealed****Historical Note**

R9-8-831 repealed by summary action with an interim effective date of July 6, 1998; filed in the Office of the Secretary of State June 8, 1998 (Supp. 98-2). Adopted summary rules filed October 9, 1998; interim effective date of July 6, 1998, now the permanent effective date (Supp. 98-4).

R9-8-832. Repealed**Historical Note**

R9-8-832 repealed by summary action with an interim effective date of July 6, 1998; filed in the Office of the Secretary of State June 8, 1998 (Supp. 98-2). Adopted summary rules filed October 9, 1998; interim effective date of July 6, 1998, now the permanent effective date (Supp. 98-4).

R9-8-833. Repealed**Historical Note**

R9-8-833 repealed by summary action with an interim effective date of July 6, 1998; filed in the Office of the Secretary of State June 8, 1998 (Supp. 98-2). Adopted summary rules filed October 9, 1998; interim effective date of July 6, 1998, now the permanent effective date (Supp. 98-4).

R9-8-834. Repealed**Historical Note**

R9-8-834 repealed by summary action with an interim effective date of July 6, 1998; filed in the Office of the Secretary of State June 8, 1998 (Supp. 98-2). Adopted summary rules filed October 9, 1998; interim effective date of July 6, 1998, now the permanent effective date (Supp. 98-4).

R9-8-835. Repealed**Historical Note**

R9-8-835 repealed by summary action with an interim effective date of July 6, 1998; filed in the Office of the Secretary of State June 8, 1998 (Supp. 98-2). Adopted summary rules filed October 9, 1998; interim effective date of July 6, 1998, now the permanent effective date

(Supp. 98-4).

R9-8-836. Repealed**Historical Note**

R9-8-836 repealed by summary action with an interim effective date of July 6, 1998; filed in the Office of the Secretary of State June 8, 1998 (Supp. 98-2). Adopted summary rules filed October 9, 1998; interim effective date of July 6, 1998, now the permanent effective date (Supp. 98-4).

R9-8-837. Repealed**Historical Note**

R9-8-837 repealed by summary action with an interim effective date of July 6, 1998; filed in the Office of the Secretary of State June 8, 1998 (Supp. 98-2). Adopted summary rules filed October 9, 1998; interim effective date of July 6, 1998, now the permanent effective date (Supp. 98-4).

R9-8-838. Repealed**Historical Note**

Section repealed by final rulemaking at 8 A.A.R. 3645, effective August 9, 2002 (Supp. 02-3).

R9-8-839. Repealed**Historical Note**

R9-8-839 repealed by summary action with an interim effective date of July 6, 1998; filed in the Office of the Secretary of State June 8, 1998 (Supp. 98-2). Adopted summary rules filed October 9, 1998; interim effective date of July 6, 1998, now the permanent effective date (Supp. 98-4).

R9-8-840. Reserved**R9-8-841. Repealed****Historical Note**

R9-8-841 repealed by summary action with an interim effective date of July 6, 1998; filed in the Office of the Secretary of State June 8, 1998 (Supp. 98-2). Adopted summary rules filed October 9, 1998; interim effective date of July 6, 1998, now the permanent effective date (Supp. 98-4).

Exhibit A. Repealed**Historical Note**

Exhibit A repealed by summary action with an interim effective date of July 6, 1998; filed in the Office of the Secretary of State June 8, 1998 (Supp. 98-2). Adopted summary rules filed October 9, 1998; interim effective date of July 6, 1998, now the permanent effective date (Supp. 98-4).

R9-8-842. Repealed**Historical Note**

R9-8-842 repealed by summary action with an interim effective date of July 6, 1998; filed in the Office of the Secretary of State June 8, 1998 (Supp. 98-2). Adopted summary rules filed October 9, 1998; interim effective date of July 6, 1998, now the permanent effective date (Supp. 98-4).

R9-8-843. Repealed

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Historical Note

R9-8-843 repealed by summary action with an interim effective date of July 6, 1998; filed in the Office of the Secretary of State June 8, 1998 (Supp. 98-2). Adopted summary rules filed October 9, 1998; interim effective date of July 6, 1998, now the permanent effective date (Supp. 98-4).

R9-8-844. Repealed**Historical Note**

R9-8-844 repealed by summary action with an interim effective date of July 6, 1998; filed in the Office of the Secretary of State June 8, 1998 (Supp. 98-2). Adopted summary rules filed October 9, 1998; interim effective date of July 6, 1998, now the permanent effective date (Supp. 98-4).

R9-8-845. Repealed**Historical Note**

R9-8-845 repealed by summary action with an interim effective date of July 6, 1998; filed in the Office of the Secretary of State June 8, 1998 (Supp. 98-2). Adopted summary rules filed October 9, 1998; interim effective date of July 6, 1998, now the permanent effective date (Supp. 98-4).

R9-8-846. Repealed**Historical Note**

R9-8-846 repealed by summary action with an interim effective date of July 6, 1998; filed in the Office of the Secretary of State June 8, 1998 (Supp. 98-2). Adopted summary rules filed October 9, 1998; interim effective date of July 6, 1998, now the permanent effective date (Supp. 98-4).

R9-8-847. Repealed**Historical Note**

Section repealed by final rulemaking at 8 A.A.R. 3645, effective August 9, 2002 (Supp. 02-3).

R9-8-848. Reserved**R9-8-849. Reserved****R9-8-850. Reserved****R9-8-851. Repealed****Historical Note**

Editorial correction, spelling of "political" (Supp. 89-2).
Section repealed by final rulemaking at 8 A.A.R. 3645, effective August 9, 2002 (Supp. 02-3).

R9-8-852. Repealed**Historical Note**

Section repealed by final rulemaking at 8 A.A.R. 3645, effective August 9, 2002 (Supp. 02-3).

ARTICLE 9. EXPIRED**R9-8-901. Expired****Historical Note**

Adopted effective October 9, 1998 (Supp. 98-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 2056, effective March 31, 2002 (Supp. 02-2).

R9-8-902. Expired**Historical Note**

Adopted effective October 9, 1998 (Supp. 98-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 2056, effective March 31, 2002 (Supp. 02-2).

R9-8-903. Expired**Historical Note**

Adopted effective October 9, 1998 (Supp. 98-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 2056, effective March 31, 2002 (Supp. 02-2).

R9-8-904. Expired**Historical Note**

Adopted effective October 9, 1998 (Supp. 98-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 2056, effective March 31, 2002 (Supp. 02-2).

R9-8-905. Expired**Historical Note**

Adopted effective October 9, 1998 (Supp. 98-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 2056, effective March 31, 2002 (Supp. 02-2).

R9-8-906. Expired**Historical Note**

Adopted effective October 9, 1998 (Supp. 98-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 2056, effective March 31, 2002 (Supp. 02-2).

R9-8-907. Expired**Historical Note**

Adopted effective October 9, 1998 (Supp. 98-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 2056, effective March 31, 2002 (Supp. 02-2).

R9-8-908. Expired**Historical Note**

Adopted effective October 9, 1998 (Supp. 98-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 2056, effective March 31, 2002 (Supp. 02-2).

R9-8-909. Expired**Historical Note**

Adopted effective October 9, 1998 (Supp. 98-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 2056, effective March 31, 2002 (Supp. 02-2).

R9-8-910. Expired**Historical Note**

Adopted effective October 9, 1998 (Supp. 98-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 2056, effective March 31, 2002 (Supp. 02-2).

R9-8-911. Expired**Historical Note**

Adopted effective October 9, 1998 (Supp. 98-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 2056, effective March 31, 2002 (Supp. 02-2).

R9-8-912. Expired**Historical Note**

Adopted effective October 9, 1998 (Supp. 98-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 2056,

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effective March 31, 2002 (Supp. 02-2).

R9-8-913. Expired**Historical Note**

Adopted effective October 9, 1998 (Supp. 98-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 2056, effective March 31, 2002 (Supp. 02-2).

R9-8-914. Expired**Historical Note**

Adopted effective October 9, 1998 (Supp. 98-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 2056, effective March 31, 2002 (Supp. 02-2).

R9-8-915. Expired**Historical Note**

Adopted effective October 9, 1998 (Supp. 98-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 2056, effective March 31, 2002 (Supp. 02-2).

R9-8-916. Expired**Historical Note**

Adopted effective October 9, 1998 (Supp. 98-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 2056, effective March 31, 2002 (Supp. 02-2).

R9-8-917. Expired**Historical Note**

Adopted effective October 9, 1998 (Supp. 98-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 2056, effective March 31, 2002 (Supp. 02-2).

ARTICLE 10. RENUMBERED

See Title 18, Chapter 5, Article 4.

ARTICLE 11. EXPIRED

Article 11, consisting of Sections R9-8-1102 through R9-8-1108, expired under A.R.S. § 41-1056(E) at 16 A.A.R. 2062, effective September 30, 2010 (Supp. 10-3).

Article 11, consisting of Sections R9-8-1111, repealed effective April 10, 1997 (Supp. 97-2).

R9-8-1101. Reserved**R9-8-1102. Expired****Historical Note**

New Section recodified from R9-19-312 at 11 A.A.R. 3578, effective September 2, 2005 (Supp. 05-4). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 2062, effective September 30, 2010 (Supp. 10-3).

R9-8-1103. Expired**Historical Note**

New Section recodified from R9-19-314 at 11 A.A.R. 3578, effective September 2, 2005 (Supp. 05-4). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 2062, effective September 30, 2010 (Supp. 10-3).

R9-8-1104. Expired**Historical Note**

New Section recodified from R9-19-326 at 11 A.A.R. 3578, effective September 2, 2005 (Supp. 05-4). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 2062,

effective September 30, 2010 (Supp. 10-3).

R9-8-1105. Expired**Historical Note**

New Section recodified from R9-19-321 at 11 A.A.R. 3578, effective September 2, 2005 (Supp. 05-4). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 2062, effective September 30, 2010 (Supp. 10-3).

R9-8-1106. Expired**Historical Note**

New Section recodified from R9-19-327 at 11 A.A.R. 3578, effective September 2, 2005 (Supp. 05-4). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 2062, effective September 30, 2010 (Supp. 10-3).

R9-8-1107. Expired**Historical Note**

New Section recodified from R9-19-330 at 11 A.A.R. 3578, effective September 2, 2005 (Supp. 05-4). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 2062, effective September 30, 2010 (Supp. 10-3).

R9-8-1108. Expired**Historical Note**

New Section recodified from R9-19-333 at 11 A.A.R. 3578, effective September 2, 2005 (Supp. 05-4). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 2062, effective September 30, 2010 (Supp. 10-3).

R9-8-1109. Reserved**R9-8-1110. Reserved****R9-8-1111. Repealed****Historical Note**

Repealed effective April 10, 1997 (Supp. 97-2).

ARTICLE 12. RENUMBERED

See Title 18, Chapter 8, Article 6.

ARTICLE 13. LODGING ESTABLISHMENTS**R9-8-1301. Definitions**

In this Article, unless otherwise specified:

1. "Bathroom" means a structure or room that contains at least one toilet or urinal.
2. "Bedding" has the same meaning as in A.R.S. § 36-796.
3. "Clean" means free from dirt or debris.
4. "Common area" means any area of a lodging establishment, excluding areas within a lodging unit, that is provided by the lodging establishment for general use.
5. "Community kitchen" means a structure or room, excluding areas within a lodging unit, that is provided by a lodging establishment for preparing food.
6. "Compensation" means money or other consideration, including goods, services, vouchers, time, government or public expenditures, government or public funding, or another benefit that is received as payment.
7. "Distribution system" has the same meaning as in A.A.C. R18-4-103(B).
8. "Easily cleanable" means a characteristic of a surface that allows effective removal of dirt and debris by normal cleaning methods based on the material, design, construction, and installation of the surface.

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9. "Faucet" means a fixture connected to a distribution system that provides and regulates the flow of potable water.
10. "Fixture" means an attachment to a structure.
11. "Food" means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for human consumption.
12. "Human excreta" means fecal and urinary discharges and includes any waste that contains this material.
13. "Lavatory" means a sink or a basin with a faucet that supplies potable water and with a drain connected to a sewage collection system.
14. "Lodger" means the same as "transient" in A.R.S. § 42-5070(F).
15. "Lodging establishment" or "hotels, motels, or tourist courts" specified in A.R.S. § 36-136(I)(8) is defined in this Article to mean a place or portion of a place that offers two or more lodging units for lodgers to use in exchange for compensation, if:
 - a. The lodging units are located on a single plot of land,
 - b. Two or more lodging units are offered by the same owner or lessee, and
 - c. The lodging units are offered for a lodger to use for less than 30 consecutive days.
16. "Lodging unit" means the total space offered for overnight use as a single unit to an individual lodger or party of lodgers, if the space includes:
 - a. Bedding;
 - b. Sleeping material; and
 - c. The following:
 - i. A structure or room that has 3 or more sides and a top; or
 - ii. A mobile home, house trailer, recreational vehicle as defined in A.R.S. § 33-2102, houseboat, or other similar structure at a fixed location.
17. "Non-absorbent" means incapable of being penetrated by liquid, such as a material coated or treated with rubber, plastic, or other sealing substance.
18. "Owns" means to have the right to possess, use, and convey the interest.
19. "Person" means an individual, partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any character or another agency.
20. "Potable water" means water safe for human consumption that meets the requirements of 18 A.A.C. 4 or satisfies the requirements in R9-8-1305(4).
21. "Public health nuisance" means the activities or conditions dangerous to public health that are be subject to A.R.S. § 36-601.
22. "Refuse" has the same meaning as in A.A.C. R18-13-302.
23. "Refuse container" means a receptacle that is capable of being moved and is used for refuse storage.
24. "Regulatory authority" means
 - a. The Department; or
 - b. Under delegation, the following entities as specified in A.R.S. § 36-136(E):
 - i. A local health department,
 - ii. A county environmental department, or
 - iii. A public health services district.
25. "Responsible party" means the person who owns a lodging establishment or a designee of a person who owns the lodging establishment.
26. "Sanitary" means free from filth, bacteria, viruses, mold, and fungi.
27. "Sewage" has the same meaning as in A.A.C. R18-9-101.
28. "Sewage collection system" has the same meaning as in A.A.C. R18-9-101.
29. "Shower head" means a fixture connected to a distribution system that allows potable water to fall on a user's body.
30. "Shower room" means a structure or a room that contains at least one shower head and at least one floor drain.
31. "Sleeping material" means any of the following:
 - a. A sheet,
 - b. A pillow,
 - c. A pillowcase,
 - d. A blanket, or
 - e. A sleeping bag.
32. "Stored" means holding refuse before the refuse is disposed of according to A.A.C. R18-13-311 and R18-13-312.
33. "Toilet" means a water-flushed, chemical-flushed, or no-flush bowl for the disposal of human excreta.
34. "Urinal" means a water-flushed, chemical-flushed, or no-flush upright basin used for urination only.
35. "Utensil" means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 763, effective March 6, 2019 (Supp. 19-1).

R9-8-1302. General Provisions

- A. This Article does not apply to:
 1. The activities listed in A.R.S. § 42-5070(B);
 2. A lodging establishment located on federal or tribal land within the state;
 3. A lodging establishment that:
 - a. Is owner occupied, and
 - b. Has no more than six lodging units;
 4. A camping shelter as defined in R9-8-601(4); or
 5. A dormitory on the campus of a college or university.
- B. A violation of this Article is a public health nuisance and may be subject to abatement pursuant to A.R.S. § 36-602.
- C. Inspections of lodging establishments shall be conducted in accordance with A.R.S. § 36-136(I)(8) by the regulatory authority.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 763, effective March 6, 2019 (Supp. 19-1).

R9-8-1303. Bathroom and Shower Room Management

- A. A responsible party shall ensure that each lodger has access to a toilet, a lavatory, and a shower room, located either:
 1. Within the lodging unit the lodger is occupying or
 2. Within 200 feet from an entrance to the lodging unit.
- B. A responsible party shall ensure that each bathroom and shower room provided by the lodging establishment meets the requirements listed in Table 13.1.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 763, effective March 6, 2019 (Supp. 19-1).

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Table 13.1. Bathroom and Shower Room Management

| Requirement | Bathroom | Shower Room |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|-------------|
| Is clean and sanitary | X | X |
| Is ventilated by an openable window, air conditioning, or other mechanical device | X | X |
| Has toilet paper | X | |
| Is maintained free from public health nuisance and free from insect and vermin infestation | X | X |
| Has refuse containers as specified in R9-8-1307(1) | X | X |
| Has surfaces that are easily cleanable, sanitary and free from gaps other than ventilation | X | X |
| Has single use soap or soap inside a dispenser | X | X |
| Has floors and walls of a non-absorbent material | X | X |
| Has single-use paper towels OR Hand dryers OR Cloth towels that are machine washed with detergent and machine dried before use by each separate individual or group of individuals who stay in a lodging unit | X | |
| Has cloth towels, which are machine washed with detergent and machine dried before use by each separate individual or group of individuals who stay in a lodging unit | | X |
| Has a floor drain connected to a sewage collection system and, if built after the effective date of this Article, has floors that slope to the drain | | X |
| Has potable water from all shower heads | | X |

Historical Note

Table 13.1 made by final rulemaking at 25 A.A.R. 763, effective March 6, 2019 (Supp. 19-1).

R9-8-1304. Common Area Management

A responsible party shall ensure that the following requirements are met:

1. Each common area:
 - a. Is clean and sanitary;
 - b. Is ventilated by an openable window, air conditioning, or other mechanical device;
 - c. Is maintained free from public health nuisance and free from insect and vermin infestation; and
 - d. Has refuse containers as specified in R9-8-1307(1).
2. Bedding and towels provided by the lodging establishment in each common area is:
 - a. Maintained in good-repair;
 - b. Clean and sanitary; and
 - c. Kept free of ectoparasites including bedbugs, lice, and mites.
3. A community kitchen provided by a lodging establishment complies with 9 A.A.C. 8, Article 1 if operating as a food establishment.
4. Any multi-use utensils and equipment provided by the lodging establishment are easily cleanable and either:
 - a. Are washed, rinsed, and made sanitary before use by each separate individual; or
 - b. A conspicuously located sign identifies which multi-use utensils and equipment provided by the lodging establishment are not washed, rinsed, and made sanitary before use by each separate individual.
5. A lodging establishment shall comply with 9 A.A.C. 8 Article 8, if within a common area, the lodging establishment provides a:
 - a. Natural bathing place as defined in A.A.C. R18-5-201,
 - b. Semi-artificial bathing place as defined in R9-8-801,
 - c. Spa as defined in A.A.C. R18-5-201, or
 - d. Swimming pool as defined in A.A.C. R18-5-201.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 763, effective March 6, 2019 (Supp. 19-1).

R9-8-1305. Water Supply

A responsible party shall ensure that the following requirements are met:

1. All water provided by the lodging establishment for human consumption is potable water.
2. Any source of water provided by the lodging establishment that is not potable is clearly identified with "not for human consumption" signage at each access point.
3. The potable water supply and distribution system provided by the lodging establishment is designed to provide sufficient quantity at a minimum pressure of 20 pounds per square inch at floor level at each bathroom, shower room, and permanent water fixture provided by the lodging establishment.
4. No lodging unit is more than 300 feet from a potable water source.
5. If water is hauled to the lodging establishment as a potable water supply, the water and transport shall meet the requirements of A.A.C. R18-4-214.
6. If potable water provided by the lodging establishment is not from a public water system as defined by 18 A.A.C. 4:
 - a. The potable water provided is tested prior to use with results of:
 - i. No coliform bacteria or other fecal indicator present, and
 - ii. Nitrate (as N) no greater than 10 mg/l.
 - b. The potable water provided is routinely monitored to determine:
 - i. The presence or absence of total coliform bacteria at least once every month of operation, and
 - ii. The concentration of nitrates at least once every three months.

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- c. Water samples collected in accordance with this section shall be analyzed by a laboratory that is licensed by the Arizona State Laboratory Office of Laboratory Services and licensed according to 9 A.A.C. 14, Article 6.
 - d. Records of water sample results analyzed in accordance with this section shall be:
 - i. Maintained at the lodging establishment for at least 12 months, and
 - ii. Made available to the Department upon request.
 - e. Written notification must be provided to the regulatory authority within 24 hours when any water quality requirement listed in subsection (a) is out-of-compliance.
- c. Kept free of ectoparasites including bedbugs, lice, and mites.
 - 3. Cloth towels, sheets, and pillowcases provided in a lodging unit are machine washed with detergent and machine dried before use by each separate individual or group of individuals who stay in a lodging unit.
 - 4. Multi-use utensils and equipment provided in a lodging unit meet the requirements in R9-8-1304(4).

Historical Note

New Section made by final rulemaking at 25 A.A.R. 763, effective March 6, 2019 (Supp. 19-1).

R9-8-1309. Reserved

R9-8-1310. Reserved

R9-8-1311. Expired

Historical Note

Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3256, effective June 17, 2002 (Supp. 02-3).

R9-8-1312. Repealed

Historical Note

Section repealed by final rulemaking at 25 A.A.R. 763, effective March 6, 2019 (Supp. 19-1).

R9-8-1313. Expired

Historical Note

Section expired under A.R.S. § 41-1056(E) at 13 A.A.R. 2930, effective June 30, 2007 (Supp. 07-3).

R9-8-1314. Repealed

Historical Note

Section repealed by final rulemaking at 25 A.A.R. 763, effective March 6, 2019 (Supp. 19-1).

R9-8-1315. Expired

Historical Note

Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3256, effective June 17, 2002 (Supp. 02-3).

R9-8-1316. Reserved

R9-8-1317. Reserved

R9-8-1318. Reserved

R9-8-1319. Reserved

R9-8-1320. Reserved

R9-8-1321. Repealed

Historical Note

Section repealed by final rulemaking at 25 A.A.R. 763, effective March 6, 2019 (Supp. 19-1).

R9-8-1322. Repealed

Historical Note

Section repealed by final rulemaking at 25 A.A.R. 763, effective March 6, 2019 (Supp. 19-1).

R9-8-1323. Reserved

R9-8-1324. Reserved

R9-8-1325. Reserved

R9-8-1326. Reserved

Historical Note

New Section made by final rulemaking at 25 A.A.R. 763, effective March 6, 2019 (Supp. 19-1).

R9-8-1306. Sewage Disposal

A responsible party shall ensure that sewage and human excreta produced within the lodging establishment:

- 1. Does not create a public health nuisance; and
- 2. Is collected and disposed of by systems designed, constructed and operated in compliance with the requirements in 18 A.A.C. 9, Articles 3 and 7.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 763, effective March 6, 2019 (Supp. 19-1).

R9-8-1307. Refuse Management

A responsible party shall ensure that the following requirements are met:

- 1. The lodging establishment has conspicuously located refuse containers that are:
 - a. Constructed of non-absorbent material that is capable of withstanding expected use and remaining easily cleanable; and
 - b. Covered.
- 2. Refuse produced at the lodging establishment:
 - a. Does not create a public health nuisance; and
 - b. Is collected, stored, and disposed of according to 18 A.A.C. 13, Article 3.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 763, effective March 6, 2019 (Supp. 19-1).

R9-8-1308. Lodging Unit Management

A responsible party shall ensure that the following requirements are met:

- 1. Each lodging unit:
 - a. Is:
 - i. Clean and sanitary,
 - ii. Ventilated by an openable window, air conditioning, or other mechanical device, and
 - iii. Maintained free from public health nuisance and free from insect and vermin infestation.
 - b. Has refuse containers as specified in R9-8-1307(1).
 - c. Contains adequately sized sleeping material provided by a lodging establishment.
- 2. Bedding, sleeping material, and towels provided in a lodging unit are:
 - a. Maintained in good-repair;
 - b. Clean and sanitary; and

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R9-8-1327. Reserved

R9-8-1328. Reserved

R9-8-1329. Reserved

R9-8-1330. Reserved

R9-8-1331. Repealed

Historical Note

Section repealed by final rulemaking at 25 A.A.R. 763, effective March 6, 2019 (Supp. 19-1).

R9-8-1332. Repealed

Historical Note

Section repealed by final rulemaking at 25 A.A.R. 763, effective March 6, 2019 (Supp. 19-1).

R9-8-1333. Repealed

Historical Note

Section repealed by final rulemaking at 25 A.A.R. 763, effective March 6, 2019 (Supp. 19-1).

R9-8-1334. Repealed

Historical Note

Section repealed by final rulemaking at 25 A.A.R. 763, effective March 6, 2019 (Supp. 19-1).

R9-8-1335. Repealed

Historical Note

Section repealed by final rulemaking at 25 A.A.R. 763, effective March 6, 2019 (Supp. 19-1).

R9-8-1336. Repealed

Historical Note

Section repealed by final rulemaking at 25 A.A.R. 763, effective March 6, 2019 (Supp. 19-1).

R9-8-1337. Repealed

Historical Note

Section repealed by final rulemaking at 25 A.A.R. 763, effective March 6, 2019 (Supp. 19-1).

R9-8-1338. Repealed

Historical Note

Section repealed by final rulemaking at 25 A.A.R. 763, effective March 6, 2019 (Supp. 19-1).

ARTICLE 14. REPEALED

Article 14, consisting of Sections R9-8-1411 through R9-8-1413, repealed effective April 10, 1997 (Supp. 97-2).

R9-8-1411. Repealed

Historical Note

Repealed effective April 10, 1997 (Supp. 97-2).

R9-8-1412. Repealed

Historical Note

Repealed effective April 10, 1997 (Supp. 97-2).

R9-8-1413. Repealed

Historical Note

Repealed effective April 10, 1997 (Supp. 97-2).

ARTICLE 15. REPEALED

Article 15, consisting of Sections R9-8-1511 and R9-8-1512, repealed effective August 15, 1989 (Supp. 89-3).

ARTICLE 16. REPEALED

R9-8-1601. Reserved

R9-8-1602. Reserved

R9-8-1603. Reserved

R9-8-1604. Reserved

R9-8-1605. Reserved

R9-8-1606. Reserved

R9-8-1607. Reserved

R9-8-1608. Reserved

R9-8-1609. Reserved

R9-8-1610. Reserved

R9-8-1611. Repealed

Historical Note

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1612. Repealed

Historical Note

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1613. Reserved

R9-8-1614. Repealed

Historical Note

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1615. Repealed

Historical Note

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1616. Repealed

Historical Note

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1617. Repealed

Historical Note

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1618. Repealed

Historical Note

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1619. Repealed

Historical Note

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1620. Repealed

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Historical Note

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1621. Repealed**Historical Note**

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1622. Repealed**Historical Note**

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1623. Reserved**R9-8-1624. Repealed****Historical Note**

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1625. Repealed**Historical Note**

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1626. Repealed**Historical Note**

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1627. Repealed**Historical Note**

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1628. Repealed**Historical Note**

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1629. Repealed**Historical Note**

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1630. Repealed**Historical Note**

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1631. Repealed**Historical Note**

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1632. Repealed**Historical Note**

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-6-1633. Repealed**Historical Note**

Adopted effective September 21, 1976 (Supp. 76-4).

Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1634. Repealed**Historical Note**

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1635. Repealed**Historical Note**

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1636. Repealed**Historical Note**

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1637. Repealed**Historical Note**

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1638. Repealed**Historical Note**

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1639. Repealed**Historical Note**

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1640. Repealed**Historical Note**

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1641. Repealed**Historical Note**

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1642. Repealed**Historical Note**

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1643. Repealed**Historical Note**

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1644. Repealed**Historical Note**

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1645. Repealed**Historical Note**

Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1646. Repealed

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Historical Note

Adopted effective September 21, 1976 (Supp. 76-4).

Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1647. Repealed**Historical Note**

Adopted effective September 21, 1976 (Supp. 76-4).

Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1648. Repealed**Historical Note**

Adopted effective September 21, 1976 (Supp. 76-4).

Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1649. Repealed**Historical Note**

Adopted effective September 21, 1976 (Supp. 76-4).

Repealed effective October 9, 1998 (Supp. 98-4).

ARTICLE 17. RENUMBERED

See Title 18, Chapter 8, Article 4.

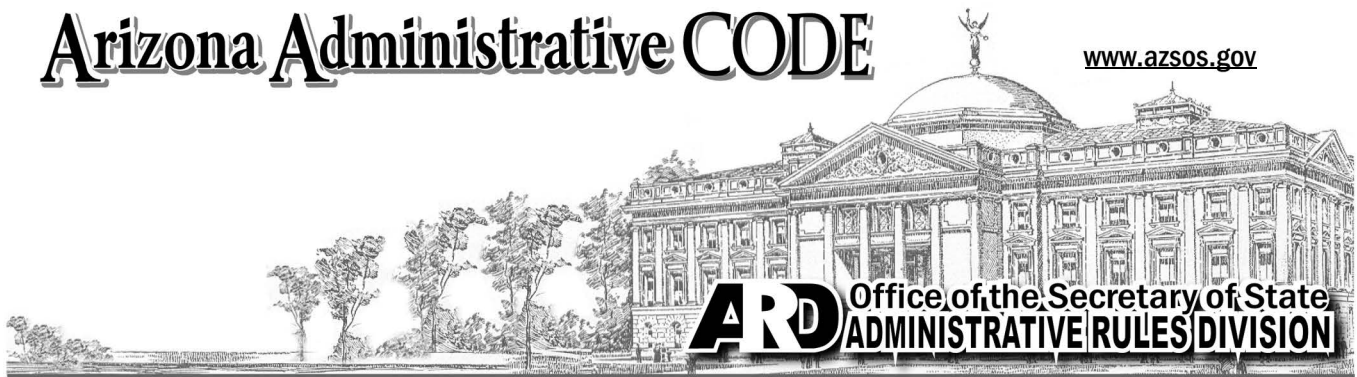
ARTICLE 18. RENUMBERED

See Title 18, Chapter 8, Article 2.

ARTICLE 19. EMERGENCY EXPIRED

Article 19 consisting of Sections R9-8-1901 through R19-8-1905 adopted as an emergency effective June 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Emergency expired. Language deleted (Supp. 87-2).

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9 A.A.C. 16

Supp. 24-1

TITLE 9. HEALTH SERVICES

CHAPTER 16. DEPARTMENT OF HEALTH SERVICES - OCCUPATIONAL LICENSING

The table of contents on page one contains links to the referenced page numbers in this Chapter.

Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
January 1, 2024 through March 31, 2024

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| R9-16-702. | Laser Technician - Eligibility and Scope of Practice | 50 | R9-16-1001. | Definitions | 64 |
| R9-16-703. | Application for Initial Certification as a Laser Technician | 51 | R9-16-1002. | Initial Application | 64 |
| R9-16-704. | Renewal of Certification | 52 | R9-16-1003. | Renewal | 65 |
| R9-16-705. | Changes Affecting a Certificate; Request for a Revised/Duplicate Certificate | 52 | R9-16-1004. | Time-frames | 65 |
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Questions about these rules? Contact:

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The release of this Chapter in Supp. 24-1 replaces Supp. 23-4, 1-59 pages.

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

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

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Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

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An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division

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TITLE 9. HEALTH SERVICES

CHAPTER 16. DEPARTMENT OF HEALTH SERVICES - OCCUPATIONAL LICENSING

Authority: A.R.S. §§ 36-132(A)(1) and 36-136(G)

Supp. 24-1

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Editor's Note: Historical references to repealed Table 1 and Exhibits A through E, moved to the end of the Article for codification scheme continuity (Supp. 22-2).

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ARTICLE 1. LICENSING OF MIDWIFERY

R9-16-101. Definitions

In addition to the definitions in A.R.S. § 36-751, the following definitions apply in this Article unless otherwise specified:

1. "Amniotic" means the fluid surrounding a fetus while in the mother's uterus.
2. "Apgar score" means the number indicating a newborn's physical condition, attained by rating selected body functions.
3. "Breech" means a complete breech, a frank breech, or an incomplete breech.
4. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
5. "Certified nurse midwife" means an individual who meets the criteria in 4 A.A.C. 19, Article 5, and is certified by the Arizona State Board of Nursing.
6. "Cervix" means the narrow lower end of the uterus that protrudes into the cavity of the vagina.
7. "Client" means a pregnant woman accepted by a midwife for the provision of midwifery services from the midwife.
8. "Complete breech" means that, at the time of birth, the buttocks of a fetus are pointing downward with both legs folded at the knees and the feet near the buttocks.
9. "Consultation" means communication between a midwife and a physician or a midwife and a certified nurse midwife for the purpose of receiving a written or verbal recommendation and implementing prospective advice regarding the care of a pregnant woman or the woman's fetus or newborn.
10. "Dilation" means opening of the cervix during the mechanism of labor to allow for passage of the fetus.
11. "Effacement" means the gradual thinning of the cervix during the mechanism of labor and indicates progress in labor.
12. "Emergency care plan" means the arrangements established by a midwife for a client's transfer of care in a situation in which the health or safety of the client or newborn is determined to be at risk.
13. "Emergency medical services provider" has the same meaning as in A.R.S. § 36-2201.
14. "Episiotomy" means the cutting of the perineum, at the center, middle, or midline, in order to enlarge the vaginal opening for delivery.
15. "Fetus" means a child in utero from conception to birth.
16. "Frank breech" means that, at the time of birth, the buttocks of a fetus are pointing downward with both legs folded flat up against the head.
17. "Gestation" means the length of time from conception to birth, as calculated from the first day of the last normal menstrual period.
18. "Incomplete breech" means that, at the time of birth, the buttocks of a fetus are pointing downward with one leg folded at the knee with the foot near the buttocks.
19. "Informed consent" means a document signed by a client, as provided in R9-16-109, agreeing to the provision of midwifery services.
20. "Jurisprudence test" means an assessment of an individual's knowledge of the:
 - a. Laws of this state concerning the reporting of births, prenatal blood tests, and newborn screening; and
 - b. Rules pertaining to the practice of midwifery.
21. "Ketones" means certain harmful chemical elements that, when present in the body in excessive amounts, results in compromised bodily function.
22. "Meconium" means the first bowel movement of the newborn, which is greenish black in color and tarry in consistency.
23. "Midwifery services" means health care, provided by a midwife to a mother, related to pregnancy, labor, delivery, or postpartum care.
24. "Newborn" has the same meaning as in A.R.S. § 36-694.
25. "Perineum" means the muscular region in the female between the vaginal opening and the anus.
26. "Physician" means an allopathic, an osteopathic, or a naturopathic practitioner licensed according to A.R.S. Title 32, Chapter 13, 14, or 17.
27. "Postpartum" means the six-week period following delivery of a newborn and placenta.
28. "Prenatal" means the period from conception to the onset of labor and birth.
29. "Prenatal visit" means each clinical examination of a pregnant woman for the purpose of monitoring the course of gestation and the overall health of the woman.
30. "Quickening" means the first perceptible movement of the fetus in the uterus, occurring usually in the 16th to the 20th week of gestation.
31. "Rh" means a blood antigen.
32. "Transfer of care" means that a midwife refers the care of a client or newborn to an emergency medical services provider, a certified nurse midwife, a hospital, or a physician who then assumes responsibility for the direct care of the client or newborn.
33. "Working day" means a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday or a statewide furlough day.

Historical Note

Section repealed, new Section adopted effective March 14, 1994 (Supp. 94-1). Section amended by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2). Section amended by final expedited rulemaking at 28 A.A.R. 1119 (May 27, 2022), with an immediate effective date of May 4, 2022 (Supp. 22-2).

R9-16-102. Application for an Initial License

- A.** An applicant for an initial license to practice midwifery shall submit:
1. An application in a format provided by the Department that contains:
 - a. The applicant's name, address, telephone number, and e-mail address;
 - b. The applicant's Social Security Number, as required under A.R.S. §§ 25-320 and 25-502;
 - c. Whether the applicant has ever been convicted of a felony or a misdemeanor in this or another state or jurisdiction;
 - d. If the applicant was convicted of a felony or misdemeanor:
 - i. The date of the conviction,
 - ii. The state or jurisdiction of the conviction,
 - iii. An explanation of the crime of which the applicant was convicted, and
 - iv. The disposition of the case;

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- e. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-107(C)(2);
- f. An attestation that information required as part of the application is true and accurate; and
- g. The applicant's signature and date of signature;
- 2. Documentation for the applicant that complies with A.R.S. § 41-1080;
- 3. Documentation that demonstrates the applicant is 21 years of age or older if the documentation submitted in subsection (A)(2) does not demonstrate that the applicant is 21 years of age or older;
- 4. Current documentation of completion of training in:
 - a. Adult basic cardiopulmonary resuscitation through a course recognized by the American Heart Association, and
 - b. Neonatal resuscitation through a course recognized by the American Academy of Pediatrics or American Heart Association;
- 5. Documentation of a high school diploma, a high school equivalency diploma, an associate degree, or a higher degree;
- 6. Documentation that the applicant is certified by the North American Registry of Midwives as a Certified Professional Midwife;
- 7. Except as provided in subsection (B), a non-refundable application fee of \$25; and
- 8. A non-refundable testing fee of \$100 for a jurisprudence test administered by the Department.
- B.** An applicant is not required to submit the fee in subsection (A)(7) or (E)(1) if the applicant, as part of the application in subsection (A), submits an attestation that the applicant meets the criteria for waiver of licensing fees in A.R.S. § 41-1080.01.
- C.** The Department shall review an application for an initial license to practice midwifery according to R9-16-107 and Table 1.1.
- D.** If an applicant receives notification of eligibility to take the jurisprudence test, the applicant:
 - 1. Shall take the jurisprudence test administered by the Department,
 - 2. Shall provide proof of identity by a government-issued photographic identification card upon the request of the individual administering the jurisprudence test,
 - 3. May take the jurisprudence test as many times as desired, within 180 calendar days after the date of the notification, without paying an additional testing fee, and
 - 4. Shall score 80% or higher correct answers on the jurisprudence test to be eligible to receive an initial license to practice midwifery.
- E.** If an applicant scores 80% or higher correct answers on the jurisprudence test, the Department shall provide written notice to the applicant, within five working days after the date of the jurisprudence test, to submit to the Department:
 - 1. Except as provided in subsection (B), a licensing fee of \$25; and
 - 2. The documentation required in subsection (A)(4) or (6), if the documentation of training required in subsection (A)(4) or certification required in subsection (A)(6) is not current.
- F.** The Department shall issue an initial license to practice midwifery within five working days after receiving the applicable documentation and licensing fee required in subsection (E).
- G.** The Department shall provide to an applicant a written notice of denial that complies with A.R.S. § 41-1092.03(A) and inform the applicant that the applicant may reapply under subsection (A) if the applicant does not:
 - 1. Score 80% or higher correct answers on the jurisprudence test within 180 calendar days after the date of the notification of eligibility to take the jurisprudence test, or
 - 2. Submit to the Department the applicable documentation and licensing fee required in subsection (D) within 120 calendar days after the date of the notification in subsection (D).

Historical Note

Section repealed, new Section adopted effective March 14, 1994 (Supp. 94-1). Amended by final rulemaking at 8 A.A.R. 2896, effective June 18, 2002 (Supp. 02-2). Section R9-16-102 repealed; new Section R9-16-102 renumbered from R9-16-103 and amended by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2). Section amended by final expedited rulemaking at 28 A.A.R. 1119 (May 27, 2022), with an immediate effective date of May 4, 2022 (Supp. 22-2).

R9-16-103. License Renewal

- A.** At least 30 calendar days and no more than 60 calendar days before the expiration date of a midwifery license, a midwife shall submit to the Department:
 - 1. An application for renewal of a midwifery license, in a format provided by the Department, that contains:
 - a. The midwife's name, address, telephone number, and e-mail address;
 - b. The midwife's license number;
 - c. Whether the midwife has been convicted of a felony or a misdemeanor in this or another state or jurisdiction in the previous two years;
 - d. If the midwife was convicted of a felony or misdemeanor:
 - i. The date of the conviction,
 - ii. The state or jurisdiction of the conviction,
 - iii. An explanation of the crime of which the midwife was convicted, and
 - iv. The disposition of the case;
 - e. Whether the midwife agrees to allow the Department to submit supplemental requests for information under R9-16-107(C)(2);
 - f. An attestation that the midwife has completed the continuing education requirement in R9-16-105;
 - g. An attestation that the midwife is complying with the requirements in A.R.S. § 32-3211;
 - h. An attestation that information required as part of the application is true and accurate; and
 - i. The midwife's signature and date of signature;
 - 2. Either:
 - a. Documentation that the midwife is currently certified by the North American Registry of Midwives as a Certified Professional Midwife; or
 - b. For a midwife who has been continuously licensed as a midwife by the Department since 1999, a copy of both sides of documentation showing the completion of current training in:
 - i. Adult basic cardiopulmonary resuscitation that meets the requirements in R9-16-102(A)(4)(a), and
 - ii. Neonatal resuscitation that meets the requirements in R9-16-102(A)(4)(b); and

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3. A non-refundable renewal fee of \$25.

- B.** The Department shall review an application for renewal of a license to practice midwifery according to R9-16-107 and Table 1.1.

Historical Note

Adopted effective March 14, 1994 (Supp. 94-1). Section R9-16-103 renumbered to R9-16-102; new Section R9-16-103 made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2). Section amended by final expedited rulemaking at 28 A.A.R. 1119 (May 27, 2022), with an immediate effective date of May 4, 2022; citation to Table 1 under subsection (B) corrected to Table 1.1. (Supp. 22-2).

R9-16-104. Administration

- A.** A midwife may submit a written request for the Department to:
1. Add the midwife's name, address, and telephone number to a list of licensed midwives on the Department's website; or
 2. Remove the midwife's name, address, and telephone number from a list of licensed midwives on the Department's website.
- B.** A midwife shall:
1. Notify the Department in a format provided by the Department within five working days after:
 - a. A client has died while under the midwife's care,
 - b. A stillborn child has been delivered by the midwife, or
 - c. A newborn delivered by the midwife has died within the first six weeks after birth; and
 2. Provide a summary of the:
 - a. Circumstances leading up to the event, and
 - b. Actions taken by the midwife in response to the event.
- C.** A midwife shall:
1. Maintain documentation of:
 - a. Completion of current training in:
 - i. Adult basic cardiopulmonary resuscitation that meets the requirements in R9-16-102(A)(4)(a), and
 - ii. Neonatal resuscitation that meets the requirements in R9-16-102(A)(4)(b);
 - b. Except as provided in R9-16-103(A)(2)(b), current certification as a Certified Professional Midwife by the North American Registry of Midwives; and
 - c. The continuing education required in subsection R9-16-105 for at least the previous three years; and
 2. Provide a copy of documentation required in subsection (C)(1) to the Department within two working days after the Department's request.

Historical Note

Adopted effective March 14, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2). Section amended by final expedited rulemaking at 28 A.A.R. 1119 (May 27, 2022), with an immediate effective date of May 4, 2022 (Supp. 22-2).

R9-16-105. Continuing Education

During the term of a midwifery license, the midwife shall obtain at least 20 hours of continuing education that:

1. Improve the midwife's ability to:

- a. Provide services within the midwife's scope of practice,
 - b. Recognize and respond to situations outside the midwife's scope of practice, or
 - c. Provide guidance to other services a client may need; and
2. Have been approved as applicable to the practice of midwifery by the:
 - a. American Nurses Association,
 - b. American Congress of Obstetrics and Gynecologists,
 - c. Midwives Alliance of North America,
 - d. Arizona Medical Association,
 - e. American College of Nurse Midwives,
 - f. Midwifery Education Accreditation Council, or
 - g. Another health professional organization.

Historical Note

Adopted effective March 14, 1994, except for subsections (B)(3) and (C) which are effective September 15, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2). Section amended by final expedited rulemaking at 28 A.A.R. 1119 (May 27, 2022), with an immediate effective date of May 4, 2022 (Supp. 22-2).

R9-16-105.01. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 2896, effective June 18, 2002 (Supp. 02-2). Section repealed by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

R9-16-106. Name Change; Duplicate License

- A.** To request a name change on a midwifery license or a duplicate midwifery license, a midwife shall submit in writing to the Department:
1. The midwife's name on the current midwifery license;
 2. If applicable, the midwife's new name;
 3. The midwife's address, license number, and e-mail address;
 4. As applicable:
 - a. Documentation supporting the midwife's name change, or
 - b. A statement that the midwife is requesting a duplicate midwifery license; and
 5. A non-refundable fee of \$10.00.
- B.** Upon receipt of the written request required in subsection (A), the Department shall issue, as applicable:
1. An amended midwifery license that incorporates the name change but retains the expiration date of the midwifery license, or
 2. A duplicate midwifery license.

Historical Note

Adopted effective March 14, 1994 (Supp. 94-1). Section R9-16-106 renumbered to R9-16-108; new Section R9-16-106 made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

R9-16-107. Time-frames

- A.** The overall time-frame described in A.R.S. § 41-1072(2) for each type of license granted by the Department is specified in Table 1.1. The applicant or midwife and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame. The substantive review time-frame

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and the overall time-frame may not be extended by more than 25 percent of the overall time-frame.

B. The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for each type of license granted by the Department is specified in Table 1.1.

1. The administrative completeness review time-frame begins:
 - a. For an applicant submitting an application for an initial license, when the Department receives the application packet required in R9-16-102(A); and
 - b. For a licensed midwife applying to renew a midwifery license, when the Department receives the application packet required in R9-16-103(A).
2. If an application is complete, the Department shall provide to the applicant or midwife, during the administrative completeness review time-frame:
 - a. A notice of administrative completeness, or
 - b. A notice of eligibility to take the jurisprudence test or a license.
3. If an application is not complete, the Department shall provide a notice of deficiencies to the applicant or midwife describing the missing documentation or incomplete information.
 - a. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice until the date the Department receives the documentation or information listed in the notice of deficiencies.
 - b. An applicant or midwife shall submit to the Department the documentation or information listed in the notice of deficiencies in subsection (B)(3) within the time specified in Table 1.1 for responding to a notice of deficiencies.
 - c. If the applicant or midwife submits the documentation or information listed in the notice of deficiencies within the time specified in Table 1.1, the Department shall provide a written notice of administrative completeness to the applicant or midwife.
 - d. If the applicant or midwife does not submit the documentation or information listed in the notice of deficiencies within the time specified in Table 1.1, the Department shall consider the application withdrawn.

C. The substantive review time-frame described in A.R.S. § 41-1072(3) is specified in Table 1.1 and begins on the date of the notice of administrative completeness.

1. If an application complies with the requirements in this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall issue a notice of eligibility to take the jurisprudence test to an applicant or a license to a midwife.
2. If an application does not comply with the requirements in this Article or A.R.S. Title 36, Chapter 6, Article 7, the Department shall make one comprehensive written request for additional information, unless the applicant or midwife has agreed in writing to allow the Department to submit supplemental requests for information.
 - a. The substantive review time-frame and the overall time-frame are suspended from the date that the Department sends a comprehensive written request for additional information or a supplemental request for information until the date that the Department receives all of the information requested.
 - b. An applicant or midwife shall submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information in subsection (C)(2) within the time specified in Table 1.1.
 - c. If the applicant or midwife does not submit the additional information within the time specified in Table 1.1 or the additional information submitted by the applicant or midwife does not demonstrate compliance with this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall provide to the applicant a written notice of denial that complies with A.R.S. § 41-1092.03(A).
 - d. If the applicant or midwife submits the additional information within the time specified in Table 1.1 and the additional information submitted by the applicant or midwife demonstrates compliance with this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall issue a notice of eligibility to take the jurisprudence test to an applicant or a license to a midwife.

Historical Note

Adopted effective March 14, 1994 (Supp. 94-1). Section R9-16-107 renumbered to R9-16-115; new Section R9-16-107 made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2). Section amended by final expedited rulemaking at 28 A.A.R. 1119 (May 27, 2022), with an immediate effective date of May 4, 2022 (Supp. 22-2).

Table 1.1. Time-frames (in calendar days)

| Type of Approval | Statutory Authority | Overall Time-Frame | Administrative Completeness Review Time-Frame | Time to Respond to Notice of Deficiency | Substantive Review Time-Frame | Time to Respond to Comprehensive Written Request |
|------------------------------------------------|--------------------------------------|--------------------|-----------------------------------------------|-----------------------------------------|-------------------------------|--------------------------------------------------|
| Eligibility for Jurisprudence Test (R9-16-102) | A.R.S. §§ 36-753, 36-754, and 36-755 | 30 | 15 | 60 | 15 | 30 |
| Midwifery License Renewal (R9-16-103) | A.R.S. § 36-754 | 30 | 15 | 30 | 15 | 15 |

Historical Note

Table 1.1 made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

R9-16-108. Responsibilities of a Midwife; Scope of Practice

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- A.** A midwife shall provide midwifery services only to a woman:
- Who does not have any of the conditions specified in R9-16-111(B) through (E) or another condition that may increase the risk of harm to the woman or the woman's fetus or newborn during pregnancy or labor, as determined through a physical assessment and review of the woman's medical history and past pregnancies; and
 - Whose expected outcome of pregnancy is most likely to be the delivery of a newborn, with none of the conditions requiring transfer of care as specified in R9-16-111(J)(1), and an intact placenta.
- B.** Except as provided in R9-16-111(C) or (D), a midwife who is certified by the North American Registry of Midwives as a Certified Professional Midwife may accept a client for a vaginal delivery:
- After prior Cesarean section, or
 - Of a fetus in a complete breech or frank breech presentation.
- C.** Before providing services to a pregnant woman, a midwife shall:
- Inform the pregnant woman, both orally and in writing, of:
 - The midwife's scope of practice, educational background, and credentials, as specified in R9-16-102(A)(4) and (6) as applicable;
 - If applicable to the pregnant woman's condition, the midwife's experience with:
 - Vaginal birth after prior Cesarean section delivery, or
 - Delivery of a fetus in a complete breech or frank breech presentation;
 - The potential risks; adverse outcomes; neonatal or maternal complications, including death; and alternatives associated with an at-home delivery specific to the pregnant woman's condition, including the conditions described in subsection (C)(1)(b);
 - The requirement for tests specified in subsections (I) and (K)(3)(c), and the potential risks for declining a test, and, if a test is declined, the need for a written assertion of a pregnant woman's decision to decline testing;
 - The requirement for consultation for a condition specified in R9-16-112; and
 - The requirement for the transfer of care for a condition specified in R9-16-111; and
 - Obtain a written informed consent for midwifery services according to R9-16-109.
- D.** A midwife shall:
- Establish an emergency care plan for a client that includes:
 - The name of the client;
 - The name of the midwife;
 - The name, address, and phone number of:
 - The hospital closest to the birthing location that provides obstetrical services, and
 - An emergency medical services provider that provides service between the birthing location and the hospital identified in subsection (D)(1)(c)(i);
 - The signature of the client and the date signed; and
 - The signature of the midwife and the date signed; and
 - For a delivery identified in subsection (B), ensure that the hospital identified in subsection (D)(1)(c)(i) is within 25 miles of the birthing location.
- E.** A midwife shall ensure the client receives a copy of the emergency care plan required in subsection (D).
- F.** A midwife shall implement the emergency care plan by immediately calling the emergency medical services provider identified in subsection (D)(1)(c)(ii) for any condition that threatens the life of the client or the client's fetus or newborn.
- G.** A midwife shall maintain all instruments used for delivery in a germ-free manner and other birthing equipment and supplies in clean and good condition.
- H.** A midwife shall assess a client's physical condition in order to establish the client's continuing eligibility to receive midwifery services.
- I.** During the prenatal period, the midwife shall:
- Except as provided in R9-16-110, ensure that the following tests are completed by the client within 28 weeks gestation:
 - Blood type, including ABO and Rh, with antibody screen;
 - Urinalysis;
 - HIV;
 - Hepatitis B;
 - Hepatitis C;
 - Syphilis as required in A.R.S. § 36-693;
 - Rubella titer;
 - Chlamydia; and
 - Gonorrhea;
 - Except as provided in R9-16-110, ensure that the following tests are completed by the client:
 - A blood glucose screening test for diabetes completed between 24 and 28 weeks of gestation;
 - A hematocrit and hemoglobin or complete blood count test completed between 28 and 36 weeks of gestation;
 - A vaginal-rectal swab for Group B Strep Streptococcus culture completed between 35 and 37 weeks of gestation;
 - At least one ultrasound and recommended follow-up testing to determine placental location and risk for placenta previa and placenta accrete; and
 - An ultrasound at 36-37 weeks gestation to confirm fetal presentation and estimated fetal weight for a breech pregnancy;
 - Conduct a prenatal visit at least once every four weeks until the beginning of 28 weeks of gestation, once every two weeks from the beginning of 28 weeks until the end of 36 weeks of gestation, and once a week after 36 weeks of gestation that includes:
 - Taking the client's weight; urinalysis for protein, nitrites, glucose, and ketones; blood pressure; and assessment of the lower extremities for swelling;
 - Measurement of the fundal height and listening for fetal heart tones and, later in the pregnancy, feeling the abdomen to determine the position of the fetus;
 - Documentation of fetal movement beginning at 28 weeks of gestation;
 - Documentation of:
 - The occurrence of bleeding or invasive uterine procedures, and
 - Any medications taken during the pregnancy that are specific to the needs of an Rh negative client;

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- e. Referral of a client for lab tests or other assessments, if applicable, based upon examination or history; and
 - f. Either:
 - i. Recommendation of administration of Rh immunoglobulin to an unsensitized Rh negative client after 28 weeks, or any time bleeding or invasive uterine procedures are done; or
 - ii. Midwife administration of Rh immunoglobulin under a physician's written orders;
 - 4. Monitor fetal heart tones with a fetoscope;
 - 5. Document the client's report of first quickening;
 - 6. Conduct weekly visits until signs of first quickening have occurred if first quickening has not been reported by 20 weeks of gestation;
 - 7. Initiate a consultation if first quickening has not occurred by the end of 22 weeks of gestation;
 - 8. Conduct a prenatal visit of the birthing location before the end of 35 weeks of gestation to ensure that the birthing environment is appropriate for birth and that communication is available to the hospital and emergency medical services provider identified in subsection (D)(1)(c)(i) and (ii); and
 - 9. Review with the client the circumstances when a transfer of care is required, as specified in R9-16-111.
- J.** During the intrapartum period from the onset of labor until after the delivery of the placenta, a midwife shall:
- 1. Determine if the client is in labor and the appropriate course of action to be taken by:
 - a. Assessing the interval, duration, intensity, location, and pattern of the contractions;
 - b. Determining the condition of the membranes, including whether the membranes are intact or ruptured, and the amount and color of fluid;
 - c. Reviewing with the client the need for fluid intake related to subsection (J)(3)(d), relaxation, and activity; and
 - d. Deciding whether to go to the client's home or other birthing location, remain in telephone contact, or arrange for transfer of care or consultation;
 - 2. Contact the hospital identified in subsection (D)(1)(c)(i) according to the policies and procedures established by the hospital regarding communication with midwives when the client begins labor and ends labor;
 - 3. During labor:
 - a. Assess the condition of the client and fetus:
 - i. Upon initial contact;
 - ii. Every half hour during active labor until completely dilated; and
 - iii. Every 15 to 20 minutes during pushing, following rupture of the amniotic bag, or until the newborn is delivered;
 - b. Include in the assessments required in subsection (J)(3)(a):
 - i. A physical assessment and checking of the client's vital signs every two to four hours; and
 - ii. Assessing fetal heart tones every 30 minutes during active first stage labor, and every 15 minutes during second stage labor, following rupture of the amniotic bag, or with any significant change in labor patterns;
 - c. Periodically assess contractions, fetal presentation, dilation, effacement, and fetal position by vaginal examination;
 - d. Maintain proper fluid balance for the client throughout labor as determined by urinary output and monitoring urine for presence of ketones; and
 - e. Assist in support and comfort measures to the client and family;
 - 4. For deliveries described in subsection (B), during labor determine the progression of active labor:
 - a. For a pregnant woman giving birth to her first newborn, by monitoring whether dilation occurs at an average of one centimeter per hour until completely dilated, and a second stage does not exceed two hours;
 - b. For a pregnant woman who has previously given birth to one or more newborns, by monitoring whether dilation occurs at an average of 1.5 to two centimeters per hour until completely dilated, and a second stage does not exceed one hour; or
 - c. According to the Management Guidelines recommended by the American Congress of Obstetricians and Gynecologists;
 - 5. After delivery of the newborn:
 - a. Assess the newborn at one minute and five minutes to determine the Apgar scores;
 - b. Physically assess the newborn for any abnormalities;
 - c. Inspect the client's perineum, vagina, and cervix for lacerations;
 - d. Deliver the placenta within 1 hour and assess the client for signs of placental separation from the inner wall of the uterus, resulting in vaginal or internal bleeding; and
 - e. Examine the placenta for intactness and to determine the number of umbilical cord vessels; and
 - 6. Recognize and respond to any situation requiring immediate intervention, including measures to be taken during an emergency, as specified in R9-16-113.
- K.** During the postpartum period, the midwife shall:
- 1. During the two hours after delivery of the placenta, provide the following care to the client:
 - a. Every 15 to 20 minutes for the first hour and every 30 minutes for the second hour:
 - i. Take vital signs of the client,
 - ii. Perform external massage of the uterus, and
 - iii. Evaluate bleeding;
 - b. Assist the client to urinate within two hours following the birth;
 - c. Evaluate the perineum, vagina, and cervix for tears, bleeding, or blood clots;
 - d. Assist with maternal-newborn bonding to develop a relationship between the client and newborn;
 - e. Assist with initial breast feeding, instructing the client in the care of the breast, and reviewing potential danger signs, if appropriate;
 - f. Provide instruction to the family about:
 - i. Fluid and nutritional intake requirements to meet the needs of the mother and newborn;
 - ii. Rest and the types of exercise allowed;
 - iii. Normal and abnormal bleeding, bladder and bowel function;
 - iv. How to care for the newborn;
 - v. Signs and symptoms of postpartum depression; and
 - v. Any symptoms that may pose a threat to the health or life of the client or the client's new-

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- born and appropriate emergency phone numbers;
- g. Recommend, or administer under physician's written orders, Rh immunoglobulin to an unsensitized Rh-negative client who delivers an Rh-positive newborn so that administration occurs within 72 hours after birth; and
 - h. Document any medications taken by an unsensitized Rh-negative client who delivers an Rh-positive newborn in the client's record;
2. During the two hours after delivery of the placenta, provide the following care to the newborn:
 - a. Perform a newborn physical assessment to determine the newborn's gestational age and any abnormalities;
 - b. Comply with the requirements in A.A.C. R9-6-338;
 - c. Recommend, or administer under physician's written orders, Vitamin K to the newborn so that administration occurs within 72 hours after birth; and
 - d. Document the physical assessment and administration of any medications or vitamins to the newborn in the newborn's record according to the physician's written orders;
 3. Evaluate the client or newborn for any abnormal or emergency situation and seek consultation or intervention, if applicable, according to these rules; and
 4. Re-evaluate the condition of the client and newborn between 24 and 72 hours after delivery to determine whether the recovery is following a normal course, including:
 - a. Assessing baseline indicators such as the client's vital signs, bowel and bladder function, bleeding, breasts, feeding of the newborn, sleep/rest cycle, and activity, with any recommendations for change;
 - b. Assessing baseline indicators of well-being in the newborn such as vital signs, weight, cry, suck and feeding, fontanel, sleeping, and bowel and bladder function with documentation of meconium, and providing any recommendations for changes made to the family;
 - c. Submitting blood obtained from a heel stick to the newborn to the state laboratory for screening according to A.R.S. § 36-694(B) and 9 A.A.C. 13, Article 2, unless a written refusal is obtained from the client and documented in the client's record and the newborn's record; and
 - d. Recommending to the client that the client secure medical follow-up for her newborn.
- L.** A midwife shall request the registration of the birth of a newborn according to A.A.C. R9-19-203 within seven calendar days after the birth of the newborn.

Historical Note

Adopted effective March 14, 1994 (Supp. 94-1). R9-16-108 renumbered to R9-16-111; new Section R9-16-108 renumbered from R9-16-106 and amended by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2). Section amended by final expedited rulemaking at 28 A.A.R. 1119 (May 27, 2022), with an immediate effective date of May 4, 2022 (Supp. 22-2).

R9-16-109. Informed Consent for Midwifery Services

- A.** A midwife shall obtain a written informed consent for midwifery services in a format provided by the Department that contains:

1. The midwife's:
 - a. Name,
 - b. Telephone number,
 - c. License number, and
 - d. E-mail address;
 2. The client's:
 - a. Name;
 - b. Address;
 - c. Telephone number;
 - d. Date of birth; and
 - e. E-mail address, if applicable;
 3. An attestation that the client was:
 - a. Provided the information required in R9-16-108(C)(1);
 - b. Informed of the emergency care plan as required in R9-16-108(D); and
 - c. Given an opportunity to have questions answered, have an understanding of the information provided, and choose to continue with midwifery services; and
 4. The signatures of the client and midwife and date signed.
- B.** A midwife shall ensure that the written informed consent for midwifery services is placed in the client record.
- C.** A midwife shall ensure that a copy of the written informed consent for midwifery services is provided to the:
1. Client, and
 2. Department within five calendar days after a Department request.

Historical Note

Adopted effective March 14, 1994 (Supp. 94-1). R9-16-109 renumbered to R9-16-112; new Section R9-16-109 made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2). Manifest typographical errors corrected in subsections (A)(3)(a) and (b) to rule Section reference of incorrect Chapter number; request made by Department at file number R13-232 (Supp. 13-3). Section amended by final expedited rulemaking at 28 A.A.R. 1119 (May 27, 2022), with an immediate effective date of May 4, 2022 (Supp. 22-2).

R9-16-110. Assertion to Decline Required Tests

- A.** Except for R9-16-108(I)(1)(f), if the client declines a test required in R9-16-108(I)(1) or (2), a midwife shall obtain a written assertion of a client's decision to decline a required test in a format provided by the Department, that contains:
1. The midwife's:
 - a. Name,
 - b. Telephone number,
 - c. License number, and
 - d. E-mail address;
 2. The client's:
 - a. Name;
 - b. Address;
 - c. Telephone number;
 - d. Date of birth; and
 - e. E-mail address, if applicable;
 3. The required test being declined by the client;
 4. Additional information as required by the Department;
 5. An attestation that the client:
 - a. Was provided the information as required in R9-16-108(C)(1)(d), and
 - b. Is declining testing; and
 6. The signatures of the client and midwife and date signed.
- B.** A midwife shall ensure that the written assertion of the decision to decline a test is placed in the client record.

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- C. A midwife shall ensure that a copy of the written assertion of the decision to decline a test is provided to the:
1. Client, and
 2. Department within five calendar days after a Department request.

Historical Note

Adopted effective March 14, 1994 (Supp. 94-1). R9-16-110 renumbered to R9-16-113; new Section R9-16-110 made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2). Manifest typographical error corrected in subsection (A)(5)(a) to rule Section reference of incorrect Chapter number; request made by Department at file number R13-232 (Supp. 13-3). Section amended by final expedited rulemaking at 28 A.A.R. 1119 (May 27, 2022), with an immediate effective date of May 4, 2022 (Supp. 22-2).

R9-16-111. Prohibited Practice; Transfer of Care

- A. A midwife shall not provide midwifery services in a location that has the potential to cause harm to the client or the client's fetus or newborn.
- B. A midwife shall not accept as a client for midwifery services a pregnant woman who has any of the following:
1. A previous surgery that involved:
 - a. An incision in the uterus, except as provided in R9-16-108(B)(1); or
 - b. A previous uterine surgery that enters the myometrium;
 2. A history of severe postpartum bleeding, of unknown cause, which required transfusion;
 3. Gestational age greater than 34 weeks with no prior prenatal assessments or clinical examinations;
 4. Multiple fetuses;
 5. A pelvis that will not safely allow a fetus to pass through during labor;
 6. Placenta previa or placenta accreta;
 7. Deep vein thrombosis or pulmonary embolism;
 8. Uncontrolled gestational diabetes;
 9. Insulin-dependent diabetes;
 10. Hypertension;
 11. Rh disease with positive titers;
 12. Active:
 - a. Tuberculosis,
 - b. Syphilis,
 - c. Hepatitis until treated and recovered, or
 - d. Gonorrhea until treated and recovered;
 13. A blood pressure of 140/90 or an increase of 30 millimeters of Mercury systolic or 15 millimeters of Mercury diastolic over the client's lowest baseline blood pressure for two consecutive readings taken at least six hours apart;
 14. A persistent hemoglobin level below 10 grams;
 15. A condition related to emotional or behavioral functioning, as a result of a mental disorder as defined in A.R.S. § 36-501, that:
 - a. Is severe and persistent, resulting in a long-term limitation of the client's capacity for primary activities of daily living such as interpersonal relationships, homemaking, self-care, employment, or recreation; and
 - b. Impairs or substantially interferes with the client's capacity to remain in the community without supportive treatment or services of a long-term or indefinite duration; or
 16. Indications of the continued use of one of the following despite negative consequences, including six months prior to pregnancy, that is evident during an assessment of a client:
 - a. Alcohol,
 - b. Narcotics, or
 - c. Other drugs.
- C. A midwife shall not continue midwifery services for a client who is diagnosed with or develops any of the following:
1. Any condition specified in subsections (B)(4) through (16);
 2. A hematocrit below 30 during the third trimester;
 3. Except as provided in R9-16-108(B)(2), a fetus that is not in a head-down position with the crown of the head being the leading body part;
 4. Labor beginning before the beginning of 36 weeks gestation;
 5. A progression of labor that does not meet the requirements of R9-16-108(J)(4), if applicable;
 6. A gestation beyond 42 weeks;
 7. Presence of ruptured membranes without onset of labor within 24 hours;
 8. Abnormal fetal heart rate consistently less than 120 beats per minute or more than 160 beats per minute;
 9. Presence of thick meconium, blood-stained amniotic fluid, or abnormal fetal heart tones;
 10. A postpartum hemorrhage of greater than 500 milliliters in the current pregnancy; or
 11. A non-bleeding placenta retained for more than 60 minutes.
- D. A midwife shall not perform a vaginal delivery after prior Cesarean section for a client who:
1. Had:
 - a. More than one previous Cesarean section;
 - b. A previous Cesarean section:
 - i. With a classical, vertical, or unknown uterine incision;
 - ii. Within 18 months before the expected delivery;
 - iii. With complications, including uterine infection; or
 - iv. Due to failure to progress as a result of cephalopelvic insufficiency; or
 - c. Complications during a previous vaginal delivery after a Cesarean section; or
 2. Has a fetus:
 - a. With fetal anomalies, confirmed by an ultrasound; or
 - b. In a breech presentation.
- E. A midwife shall not perform a vaginal delivery of a fetus in a breech presentation for a client who:
1. Had a previous:
 - a. Unsuccessful vaginal delivery or other demonstration of an inadequate maternal pelvis, or
 - b. Cesarean section; or
 2. Has a fetus:
 - a. With fetal anomalies, confirmed by an ultrasound;
 - b. With an estimated fetal weight less than 2500 grams or more than 3800 grams; or
 - c. In an incomplete breech presentation.
- F. If the client has any of the conditions in subsections (C) through (E), a midwife shall:
1. Document the condition in the client record, and
 2. Initiate transfer of care.
- G. A midwife shall not perform any operative procedures except as provided in R9-16-113.

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- H.** A midwife shall not:
1. Use any artificial, forcible, or mechanical means to assist birth; or
 2. Attempt to correct fetal presentations by external or internal movement of the fetus.
- I.** A midwife shall not administer drugs or medications except as provided in R9-16-108(I)(3)(f), (K)(1)(g), or (K)(2)(c), or R9-16-113.
- J.** Except as provided in R9-16-113, a midwife shall:
1. Discontinue midwifery services and transfer care of a newborn in which any of the following conditions are present:
 - a. Birth weight less than 2000 grams;
 - b. Pale, blue, or gray color after 10 minutes;
 - c. Severe swelling, especially of the newborn's abdomen;
 - d. Major congenital anomalies; or
 - e. Respiratory distress; and
 2. Document the condition in subsection (J)(1) in the newborn record.
- 18.** Failure of the uterus to return to normal size in the current postpartum period;
- 19.** Persistent shortness of breath requiring more than 24 breaths per minute, or breathing which is difficult or painful;
- 20.** Gonorrhea;
- 21.** Chlamydia;
- 22.** Syphilis;
- 23.** Heart disease;
- 24.** Kidney disease;
- 25.** Blood disease; or
- 26.** A positive test result for:
- a. HIV,
 - b. Hepatitis B, or
 - c. Hepatitis C.
- B.** A midwife shall obtain a consultation at the time a newborn demonstrates any of the following conditions:
1. Weight less than 2500 grams or five pounds, eight ounces;
 2. Congenital anomalies;
 3. An Apgar score less than 7 at five minutes;
 4. Persistent breathing at a rate of more than 60 breaths per minute;
 5. An irregular heartbeat;
 6. Persistent poor muscle tone;
 7. Less than 36 weeks gestation or greater than 42 weeks gestation by gestational exam;
 8. Yellowish-colored skin within 48 hours;
 9. Abnormal crying;
 10. Meconium staining of the skin;
 11. Lethargy;
 12. Irritability;
 13. Poor feeding;
 14. Excessively pink coloring over the entire body;
 15. Failure to urinate or pass meconium in the first 24 hours of life;
 16. A hip examination which results in a clicking or incorrect angle;
 17. Skin rashes not commonly seen in the newborn; or
 18. Temperature persistently above 99.0° or below 97.6° F.
- C.** The midwife shall inform the client of the consultation required in subsections (A) or (B) and recommendations of the physician or certified nurse midwife.
- D.** The midwife shall document the consultation required in subsections (A) or (B) and recommendations received in the client record or newborn record, as specified in R9-16-115(B)(14) or (C)(7) as applicable.
- Historical Note**
Adopted effective March 14, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5029, effective September 30, 2001 (Supp. 01-4). New Section R9-16-112 renumbered from R9-16-109 and amended by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2). Section amended by final expedited rulemaking at 28 A.A.R. 1119 (May 27, 2022), with an immediate effective date of May 4, 2022 (Supp. 22-2).
- R9-16-112. Required Consultation**
- A.** A midwife shall obtain a consultation at the time a client is determined to have any of the following during the current pregnancy:
1. A positive culture for Group B Streptococcus;
 2. History of seizure disorder;
 3. History of stillbirth, premature labor, or having delivered more than five newborns;
 4. Age younger than 16 years;
 5. A first pregnancy in a client older than 40 years of age;
 6. Failure to auscultate fetal heart tones by the beginning of 22 weeks gestation;
 7. Failure to gain 12 pounds by the beginning of 30 weeks gestation or gaining more than eight pounds in any two-week period during pregnancy;
 8. Greater than 1+ sugar, ketones, or protein in the urine on two consecutive visits;
 9. Excessive vomiting or continued vomiting after the end of 20 weeks gestation;
 10. Symptoms of decreased fetal movement;
 11. A fever of 100.4° F or 38° C or greater measured twice at 24 hours apart;
 12. Tender uterine fundus;
 13. Effacement or dilation of the cervix, greater than a fingertip, accompanied by contractions, prior to the beginning of 36 weeks gestation;
 14. Measurements for fetal growth that are not within 2 centimeters of the gestational age;
 15. Second degree or greater lacerations of the birth canal;
 16. Except as provided in R9-16-111(C)(4), a progression of labor that does not follow the guidelines in R9-16-108(J)(4)(c);
 17. An unengaged head at seven centimeters dilation in active labor;
- Historical Note**
Adopted effective March 14, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5029, effective September 30, 2001 (Supp. 01-4). New Section R9-16-112 renumbered from R9-16-109 and amended by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2). Section amended by final expedited rulemaking at 28 A.A.R. 1119 (May 27, 2022), with an immediate effective date of May 4, 2022 (Supp. 22-2).
- R9-16-113. Emergency Measures**
- A.** In an emergency situation in which the health or safety of the client or newborn are determined to be at risk, a midwife:
1. Shall ensure that an emergency medical services provider is called; and
 2. May perform the following procedures as necessary:

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- a. Cardiopulmonary resuscitation of the client or newborn with a bag and mask;
 - b. Administration of oxygen at no more than eight liters per minute via mask for the client and five liters per minute for the newborn via neonatal mask;
 - c. Episiotomy to expedite the delivery during fetal distress;
 - d. Suturing of episiotomy or tearing of the perineum to stop active bleeding, following administration of local anesthetic, contingent upon consultation with a physician or certified nurse midwife, or physician's written orders;
 - e. Release of shoulder dystocia, the wedging of the shoulders of the fetus in the client's pelvis in such a way that the fetus is unable to be born without emergency action, by utilizing:
 - i. Hyperflexion of the client's legs to the abdomen,
 - ii. Application of external pressure suprapubically,
 - iii. Rotation of the nonimpacted shoulder until the impacted shoulder is released,
 - iv. Delivery of the posterior shoulder,
 - v. Application of posterior pressure on the anterior shoulder, or
 - vi. Positioning of the client on all fours with the back arched;
 - f. Manual exploration of the uterus for control of severe bleeding; or
 - g. Manual removal of placenta.
- B.** A licensed midwife may administer a maximum dose of 20 units of pitocin intramuscularly, in 10-unit dosages each, 30 minutes apart, to a client for the control of postpartum hemorrhage, contingent upon physician or certified nurse midwife consultation and written orders by a physician, and arrangements for immediate transport of the client to a hospital.
- C.** A midwife shall document in the client's record any medications taken by a client for the control of postpartum hemorrhage.

Historical Note

New Section R9-16-113 renumbered from R9-16-110 and amended by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2). Section amended by final expedited rulemaking at 28 A.A.R. 1119 (May 27, 2022), with an immediate effective date of May 4, 2022 (Supp. 22-2).

R9-16-114. Midwife Report after Termination of Midwifery Services

- A.** A midwife shall complete a midwife report for each client, in a format provided by the Department, that includes the following:
- 1. The midwife's:
 - a. First name,
 - b. Last name, and
 - c. License number;
 - 2. The client's:
 - a. Date of birth;
 - b. Client number;
 - c. Date of last menstrual period;
 - d. Estimated date of delivery;
 - e. Gravida, the number of times the client has been pregnant, including a current pregnancy, regardless of whether these pregnancies were carried to term;

- f. Para, the number of times the client has given birth at greater than 20 weeks of gestation, including viable and non-viable births, where multiples are counted as one birth; and
 - g. If applicable, whether the client had a vaginal delivery after prior Cesarean section or vaginal delivery of a fetus in a complete breech or frank breech presentation;
- 3. A description of the maternal outcome, including any complications;
 - 4. If a vaginal delivery after prior Cesarean section or vaginal delivery of a fetus in a complete breech or frank breech presentation:
 - a. Rate of dilation, and
 - b. Duration of second stage labor;
 - 5. If applicable, the newborn's:
 - a. Date of birth;
 - b. Gender;
 - c. Weight;
 - d. Length;
 - e. Head circumference;
 - f. Designation of average, small, or large for gestational age;
 - g. Apgar score at one minute;
 - h. Apgar score at five minutes;
 - i. Existence of complications;
 - j. Description of complications, if applicable;
 - k. Birth certificate filing date; and
 - l. Birth certificate number, if available;
 - 6. Whether the client required transfer of care and, if applicable:
 - a. Method of transport,
 - b. Type of facility or individual to which the midwife transferred care of the client,
 - c. Name of destination,
 - d. Time arrived at destination,
 - e. Confirmation the emergency care plan was utilized, and
 - f. Medical reason for transfer of care;
 - 7. The date midwifery services were terminated;
 - 8. Reason for the termination of midwifery services;
 - 9. If termination of midwifery services was due to a medical condition, the specific medical condition;
 - 10. Whether information was provided on newborn screening; and
 - 11. Whether newborn screening tests were ordered as required in A.R.S. § 36-694.
- B.** The midwife shall submit a midwife report for a client to the Department within 30 calendar days after the termination of midwifery services to the client.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2). Section amended by final expedited rulemaking at 28 A.A.R. 1119 (May 27, 2022), with an immediate effective date of May 4, 2022 (Supp. 22-2).

R9-16-115. Client and Newborn Records

- A.** A midwife shall ensure that a record is established and maintained according to A.R.S. §§ 12-2291 and 12-2297 for each:
- 1. Client, and
 - 2. Newborn delivered by the midwife from a client.
- B.** A midwife shall ensure that a record for each client includes the following:

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1. The client's full name, date of birth, address, and client number;
 2. Names, addresses, and telephone numbers of the client's spouse or other individuals designated by the client to be contacted in an emergency;
 3. Written informed consent for midwifery services, as required in R9-16-108(C)(2);
 4. If applicable, assertion to decline required tests, as required in R9-16-110(A);
 5. A copy of the emergency care plan, as required in R9-16-108(D);
 6. The date the midwife began providing midwifery services to the client;
 7. The date the client is expected to deliver the newborn;
 8. The date the newborn was delivered, if applicable;
 9. An initial assessment of the client to:
 - a. Determine whether the client has a history of a condition or circumstance that would preclude care of the client by the midwife, as specified in R9-16-111; and
 - b. Determine the:
 - i. Number and outcome of previous pregnancies, and
 - ii. Number of previous medical or midwife visits the client has had during the current pregnancy;
 10. Progress notes documenting the midwifery services provided to the client;
 11. For a delivery identified in R9-16-108(B):
 - a. Rate of dilation, and
 - b. Duration of second stage labor;
 12. Laboratory and diagnostic reports, required in R9-16-108(I);
 13. Documentation of consultations as required in R9-16-112, including:
 - a. Reason for the consultation,
 - b. Name of physician or certified nurse midwife contacted,
 - c. Date of consultation,
 - d. Time of consultation,
 - e. Recommendation made by the physician or certified nurse midwife, and
 - f. Actions taken as a result of the consultation;
 14. Any written reports received from consultations required in R9-16-112;
 15. A description of any conditions or circumstances arising during the pregnancy that required the transfer of care;
 16. The name of the physician, certified nurse midwife, or hospital to which the care of the client was transferred, if applicable;
 17. Documentation of medications or vitamins taken by the client;
 18. Documentation of medications or vitamins administered to the client and the physician's written orders for the medications or vitamins;
 19. The outcome of the pregnancy;
 20. The date the midwife stopped providing midwifery services to the client; and
 21. Instructions provided to the client before the midwife stopped providing midwifery services to the client.
- C. A midwife shall ensure that a record for each newborn includes the following:
1. The full name, date of birth, and address of the newborn's mother;
 2. The newborn's:
 - a. Date of birth,
 - b. Gender,
 - c. Weight at birth,
 - d. Length at birth, and
 - e. Apgar scores at one minute and five minutes after birth;
 3. The newborn's estimated gestational age at birth;
 4. Progress notes documenting the midwifery services provided to the newborn;
 5. Laboratory and diagnostic reports, as required in R9-16-108(I);
 6. Documentation of consultations as required in R9-16-112, including:
 - a. Reason for the consultation,
 - b. Name of physician or certified nurse midwife contacted,
 - c. Date of consultation,
 - d. Time of consultation,
 - e. Recommendation made by the physician or certified nurse midwife, and
 - f. Actions taken as a result of the consultation;
 7. Any written reports received from consultations required in R9-16-112;
 8. A description of any conditions or circumstances arising during or after the newborn's birth that required the transfer of care;
 9. The name of the physician, certified nurse midwife, or hospital to which the care of the newborn was transferred, if applicable;
 10. Documentation of medications or vitamins taken by the newborn;
 11. Documentation of medications or vitamins administered to the newborn and the physician's written orders for the medications or vitamins;
 12. Documentation of newborn screening, including when the specimen collection kit, as defined in A.A.C. R9-13-201, was submitted and results received, as required in R9-16-108(K)(4)(c);
 13. The date the midwife stopped providing midwifery services to the newborn; and
 14. Instructions provided to the client about the newborn before the midwife stopped providing midwifery services to the newborn.

Historical Note

New Section R9-16-115 renumbered from R9-16-107 and amended by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2). Section amended by final expedited rulemaking at 28 A.A.R. 1119 (May 27, 2022), with an immediate effective date of May 4, 2022 (Supp. 22-2).

R9-16-116. Denial, Suspension, or Revocation of License; Civil Penalties; Procedures

In addition to the grounds specified in A.R.S. §§ 13-904(E) and 36-756, the Department may deny, suspend, or revoke a license permanently or for a definite period of time, and may assess a civil penalty for each violation, for any of the following causes:

1. Practicing under a false name or alias so as to interfere with or obstruct the investigative or regulatory process,
2. Practicing under the influence of drugs or alcohol,
3. Falsification of records,
4. Obtaining any fee for midwifery services by fraud or misrepresentation,
5. Permitting another to use the midwife's license, or

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6. Knowingly providing false information to the Department.

Historical Note

New Section R9-16-116 renumbered from R9-16-111 and amended by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2). Section amended by final expedited rulemaking at 28 A.A.R. 1119 (May 27, 2022), with an immediate effective date of May 4, 2022 (Supp. 22-2).

R9-16-117. Expired**Historical Note**

New Section made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 1044, effective August 26, 2017 (Supp. 17-3).

Table 1. Repealed**Historical Note**

Table 1 made by final rulemaking at 8 A.A.R. 2896, effective June 18, 2002 (Supp. 02-2). Table 1 repealed by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

Exhibit A. Repealed**Historical Note**

Section repealed, new Section adopted effective March 14, 1994 (Supp. 94-1). Exhibit A repealed by final rulemaking at 8 A.A.R. 2896, effective June 18, 2002 (Supp. 02-2).

Exhibit B. Repealed**Historical Note**

Adopted effective March 14, 1994 (Supp. 94-1). Exhibit B repealed by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

Exhibit C. Repealed**Historical Note**

Adopted effective March 14, 1994 (Supp. 94-1). Exhibit C repealed by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

Exhibit D. Repealed**Historical Note**

Adopted effective March 14, 1994 (Supp. 94-1). Exhibit D repealed by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

Exhibit E. Repealed**Historical Note**

Adopted effective March 14, 1994 (Supp. 94-1). Amended to correct printing errors (Supp. 99-4). Exhibit E repealed by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

ARTICLE 2. LICENSING AUDIOLOGISTS AND SPEECH-LANGUAGE PATHOLOGISTS

R9-16-201. Definitions

1. "Accredited" means approved by the:
 - a. New England Commission of Higher Education,
 - b. Middle States Commission on Higher Education,

- c. Higher Learning Commission,
- d. Northwest Commission on Colleges and Universities,
- e. Southern Association of Colleges and Schools Commission on Colleges, or
- f. WASC Senior College and University Commission.
2. "Applicant" means an individual who submits an application and required documentation for approval to practice as an audiologist or a speech-language pathologist.
3. "ASHA" means the American Speech-Language-Hearing Association, a national professional, scientific, and credentialing association for audiologists; speech-language pathologists; speech, language, and hearing scientists; audiology and speech-language pathology support personnel; and students.
4. "Calendar day" means each day, not including the day of the act, event, or default, from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
5. "CCC" means Certificate of Clinical Competence, an award issued by ASHA to an individual who:
 - a. Completes a degree in audiology or speech-language pathology from an accredited college or university that includes a clinical practicum,
 - b. Passes the ETSNEA or ETSNESLP, and
 - c. Completes a clinical fellowship.
6. "Clinical fellow" means an individual engaged in a clinical fellowship.
7. "Clinical fellowship" means an individual's postgraduate professional experience assessing, diagnosing, screening, treating, writing reports, and counseling individuals exhibiting speech, language, hearing, or communication disorders, obtained:
 - a. After completion of graduate level academic course work and a clinical practicum;
 - b. Under the supervision of a clinical fellowship supervisor; and
 - c. While employed on a full-time or part-time equivalent basis.
8. "Clinical fellowship agreement" means the document submitted to the Department by a clinical fellow to register the initiation of a clinical fellowship.
9. "Clinical fellowship report" means a document completed by a clinical fellowship supervisor containing:
 - a. A summary of the diagnostic and therapeutic procedures performed by the clinical fellow,
 - b. A verification by the clinical fellowship supervisor of the clinical fellow's performance of diagnostic and therapeutic procedures, and
 - c. An evaluation of the clinical fellow's ability to perform the diagnostic and therapeutic procedures.
10. "Clinical fellowship supervisor" means a licensed speech-language pathologist who:
 - a. Is or has been a sponsor of a temporary licensee,
 - b. Had a CCC while supervising a clinical fellow before October 28, 1999, or
 - c. Has a CCC while supervising a clinical fellow in another state.
11. "Clinical practicum" means the experience acquired by an individual who is completing course work in audiology or speech-language pathology, while supervised by a

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licensed audiologist, a licensed speech-language pathologist, or an individual holding a CCC, by assessing, diagnosing, evaluating, screening, treating, and counseling individuals exhibiting speech, language, cognitive, hearing, or communication disorders.

12. "Continuing education" means a course that provides instruction and training that is designed to develop or improve a licensee's professional competence in disciplines directly related to the licensee's scope of practice.
13. "Course" means a workshop, seminar, lecture, conference, or class.
14. "Diagnostic and therapeutic procedures" means the principles and methods used by an audiologist in the practice of audiology or a speech-language pathologist in the practice of speech-language pathology.
15. "Disciplinary action" means a proceeding that is brought against a licensee by the Department under A.R.S. § 36-1934 or a state licensing entity.
16. "ETSNEA" means Educational Testing Service National Examination in Audiology, the specialty area test of the Praxis Series given by the Education Testing Service, Princeton, N.J.
17. "ETSNESLP" means Educational Testing Service National Examination in Speech-Language Pathology, the specialty area test of the Praxis Series given by the Education Testing Service, Princeton, N.J.
18. "Full-time" means 30 clock hours or more per week.
19. "Hearing aid dispenser examination" means the International Licensing Examination for Hearing Healthcare Professionals approved by the Department as complying with A.R.S. § 36-1924.
20. "Local education agency" means a governing board established by A.R.S. § 15-101 or A.R.S. Title 15, Chapter 3, Article 3.
21. "Monitoring" means being responsible for and providing direction to a clinical fellow without directly observing diagnostic and therapeutic procedures.
22. "On-site observations" means the presence of a clinical fellowship supervisor who is watching a clinical fellow perform diagnostic and therapeutic procedures.
23. "Part-time equivalent" means:
 - a. 25-29 clock hours per week for 48 weeks,
 - b. 20-24 clock hours per week for 60 weeks, or
 - c. 15-19 clock hours per week for 72 weeks.
24. "Semester credit hour" means one earned academic unit of study based on completing, at an accredited college or university, a 50 to 60 minute class session per calendar week for 15 to 18 weeks.
25. "Semester credit hour equivalent" means one quarter credit, which is equal in value to 2/3 of a semester credit hour.
26. "State-supported institution" means a school, a charter school, a private school, or an accommodation school as defined in A.R.S. § 15-101.
27. "Student" means a child attending a school, a charter school, a private school, or an accommodation school as defined in A.R.S. § 15-101.
28. "Supervision" means being responsible for and providing direction to:
 - a. A clinical fellow during on-site observations or monitoring of the clinical fellow's performance of diagnostic and therapeutic procedures; or
 - b. An individual completing a clinical practicum.

29. "Supervisory activities" means evaluating and assessing a clinical fellow's performance of diagnostic and therapeutic procedures in assessing, diagnosing, evaluating, screening, treating, and counseling individuals exhibiting speech, language, cognitive, hearing, or communication disorders.

Historical Note

Former Section R9-16-201 repealed, new Section R9-16-201 adopted effective January 23, 1978 (Supp. 78-1).

Repealed effective March 14, 1994 (Supp. 94-1).

Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-202. Application

- A.** An applicant for licensure shall submit to the Department:

1. An application in a Department-provided format that contains:
 - a. The applicant's name, home address, telephone number, and e-mail address;
 - b. The applicant's Social Security number, as required under A.R.S. §§ 25-320 and 25-502;
 - c. If applicable, the applicant's business addresses and telephone number;
 - d. The applicant's current employment, if applicable, including:
 - i. The employer's name,
 - ii. The licensee's position,
 - iii. Dates of employment,
 - iv. The address of the employer,
 - v. The supervisor's name,
 - vi. The supervisor's email address, and
 - vii. The supervisor's telephone number;
 - e. If applicable, whether the applicant is requesting an audiology license to fit and dispense;
 - f. Whether the applicant has ever been convicted of a felony or a misdemeanor in this or another state;
 - g. If the applicant has been convicted of a felony or a misdemeanor:
 - i. The date of the conviction,
 - ii. The state or jurisdiction of the conviction,
 - iii. An explanation of the crime of which the applicant was convicted, and
 - iv. The disposition of the case;
 - h. Whether the applicant is or has been licensed as an audiologist, an audiologist to fit and dispense hearing aids, or a speech-language pathologist in another state or country;
 - i. Whether the applicant has had a license revoked or suspended by any state;
 - j. Whether the applicant is currently ineligible for licensing in any state because of a license revocation or suspension;
 - k. Whether any disciplinary action has been imposed by any state, territory or district in this country for an act related to the applicant's practice of audiology or a speech-language pathologist license;
- l. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-214(C);

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- m. An attestation that the information submitted as part of the application is true and accurate; and
 - n. The applicant's signature and date of signature;
 - 2. If a license for the applicant has been revoked or suspended by any state documentation that includes:
 - a. The date of the revocation or suspension,
 - b. The state or jurisdiction of the revocation or suspension, and
 - c. An explanation of the revocation or suspension;
 - 3. If the applicant is currently ineligible for licensing in any state because of a license revocation or suspension, documentation that includes:
 - a. The date of the ineligibility for licensing,
 - b. The state or jurisdiction of the ineligibility for licensing, and
 - c. An explanation of the ineligibility for licensing;
 - 4. If the applicant has been disciplined by any state, territory, or district of this country for an act related to the applicant's license to practice audiology or a speech-language pathologist license that is consistent with A.R.S. Title 36, Chapter 17, documentation that includes:
 - a. The date of the disciplinary action,
 - b. The state or jurisdiction of the disciplinary action,
 - c. An explanation of the disciplinary action, and
 - d. Any other applicable documents, including a legal order or settlement agreement;
 - 5. Documentation of the applicant's citizenship or alien status that complies with A.R.S. § 41-1080; and
 - 6. A fee specified in R9-16-216.
- B.** In addition to complying with subsection (A), an applicant that may be eligible for licensure under A.R.S. § 36-1922 shall submit documentation to the Department that includes:
- 1. The name of each state that issued the applicant a current license, including:
 - a. The license number of each current license, and
 - b. The date each current license was issued;
 - 2. Documentation of the professional license or certification issued to the applicant by each state in which the applicant holds a professional license or certification;
 - 3. For each state named in subsection (B)(1), a statement, signed and dated by the applicant, attesting that the applicant:
 - a. Has been licensed or certified in another state for at least one year, with a scope of practice consistent with the scope of practice for which licensure is being requested;
 - b. Has met minimum education requirements according to A.R.S. §§ 36-1940 or 36-1940.01;
 - c. Has not voluntarily surrendered a license or certification in any other state or country while under investigation for unprofessional conduct; and
 - d. Does not have a complaint, allegation, or investigation pending before another regulatory entity in another state or country related to unprofessional conduct.
- C.** The Department shall review the application and required documentation for a license according to R9-16-214 and Table 2.1.

Historical Note

Former Section R9-16-202 repealed, new Section R9-16-202 adopted effective January 23, 1978 (Supp. 78-1).
 Repealed effective March 14, 1994 (Supp. 94-1).
 Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Section R9-16-202

repealed; new Section R9-16-202 renumbered from R9-16-203 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section R9-16-202 repealed; new Section made by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-203. Initial Application for an Audiologist

- A.** In addition to complying with R9-16-202, an applicant for initial licensure as an audiologist shall submit to the Department the following:
- 1. A transcript or equivalent documentation issued to the applicant from an accredited college or university after the applicant's completion of a doctoral degree consistent with the standards of this state's universities, as required in A.R.S. § 36-1940(A)(2) or documentation of the applicant's current CCC.
 - 2. Documentation of a passing grade on a ETSNEA or current CCC dated within three years before the date of application required in A.R.S. §§ 36-1902(E) and 36-1940(A)(3) or current license from other state.
 - 3. Documentation of completing supervised clinical rotation consistent with the standards of this state's universities required in A.R.S. § 36-1940(B)(2) or current CCC.
 - 4. Whether the applicant is applying to fit and dispense hearing aids.
 - 5. If applicable, a list of all states and countries in which the applicant is or has been licensed as an audiologist or an audiologist to fit and dispense hearing aids.
- B.** In addition to complying with R9-16-202, an applicant for initial licensure as an audiologist licensed to fit and dispense hearing aids who was awarded a master's degree before December 31, 2007 shall submit to the Department the following:
- 1. A transcript or equivalent documentation issued to the applicant from an accredited college or university demonstrating the applicant's completion of a master's degree in audiology before December 31, 2007 or documentation of the applicant's current CCC;
 - 2. Documentation of a passing grade on an ETSNEA or current CCC dated within three years before the date of application; and
 - 3. Documentation of a passing grade obtained by the applicant on a written hearing aid dispenser examination as required in A.R.S. § 36-1940(C)(4).

Historical Note

Former Section R9-16-203 repealed, new Section R9-16-203 adopted effective January 23, 1978 (Supp. 78-1).
 Repealed effective March 14, 1994 (Supp. 94-1).
 Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Amended by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Section R9-16-203 renumbered to R9-16-202; new Section R9-16-203 made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).
 Section R9-16-203 repealed; new Section made by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-204. Initial Application for a Speech-language Pathologist

In addition to complying with R9-16-202(A), an applicant for initial licensure as a speech-language pathologist shall submit to the Department the following:

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1. A transcript or equivalent documentation issued to the applicant by an accredited college or university after the applicant's completion of a master's degree consistent with the standards of this state's universities, as required in A.R.S. § 36-1940.01(A)(2)(a) or documentation of current CCC;
2. Completion of a clinical practicum, as required in A.R.S. § 36-1940.01(A)(2)(b) or documentation of current CCC;
3. Documentation of the applicant's completion of the ETS-NESLP as required in A.R.S. § 36-1940.01(A)(3) or documentation of current CCC; and
4. Documentation of the completion of clinical fellowship or documentation of current CCC.

Historical Note

Former Section R9-16-204 repealed, new Section R9-16-204 adopted effective January 23, 1978 (Supp. 78-1).
 Repealed effective March 14, 1994 (Supp. 94-1).
 Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Amended by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Section R9-16-204 renumbered to R9-16-209; new Section R9-16-204 made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section R9-16-204 repealed; new Section made by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-205. Initial Application for a Temporary Speech-language Pathologist

- A.** In addition to complying with R9-16-202(A), an applicant for initial licensure as a temporary speech-language pathologist shall submit to the Department the following:
1. A transcript or equivalent documentation issued to the applicant by an accredited college or university after the applicant's completion of a master's degree consistent with the standards of this state's universities, as required in A.R.S. § 36-1940.01(A)(2)(a).
 2. Completion of a clinical practicum, as required in A.R.S. § 36-1940.01(A)(2)(b).
 3. Documentation of the applicant's completion of the ETS-NESLP as required in A.R.S. § 36-1940.01(A)(3).
 4. Documentation of the applicant's clinical fellowship agreement that includes:
 - a. The applicant's name, home address, and telephone number;
 - b. The clinical fellowship supervisor's name, business address, telephone number, and speech-language pathology license number;
 - c. The name and address where the clinical fellowship will take place;
 - d. A statement by the clinical fellowship supervisor agreeing to comply with R9-16-209; and
 - e. The signatures of the applicant and the clinical fellowship supervisor.
- B.** A temporary license issued is effective for 12 months from the date of issuance.
- C.** A temporary license may be renewed only once.
- D.** An applicant issued a temporary speech-language pathologist license shall:
1. Practice under the supervision of a licensed speech-language pathologist, and
 2. Not practice under the supervision of an individual who has a temporary speech-language pathologist license.

Historical Note

Former Section R9-16-205 repealed, new Section R9-16-205 adopted effective January 23, 1978 (Supp. 78-1).
 Repealed effective March 14, 1994 (Supp. 94-1).
 Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Section R9-16-205 renumbered to R9-16-210; new Section R9-16-205 renumbered from R9-16-206 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section R9-16-205 repealed; new Section made by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-206. Requirements for a Speech-language Pathologist - Limited

In addition to complying with R9-16-202(A), an applicant for initial licensure as a speech-language pathologist - limited as specified in A.R.S. § 36-1940.01(B) shall submit to the Department the following:

1. A certificate in speech and language therapy awarded by the Department of Education.
2. A document representing an employee or contractor relationship with a local education agency or a state supported institution.

Historical Note

Former Section R9-16-206 repealed, new Section R9-16-206 adopted effective January 23, 1978 (Supp. 78-1).
 Repealed effective March 14, 1994 (Supp. 94-1).
 Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Amended by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Section R9-16-206 renumbered to R9-16-205; new Section R9-16-206 made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section R9-16-206 repealed; new Section made by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-207. License Renewal

- A.** Before the expiration date of a license, a licensee shall submit to the Department:
1. A renewal application in a Department-provided format that contains:
 - a. The licensee's name, home address, telephone number, and e-mail address;
 - b. If applicable, the licensee's business address and telephone number;
 - c. The licensee's current employment, if applicable, including:
 - i. The employer's name,
 - ii. The licensee's position,
 - iii. Dates of employment,
 - iv. The address of the employer,
 - v. The supervisor's name,
 - vi. The supervisor's email address, and
 - vii. The supervisor's telephone number;
 - d. The licensee's license number and date of expiration;
 - e. Since the previous license application, whether the licensee has been convicted of a felony or a misdemeanor in this or another state;
 - f. If the licensee was convicted of a felony or a misdemeanor:

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- i. The date of the conviction,
 - ii. The state or jurisdiction of the conviction,
 - iii. An explanation of the crime of which the licensee was convicted, and
 - iv. The disposition of the case;
- g. Whether the licensee has had, within two years before the renewal application date, an audiology or speech-language pathology license suspended or revoked by any state;
- h. If the applicant has been disciplined by any state, territory, or district of this country for an act related to the applicant's license to practice audiology or a speech-language pathologist license that is consistent with A.R.S. Title 36, Chapter 17, documentation that includes:
 - i. The date of the disciplinary action,
 - ii. The state or jurisdiction of the disciplinary action,
 - iii. An explanation of the disciplinary action, and
 - iv. Any other applicable documents, including a legal order or settlement agreement;
- i. An attestation that the licensee completed continuing education required under A.R.S. § 36-1904 and documentation of completion is available upon request;
- j. The licensee agrees to allow the Department to submit supplemental requests for information under R9-16-214(C);
- k. An attestation that the information submitted as part of the application is true and accurate; and
 - l. The licensee's signature and date of signature; and
- 2. A renewal fee specified in R9-16-216.
- B.** A licensee licensed as a speech-language pathologist, whose practice is limited to providing services to students under the authority of a local education agency or state-supported institution, shall provide documentation required in A.R.S. § 36-1940.01(B);
- C.** If a licensee is renewing a temporary speech-language pathology license:
 - 1. A statement signed and dated by the licensee's clinical fellowship supervisor agreeing to comply with R9-16-209; and
 - 2. The name, business address, telephone number, and license number of the speech language pathologist providing supervision to the licensee.
- D.** In addition to subsection (A), a licensee who submits a renewal application within 30 calendar days after the license expiration date shall submit a late fee specified in R9-16-216.
- E.** A licensee who does not submit the documentation and the fee in subsection (A) and, if applicable, (B) within 30 calendar days after the license expiration date shall apply for a new license in R9-16-202.
- F.** If a licensee applies for a license according to R9-16-202 more than 30 calendar days but less than one year after the expiration date of the applicant's previous license, the applicant:
 - 1. Is not required to submit ETSNEA or ETSNESLP documentation, and
 - 2. Shall submit an attestation of continuing education according to R9-16-208, completed within the twenty-four months before the date of application.
- G.** The Department shall review the application for a renewal license according R9-16-214 and Table 2.1.

Historical Note

Former Section R9-16-207 repealed, new Section R9-16-

207 adopted effective January 23, 1978 (Supp. 78-1).

Repealed effective March 14, 1994 (Supp. 94-1).

Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Section R9-16-207 renumbered to R9-16-208; new Section R9-16-207 made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section R9-16-207 repealed; new Section made by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-208. Continuing Education

- A.** Twenty-four months prior to submitting a renewal application, a licensee shall complete continuing education.
 - 1. Except as provided in (A)(2), a licensed audiologist shall complete at least 20 continuing education hours related to audiology;
 - 2. A licensed audiologist who fits and dispenses hearing aids shall complete:
 - a. At least 20 continuing education hours related to audiology and hearing aid dispensing, and
 - b. No more than eight continuing education hours required in subsection (A)(2)(a) provided by a single manufacturer of hearing aids; and
 - 3. A licensed speech-language pathologist shall complete at least 20 continuing education hours in speech-language pathology related courses.
- B.** Continuing education shall:
 - 1. Directly relate to the practice of audiology, speech-language pathology, or fitting and dispensing hearing aids;
 - 2. Have educational objectives that exceed an introductory level of knowledge of audiology, speech-language pathology, or fitting and dispensing hearing aids; and
 - 3. Consist of courses that include advances within the last five years in:
 - a. Practice of audiology,
 - b. Practice of speech-language pathology,
 - c. Procedures in the selection and fitting of hearing aids,
 - d. Pre- and post-fitting management of clients,
 - e. Instrument circuitry and acoustic performance data,
 - f. Ear mold design and modification contributing to improved client performance,
 - g. Audiometric equipment or testing techniques that demonstrate an improved ability to identify and evaluate hearing loss,
 - h. Auditory rehabilitation,
 - i. Ethics,
 - j. Federal and state statutes or rules, or
 - k. Assistive listening devices.
- C.** A continuing education course developed, endorsed, or sponsored by one of the following meets the requirements in subsection (B):
 - 1. Hearing Healthcare Providers of Arizona,
 - 2. Arizona Speech-Language-Hearing Association,
 - 3. American Speech-Language-Hearing Association,
 - 4. International Hearing Society,
 - 5. International Institute for Hearing Instruments Studies,
 - 6. American Auditory Society,
 - 7. American Academy of Audiology,
 - 8. Academy of Doctors of Audiology,
 - 9. Arizona Society of Otolaryngology, Head and Neck Surgery,
 - 10. American Academy of Otolaryngology-Head and Neck Surgery, or

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11. An organization determined by the Department to be consistent with an organization in subsection (C)(1) through (10).

Historical Note

Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Section R9-16-208 renumbered to R9-16-214; new Section R9-16-208 renumbered from R9-16-207 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-209. Clinical Fellowship Supervisors

In addition to complying with the requirements in A.R.S. § 36-1905, a clinical fellowship supervisor shall complete a minimum of 36 supervisory activities throughout an individual's clinical fellowship that include:

1. A minimum of 18 on-site observations,
2. No more than six on-site observations in a 24-hour period, and
3. A minimum of 18 monitoring activities.

Historical Note

Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Section R9-16-209 renumbered to R9-16-212; new Section R9-16-209 renumbered from R9-16-204 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section R9-16-209 repealed; new Section made by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-210. Requirements for Supervising a Speech-language Pathologist Assistant

A licensed speech-language pathologist who provides direct supervision or indirect supervision to a speech-language pathologist assistant shall comply with A.R.S. § 36-1940.04(F) and (G):

1. Establish a record for each speech-language pathologist assistant who receives direct supervision and indirect supervision from the speech-language pathologist that includes:
 - a. The speech-language pathologist assistant's license number, name, home address, telephone number, and e-mail;
 - b. A plan indicating the types of skills and the number of hours allocated to the development of each skill that the speech-language pathologist assistant is expected to complete;
 - c. A document listing each occurrence of direct supervision or indirect supervision provided to the speech-language pathologist assistant that includes:
 - i. Business name and address where supervision occurred,
 - ii. The date and times when the supervision started and ended,
 - iii. The types of clinical interactions provided, and
 - iv. Notation of speech-language pathologist assistant's progress;
 - d. Documentation of evaluations provided to the speech-language pathologist assistant during the time supervision was provided; and
 - e. Documentation of when supervision was terminated; and

2. Maintain a speech-language pathologist assistant record:
 - a. Throughout the period that the speech-language pathologist assistant receives direct supervision and indirect supervision clinical interactions from the supervisor; and
 - b. For at least two years after the last date the speech-language pathologist assistant received clinical interactions from the supervisor.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Section R9-16-210 renumbered to R9-16-215; new Section R9-16-210 renumbered from R9-16-205 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section R9-16-210 repealed; new Section made by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-211. Equipment; Records

- A. A licensee shall maintain equipment used by the licensee in the practice of audiology or the practice of speech-language pathology according to the manufacturer's specifications.
- B. If a licensee uses equipment that requires calibration, the licensee shall ensure that:
 1. The equipment is calibrated a minimum of every 12 months and according to the American National Standard - Specifications for Audiometers S3.6-2018, incorporated by reference and on file with the Department, with no future additions or amendments and available from the Standards Secretariat, c/o Acoustical Society of America, 1305 Walt Whitman Road, Suite 300, Melville, New York, 11747-4300, September 20, 2018; and
 2. A written record of the calibration is maintained in the same location as the calibrated equipment for at least 36 months after the date of the calibration.
- C. A licensee shall maintain the following records according to A.R.S. § 32-3211 for each client for at least 36 months after the date the licensee provided a service or dispensed a product while engaged in the practice of audiology, practice of speech-language pathology, or practice of fitting and dispensing hearing aids:
 1. The client's name, address, and telephone number;
 2. The name or description and the results of each test and procedure used in evaluating speech, language, and hearing disorders or determining the need for dispensing a product or service; and
 3. If a product such as a hearing aid, augmentative communication device, or laryngeal device is dispensed, a record of the following:
 - a. The name of the product dispensed;
 - b. The product's serial number, if any;
 - c. The product's warranty or guarantee, if any;
 - d. The refund policy for the product, if any;
 - e. A statement of whether the product is new or used;
 - f. The total amount charged for the product;
 - g. The name of the licensee; and
 - h. The name of the intended user of the product.

Historical Note

Adopted as an emergency effective July 12, 1982, pursuant to A.R.S. § 41-1003, valid for 90 days (Supp. 82-4). Emergency expired. Permanent rule R9-16-211 adopted effective January 14, 1983 (Supp. 83-1). Repealed effective March 14, 1994 (Supp. 94-1). New Section R9-16-

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211 made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section R9-16-211 repealed; new Section made by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-212. Bill of Sale Requirements

An audiologist who dispenses hearing aids shall provide a bill of sale to a client at the time the audiologist provides a hearing aid to the client or at a time requested by the client that complies with the requirements in R9-16-311(A)(7).

Historical Note

Adopted as an emergency effective July 12, 1982, pursuant to A.R.S. § 41-1003, valid for 90 days (Supp. 82-4). Emergency expired. Permanent rule R9-16-212 adopted effective January 14, 1983 (Supp. 83-1). Repealed effective March 14, 1994 (Supp. 94-1). New Section R9-16-212 renumbered from R9-16-209 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section R9-16-212 repealed; new Section made by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-213. Enforcement

- A. The Department may, as applicable:
 1. Deny, revoke, or suspend an audiology or speech-language pathology's license under A.R.S. § 36-1934;
 2. Request an injunction under A.R.S. § 36-1937; or
 3. Assess a civil money penalty under A.R.S. § 36-1939.
- B. In determining which disciplinary action specified in subsection (A) is appropriate, the Department shall consider:
 1. The type of violation,
 2. The severity of the violation,
 3. The danger to the public health and safety,
 4. The number of violations,
 5. The number of clients affected by the violations,
 6. The degree of harm to the consumer,
 7. A pattern of noncompliance, and
 8. Any mitigating or aggravating circumstances.
- C. A licensee may appeal a disciplinary action taken by the Department according to A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

Adopted as an emergency effective July 12, 1982, pursuant to A.R.S. § 41-1003, valid for 90 days (Supp. 82-4). Emergency expired. Permanent rule R9-16-213 adopted effective January 14, 1983 (Supp. 83-1). Repealed effective March 14, 1994 (Supp. 94-1). New Section R9-16-213 made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section R9-16-213 repealed; new Section made by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-214. Time-frames

- A. For each type of license issued by the Department under this Article, Table 2.1 specifies the overall time-frame described in A.R.S. § 41-1072(2).
 1. An applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame.

2. The extension of the substantive review time-frame and the overall time-frame may not exceed 25% of the overall time-frame.
- B. For each type of license issued by the Department under this Article, Table 2.1 specifies the administrative completeness review time-frame described in A.R.S. § 41-1072(1).
 1. The administrative completeness review time-frame begins the date the Department receives an application required in this Article.
 2. Except as provided in subsection (B)(3), the Department shall provide a written notice of administrative completeness or a notice of deficiencies to an applicant within the administrative completeness review time-frame.
 - a. If a license application is not complete, the notice of deficiencies listing each deficiency and the information or documentation needed to complete the application.
 - b. A notice of deficiencies suspends the administrative completeness review time-frame and the overall time-frame from the date of the notice until the date the Department receives the missing information or documentation.
 - c. If the applicant does not submit to the Department all the information or documentation listed in the notice of deficiencies within 30 calendar days after the date of the notice of deficiencies, the Department shall consider the application withdrawn.
 3. If the Department issues a license during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- C. For each type of license issued by the Department under this Article, Table 2.1 specifies the substantive review time-frame described in A.R.S. § 41-1072(3), which begins on the date the Department sends a written notice of administrative completeness.
 1. Within the substantive review time-frame, the Department shall provide a written notice to the applicant that the Department approved or denied.
 2. During the substantive review time-frame:
 - a. The Department may make one comprehensive written request for additional information or documentation; and
 - b. If the Department and the applicant agree in writing, the Department may make supplemental requests for additional information or documentation.
 3. A comprehensive written request or a supplemental request for additional information or documentation suspends the substantive review time-frame and the overall time-frame from the date of the request until the date the Department receives all the information or documentation requested.
 4. If the applicant does not submit to the Department all the information or documentation listed in a comprehensive written request or supplemental request for additional information or documentation within 30 calendar days after the date of the request, the Department shall deny the license or approval.
- D. The Department shall issue a regular license or a temporary license:
 1. Within five calendar days after receiving the license fee, and
 2. From the date of issue, the license is valid for:
 - a. Two years, if a regular license, and

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- b. Twelve months, if a temporary license.
- E. An applicant who is denied a license may appeal the denial according to A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

Adopted as an emergency effective July 12, 1982, pursuant to A.R.S. § 41-1003, valid for 90 days (Supp. 82-4). Emergency expired. Permanent rule R9-16-214 adopted effective January 14, 1983 (Supp. 83-1). Repealed effective

March 14, 1994 (Supp. 94-1). New Section R9-16-214 renumbered from R9-16-208 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section R9-16-214 repealed; new Section made by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

Table 2.1 Time-frames (in calendar days)

| Type of Approval | Statutory Authority | Overall Time-Frame | Administrative Completeness Review Time-Frame | Time to Respond to Notice of Deficiency | Substantive Review Time-Frame | Time to Respond to Comprehensive Written Request |
|-------------------------------------------------------------|-------------------------------|--------------------|-----------------------------------------------|-----------------------------------------|-------------------------------|--------------------------------------------------|
| Application for an Initial or Temporary License (R9-16-202) | A.R.S. §§ 36-1904 and 36-1940 | 60 | 30 | 30 | 30 | 30 |
| License Renewal (R9-16-207) | A.R.S. § 36-1904 | 60 | 30 | 30 | 30 | 30 |

Historical Note

Table 2.1 made by exempt rulemaking under R9-16-209 at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Table 2.1 repealed; new Table 2.1 made and recodified under new Section R9-16-214, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-215. Changes Affecting a License or a Licensee; Request for a Duplicate License

- A. A licensee shall submit to the Department a notice in a Department-provided format within 30 calendar days after the effective date of a change in:
- The licensee's home address or e-mail address, including the new home address or e-mail address;
 - The licensee's name, including a copy of one of the following with the licensee's new name:
 - Marriage certificate,
 - Divorce decree, or
 - Other legal document establishing the licensee's new name; and
 - The place or places, including address or addresses, where the licensee engages in the practice of audiology or speech-language pathology.
- B. A licensee may obtain a duplicate license by submitting to the Department a written request for a duplicate license in a format provided by the Department that includes:
- The licensee's name and address,
 - The licensee's license number and expiration date,
 - The licensee's signature and date of signature, and
 - A duplicate license fee specified in R9-16-216.

Historical Note

New Section R9-16-215 renumbered from R9-16-210 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-216. Fees

- A. An applicant shall submit to the Department the following nonrefundable fee for:
- An initial application as an audiologist, \$100;
 - An initial application as a speech-language pathologist, \$100; and
 - An initial application as a temporary speech-language pathologist, \$100.

- B. An applicant shall submit to the Department the following fee for:
- An initial license as an audiologist, \$200;
 - An initial license as a speech-language pathologist, \$200; and
 - A temporary license as a speech-language pathologist, \$100.
- C. A licensee shall submit to the Department the following fee for:
- A renewal license as an audiologist, \$200;
 - A renewal license as a speech-language pathologist, \$200; and
 - A temporary renewal license as a speech-language pathologist, \$100.
- D. If a licensed audiologist or speech-language pathologist submits a renewal license application specified in subsection (C) within 30 calendar days after the license expiration date, the licensee shall submit with the renewal license application a \$25 late fee.
- E. The fee for a duplicate license is \$25.
- F. An applicant for initial licensure is not required to submit the applicable fee in subsection (A) and (B) if the applicant, as part of the applicable application in R9-16-202, submits an attestation that the applicant meets the criteria for waiver of licensing fees in A.R.S. § 41-1080.01.

Historical Note

New Section made by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

ARTICLE 3. LICENSING HEARING AID DISPENSERS**R9-16-301. Definitions**

In addition to the definitions in A.R.S. § 36-1901, the following definitions apply in this Article unless otherwise specified:

- "Applicant" means an individual or a business organization that submits an application and required documentation for approval to practice as a hearing aid dispenser.

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2. "Business organization" means an entity identified in A.R.S. § 36-1910.
3. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
4. "Continuing education" means a course that provides instruction and training that directly relates to the practice of fitting and dispensing hearing aids specified in A.R.S. § 36-1904.
5. "Designated agent" means an individual who:
 - a. Is authorized by an applicant or hearing aid dispenser [a person] to receive communications from the Department, including legal service of process;
 - b. May file or sign documents on behalf of the applicant or hearing aid dispenser;
 - c. Is a U.S. citizen or legal resident;
 - d. Has an Arizona address; and
 - e. Is a controlling person of the business organization, if applicable.
6. "Disciplinary action" means a proceeding that is brought against a licensee by the Department under A.R.S. § 36-1934 or a state specified in R9-16-308(A)(2).
7. "GED" means a general education development test.
8. "Hearing aid dispenser examination" means one of the following that has been identified by the Department as complying with the requirements in A.R.S. § 36-1924:
 - a. The International Licensing Examination for Hearing Health Professionals, administered by the International Hearing Society; or
 - b. A test provided by the Department or other organization.
9. "Practical examination" means a test:
 - a. Designated by the Department that demonstrates an applicant's proficiency in the practice of fitting and dispensing of hearing aids, and
 - b. Compliant with A.R.S. § 36-1924(A)(4).
10. "State licensing entity" means a state agency or board that approves licensure and takes disciplinary action of individuals or businesses that practice as a hearing aid dispenser.
11. "Temporary hearing aid dispenser" means a person who is licensed under A.R.S. Title 36, Chapter 17 and this Article for a specified period of time under the sponsorship of a hearing aid dispenser also licensed under A.R.S. Title 36, Chapter 17 and this Article.
 1. Written hearing aid dispenser examination required in subsection (B), and
 2. Practical examination required in subsection (B).
- B. An applicant approved to take the Department-designated practical examination or a temporary hearing aid dispenser approved to take the Department-designated practical examination shall:
 1. Arrive on the scheduled date and time of the examination,
 2. Provide proof of identity by a government-issued photographic identification card that is provided by the applicant or temporary hearing aid dispenser upon the request of the individual administering the examination, and
 3. Exhibit ethical conduct during the examination process.
- C. After the Department receives an applicant's Department-designated written hearing aid dispenser examination results, the Department shall notify the applicant of:
 1. A passing score and approval to take the practical examination; or
 2. A failing score that includes, as applicable, approval to retake the written hearing aid dispenser examination.
- D. An applicant or temporary hearing aid dispenser who does not comply with subsection (B)(1) or (B)(2) is ineligible to take the examination on the scheduled date and time.
- E. An applicant or temporary hearing aid dispenser taking the examination will receive a passing score on the examination if the applicant or temporary hearing aid dispenser demonstrates the proficiencies in A.R.S. § 36-1924, as determined by the Department.
- F. After the Department receives an applicant's practical examination results, the Department shall notify the applicant whether the applicant received:
 1. A passing score; or
 2. A failing score and, as applicable, approval to retake the Department-designated practical examination for the examination sections that the applicant failed.
- G. The Department shall notify an applicant or temporary hearing aid dispenser that the applicant or temporary hearing aid dispenser may apply for an initial hearing aid dispenser license when the applicant or temporary hearing aid dispenser has received a passing score on both of the examinations in subsection (A).

Historical Note

Amended effective March 22, 1976 (Supp. 76-2). Section repealed, new Section adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

Historical Note

Section repealed, new Section adopted effective June 25, 1993 (Supp. 93-2). Section amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-302. Examination Requirements

- A. Within two years after the date an applicant receives the approval notification in R9-16-306(B), or a temporary hearing aid dispenser receives the approval in R9-16-305(B), the applicant or temporary hearing aid dispenser shall take and obtain a passing score on the Department-designated:

R9-16-303. Application

- A. An applicant for licensure shall submit to the Department:
1. An application in a Department-provided format that contains:
 - a. The applicant's name, home address, telephone number, and e-mail address;
 - b. The applicant's Social Security number, as required under A.R.S. §§ 25-320 and 25-502;
 - c. The applicant's current employment, if applicable, including:
 - i. The employer's name,
 - ii. The licensee's position,
 - iii. Dates of employment,
 - iv. The address of the employer,

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- v. The supervisor's name,
- vi. The supervisor's email address, and
- vii. The supervisor's telephone number;
- d. Whether the applicant has ever been convicted of a felony or a misdemeanor in this or another state or jurisdiction;
- e. If the applicant was convicted of a felony or misdemeanor:
 - i. The date of the conviction,
 - ii. The state or jurisdiction of the conviction,
 - iii. An explanation of the crime of which the applicant was convicted, and
 - iv. The disposition of the case;
- f. Whether a hearing aid dispenser license issued to the applicant has been suspended or revoked;
- g. Whether the applicant is currently ineligible to apply for a hearing aid dispenser license due to a prior revocation or suspension of the applicant's hearing aid dispenser license;
- h. Whether the applicant has been disciplined by any state, territory or district in this country for an act upon the applicant's hearing aid dispenser license;
- i. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-314;
- j. An attestation that the information submitted as part of the application is true and accurate; and
- k. The applicant's signature and date of signature;
- 2. Documentation of the applicant's citizenship or alien status that complies with A.R.S. § 41-1080;
- 3. Documentation that the applicant received a high school diploma, a high school equivalency diploma, an associate degree, or a higher degree;
- 4. Whether a professional license or certificate has been revoked or suspended by another state or jurisdiction;
- 5. If a license for an applicant has been revoked or suspended by any state, documentation that includes:
 - a. The date of the revocation or suspension,
 - b. The state or jurisdiction of the revocation or suspension, and
 - c. An explanation of the revocation or suspension;
- 6. If an applicant is currently ineligible for licensing in any state because of a license revocation or suspension, documentation that includes:
 - a. The date of the ineligibility for licensing,
 - b. The state or jurisdiction of the ineligibility for licensing, and
 - c. An explanation of the ineligibility for licensing;
- 7. If an applicant has been disciplined by any state, territory or district, in this country for an act upon the applicant's hearing aid dispenser license, documentation that includes:
 - a. The date of the disciplinary action,
 - b. The state or jurisdiction of the disciplinary action,
 - c. An explanation of the disciplinary action, and
 - d. Any other applicable documents, including a legal order or settlement agreement; and
- 8. A nonrefundable application fee specified in R9-16-316.
- B.** The Department shall review an application and documentation for approval according to R9-16-314 and Table 3.1.

Historical Note

The Department of Health Services advises that this rule is preempted by Section 521(a) of the federal Food, Drug and Cosmetic Act (21 U.S.C. 360K). See 21 CFR 808.53,

effective November 10, 1980 (Supp. 80-6). Section repealed, new Section adopted effective June 25, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-304. Requirements for an Initial Hearing Aid Dispenser License

- A.** An applicant for initial licensure shall submit an application to the Department that includes:
 - 1. The information and documents required in R9-16-303;
 - 2. Documentation of passing the:
 - a. Written hearing aid dispenser examination, and
 - b. Practical examination; and
 - 3. The fees specified in R9-16-316.
- B.** In addition to complying with subsections (A)(1) and (A)(3), an applicant that may be eligible for licensure under A.R.S. § 36-1922 shall submit documentation to the Department that includes:
 - 1. The name of each state that issued the applicant a current hearing aid dispenser license, including:
 - a. The license number of each current hearing aid dispenser license, and
 - b. The date each current hearing aid dispenser license was issued;
 - 2. Documentation of the professional license or certification issued to the applicant by each state in which the applicant holds a professional license or certification;
 - 3. For each state named in subsection (B)(1), a statement, signed and dated by the applicant, attesting that the applicant:
 - a. Has been licensed or certified in another state for at least one year, with a scope of practice consistent with the scope of practice for which licensure is being requested;
 - b. Has met minimum education requirements according to A.R.S. § 36-1923(A);
 - c. Has not voluntarily surrendered a license or certification in any other state or country while under investigation for unprofessional conduct; and
 - d. Does not have a complaint, allegation, or investigation pending before another regulatory entity in another state or country related to unprofessional conduct.
- C.** An initial hearing aid dispenser license is valid for two years from the date of issue for licensure by examination or licensure by reciprocity.
- D.** If the Department does not issue an initial hearing aid dispenser license to an applicant, the Department shall return the license fee to the applicant.

Historical Note

Amended effective March 22, 1976 (Supp. 76-2). The Department of Health Services advises that this rule is preempted by Section 521(a) of the federal Food, Drug and Cosmetic Act (21 U.S.C. 360K). See 21 CFR 808.53, effective November 10, 1980 (Supp. 80-6). Section repealed, new Section adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made

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by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-305. Requirements for an Initial Temporary Hearing Aid Dispenser License

- A. In addition to complying with R9-16-303, an applicant for a temporary hearing aid dispenser license shall submit to the Department:
1. The sponsor's:
 - a. Name,
 - b. Business address,
 - c. Business telephone number, and
 - d. Arizona hearing aid dispenser license number.
 2. A statement signed by the sponsor that the sponsor is a licensed hearing aid dispenser who agrees to train, supervise, and be responsible for the applicant's hearing aid dispenser practice according to A.R.S. § 36-1905.
- B. If the Department issues a temporary license to the applicant, the Department shall notify the applicant of approval to take the hearing aid dispenser examination as specified in R9-16-302.
- C. A temporary hearing aid dispenser may renew a temporary license according to A.R.S. § 36-1926.
- D. A temporary license is no longer valid on the date the Department receives notice from the sponsor that the sponsor is terminating sponsorship.
- E. A hearing aid dispenser whose temporary license is terminated according to subsection (D):
1. Shall not practice until issued a new license,
 2. May apply for an initial or temporary license as a hearing aid dispenser according to this Article; and
 3. May choose to:
 - a. Complete the two-year test period issued to the applicant with a previous temporary license, or
 - b. Restart the two-year test period on the date the Department approves the hearing aid dispenser's temporary license in subsection (E)(2); and
 4. If the applicant chooses to restart the two-year test period in subsection (3)(b), the previous test result obtained will not apply.
- F. An initial hearing aid dispenser license is valid for 12 months from the date of issue for a temporary license or in compliance with A.R.S. § 36-1926(D).

Historical Note

Section repealed, new Section adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-306. Application for Examination

- A. In addition to complying with R9-16-303, an applicant for initial licensure by examination shall submit an application to the Department that includes:
1. Information and documentation required in R9-16-303, and
 2. The fee in R9-16-316.
- B. If the Department approves the application, the Department shall notify the applicant of approval to take the written hearing aid dispenser examination as specified in R9-16-302.
- C. If the Department approves an application, the applicant shall not practice fitting and dispensing hearing aids without a license issued by the Department.

Historical Note

Adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-307. Initial Application for a Business Hearing Aid Dispenser License

- A. An applicant for a business hearing aid dispenser license shall submit to the Department:
1. An application in a Department-provided format that contains:
 - a. The name of the business organization;
 - b. The business organization's Arizona business name, address, e-mail address, and telephone number;
 - c. If the business organization has more than one location, provide the name, address, e-mail address, and telephone number for each location;
 - d. The name, address, telephone number, and e-mail address of the individual authorized by the business organization to be the designated agent;
 - e. The name, business telephone number, and Arizona hearing aid dispenser license number of each hearing aid dispenser employed by the business organization in Arizona;
 - f. Whether the business organization or a hearing aid dispenser working for the business organization has had a hearing aid dispenser license suspended or revoked by any state;
 - g. Whether the business organization or a hearing aid dispenser working for the business organization is currently ineligible for licensing in any state due to a suspension or revocation;
 - h. An attestation that the:
 - i. Business organization allows the Department to make supplemental requests for additional information; and
 - ii. Information required as part of the application has been submitted and is true and accurate; and
 - i. The signature and date of signature from the designated agent; and
 2. An application and license fee specified in R9-16-316.
- B. A business organization with more than one location shall submit a duplicate license fee for each additional location according to R9-16-315 and R9-16-316.
- C. The Department shall review an application for an initial business hearing aid dispenser license according to R9-16-314 and Table 3.1.
- D. A business organization licensed according to this Article shall comply with A.R.S. § 36-1910.
- E. An initial license issued to a business organization according to this Section is valid for two years from the date of issue.

Historical Note

Adopted effective June 25, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

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20-2).

R9-16-308. License Renewal

A. A licensee, except for a temporary hearing aid dispenser, shall submit a renewal application in a Department-provided format that contains:

1. For an individual licensed as a hearing aid dispenser:
 - a. The licensee's name, home address, telephone number, and e-mail address;
 - b. The licensee's current employment, if applicable, including:
 - i. The employer's name,
 - ii. The licensee's position,
 - iii. Dates of employment,
 - iv. The address of the employer,
 - v. The supervisor's name,
 - vi. The supervisor's email address, and
 - vii. The supervisor's telephone number;
 - c. The licensee's license number and expiration date;
 - d. Since the hearing aid dispenser's previous license application, whether the licensee has been convicted of a felony or a misdemeanor in this or another state or jurisdiction;
 - e. If the licensee was convicted of a felony or misdemeanor:
 - i. The date of the conviction,
 - ii. The state or jurisdiction of the conviction,
 - iii. An explanation of the crime of which the licensee was convicted, and
 - iv. The disposition of the case;
 - f. Whether the licensee has had a license revoked or suspended by any state within the previous two years;
 - g. Whether the licensee is currently ineligible for licensure in any state because of a prior license revocation or suspension;
 - h. Whether the licensee agrees to allow the Department to submit supplemental requests for information under R9-16-314;
 - i. An attestation that the licensee completed continuing education required under A.R.S. § 36-1904 and that documentation of completion is available upon request;
 - j. An attestation that the information required as part of the application has been submitted and is true and accurate; and
 - k. The licensee's signature and date of signature;
2. Whether the licensee has, within the two years before the date of the application, had:
 - a. A license issued under this Article suspended or revoked; or
 - b. A professional license or certificate revoked by another state or jurisdiction; and
3. A license renewal fee specified in R9-16-316; or
4. For a business organization licensed as a hearing aid dispenser:
 - a. The information in subsection R9-16-307(A)(1), and
 - b. A license renewal fee specified in R9-16-316.

B. A licensee, except for a temporary hearing aid dispenser, who renews a license within 30 calendar days after the expiration date of the license, shall submit to the Department:

1. The information and renewal fee required in subsection (A), and
2. A late fee specified in R9-16-316.

C. A renewal license issued to a licensee, except for temporary hearing aid dispenser, is valid for two years after the expiration date of the previous license issued by the Department.

D. If a licensee does not comply with subsections (A) or (B), the license is nonrenewable and:

1. The hearing aid dispenser may apply for a new license according to subsection (E), or
2. The business organization may apply for a new license according to R9-16-307.

E. A licensee whose license is nonrenewable, according to subsection (D)(1), and is within one year after the expiration date of the hearing aid dispenser's license, the licensee shall submit:

1. The information in R9-16-303(A);
2. An attestation of continuing education, according to R9-16-309, completed with twenty-four months before the date of the date of application; and
3. A nonrefundable application fee and a license fee specified in R9-16-316.

F. If allowed in R9-16-303, a temporary hearing aid dispenser shall submit at least 30 calendar days before the expiration date on the license, a renewal application to the Department in a Department-provided format that contains:

1. The information in R9-16-303(A);
2. The applicant's sponsor's:
 - a. Name,
 - b. Business address,
 - c. Business telephone number, and
 - d. Arizona hearing aid dispenser license number;
3. A statement signed by the sponsor that the sponsor is a licensed hearing aid dispenser who agrees to train, supervise, and be responsible for the applicant's hearing aid dispenser practice according to A.R.S. § 36-1905; and
4. A license renewal fee specified in R9-16-316.

G. A renewal license issued to a licensee according to subsection (F) is valid for one year after the expiration date of the previous license issued by the Department.

H. The Department shall review a renewal application according to R9-16-314 and Table 3.1.

Historical Note

Adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-309. Continuing Education

A. Twenty-four months prior to submitting a renewal application, a licensee shall complete 24 continuing education hours that includes no more than eight continuing education hours provided by a single manufacturer of hearing aids.

B. Continuing education shall:

1. Directly relate to the practice of fitting and dispensing hearing aids;
2. Have educational objectives that exceed an introductory level of knowledge of fitting and dispensing hearing aids; and
3. Consist of courses that include advances within the last five years in:
 - a. Procedures in the selection and fitting of hearing aids,
 - b. Pre- and post-fitting management of clients,
 - c. Instrument circuitry and acoustic performance data,

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- d. Ear mold design and modification contributing to improved client performance,
 - e. Audiometric equipment or testing techniques that demonstrate an improved ability to identify and evaluate hearing loss,
 - f. Auditory rehabilitation,
 - g. Ethics,
 - h. Federal and state statutes or rules, or
 - i. Assistive listening devices.
- C. A continuing education course developed, endorsed, or sponsored by one of the following meets the requirements in subsection (B):
- 1. Hearing Healthcare Providers of Arizona,
 - 2. Arizona Speech-Language-Hearing Association,
 - 3. American Speech-Language-Hearing Association,
 - 4. International Hearing Society,
 - 5. International Institute for Hearing Instruments Studies,
 - 6. American Auditory Society,
 - 7. American Academy of Audiology,
 - 8. Academy of Doctors of Audiology,
 - 9. Arizona Society of Otolaryngology, Head and Neck Surgery,
 - 10. American Academy of Otolaryngology-Head and Neck Surgery, or
 - 11. An organization determined by the Department to be consistent with an organization in subsection (B)(1) through (10).

Historical Note

Adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-310. Sponsors**A. A sponsor shall:**

- 1. Provide to a temporary hearing aid dispenser for on-site training and supervision that:
 - a. Consists of coordinating, directing, watching, inspecting, and evaluating the fitting and dispensing activities of the temporary hearing aid dispenser; and
 - b. Directly relates to the type of training and education needed to pass the licensing examination required in A.R.S. § 36-1924;
- 2. Maintain a training record that:
 - a. Is signed by the temporary hearing aid dispenser;
 - b. Has the date, time, and content of the training and supervision provided to the temporary hearing aid dispenser, as required in subsection (A)(1); and
 - c. Is available for inspection by the Department for at least 12 months after the end of the sponsorship agreement; and
- 3. Not provide sponsorship to more than two temporary hearing aid dispenser licensees at one time.

B. When a sponsor terminates a sponsorship agreement with a temporary hearing aid dispenser, the sponsor shall:

- 1. Provide to the temporary hearing aid dispenser a:
 - a. Written notice indicating termination of the sponsorship agreement, and
 - b. Copy of the hearing aid dispenser's records in subsection (A)(2); and

- 2. Provide to the Department documentation of the notice required in subsection (B)(1)(a).

Historical Note

Adopted effective June 25, 1993 (Supp. 93-2). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5029, effective September 30, 2001 (Supp. 01-4). New Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-311. Responsibilities of a Hearing Aid Dispenser**A. A hearing aid dispenser licensed shall:**

- 1. Upon licensure, notify the Department in writing of the address where the hearing aid dispenser practices the fitting and dispensing of hearing aids;
 - 2. Conspicuously post the license received in the hearing aid dispenser's office or place of business;
 - 3. Except as specified in subsections (A)(4) or (A)(5), conduct audiometric tests before selecting a hearing aid for a client that provides detailed information about the client's hearing loss, including:
 - a. Type, degree, and configuration of hearing loss;
 - b. Ability, as measured by the percentage of words the client is able to repeat correctly, to discriminate speech; and
 - c. The client's most comfortable and uncomfortable loudness levels in decibels;
 - 4. Have the option to conduct audiometric testing required in subsection (A)(3) before selling a client a hearing aid if the client provides to the dispenser the information required in subsection (A)(3) from a licensed professional and the information was:
 - a. Obtained within the previous 12 months for an adult, or
 - b. Within the previous six months for an individual under the age of 18;
 - 5. Have the option to conduct audiometric testing required in subsection (A)(3) if the tests cannot be performed on the client due to:
 - a. The client's young age, or
 - b. A physical or mental disability;
 - 6. Evaluate the performance characteristics of the hearing aid as it functions on the client's ear for the purpose of assessing the degree of audibility provided by the device and benefit to the client;
 - 7. Provide a bill of sale to a client according to A.R.S. § 36-1909(A) that contains:
 - a. Information required in A.R.S. § 36-1909;
 - b. A complete description of:
 - i. Warranty information, and
 - ii. The conditions of any offer of a trial period with a money back guarantee or partial refund; and
 - c. The client's signature and date of signature; and
 - 8. Not:
 - a. Practice without a license according to A.R.S. § 36-1907,
 - b. Commit unlawful acts according to A.R.S. § 36-1936, or
 - c. Commit actions described in A.R.S. § 36-1934(A).
- B. The trial period described in subsection (A)(7)(b)(ii) shall not include any time that the hearing aid is in the possession of the hearing aid dispenser or the manufacturer of the hearing aid.**

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Adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-312. Equipment and Records

- A. A licensee shall maintain an audiometer and other hearing devices according to the manufacturer's specifications.
- B. If a licensee uses equipment that requires calibration, the licensee shall ensure that:
 1. The equipment is calibrated at least every 12 months and according to the American National Standard Institution/Acoustical Society incorporated by reference and on file with the Department, with no future additions or amendments, and available from the American National Standards Institution at <http://webstore.ansi.org>; and
 2. A written record of the calibration is maintained in the same location as the calibrated equipment for at least 36 months after the date of the calibration.
- C. A licensee shall maintain a record according to A.R.S. § 32-3211 for each client with the following documents for at least 36 months after the date the licensee provided a service or dispensed a product while engaged in the practice of fitting and dispensing hearing aids:
 1. The name, address, and telephone number of the individual to whom services are provided;
 2. A written statement from a licensed physician that the client has medical clearance to use hearing aids or a medical waiver signed by the client who is 18 years of age or older;
 3. For each audiometric test conducted for the client, the:
 - a. Audiometric test results by date and procedure used in evaluating hearing disorders or determining the need for dispensing a product or service,
 - b. Name of the individual who performed the audiometric tests, and
 - c. Signature of the individual who performed the audiometric tests;
 4. A copy of the bill of sale required in R9-16-311(A)(7);
 5. Documented verification of the effectiveness of the hearing aid required in R9-16-311(A)(6); and
 6. The contracts, agreements, warranties, trial periods, or other documents involving the client.

Historical Note

Adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-313. Enforcement

- A. The Department may, as applicable:
 1. Deny, revoke, or suspend a license under A.R.S. § 36-1934,
 2. Request an injunction under A.R.S. § 36-1937, or
 3. Assess a civil money penalty under A.R.S. § 36-1939.
- B. In determining which disciplinary action specified in subsection (A), the Department shall consider:
 1. The type of violation,
 2. The severity of the violation,

3. The danger to the public health and safety,
4. The number of violations,
5. The number of clients affected by the violations,
6. The degree of harm to the consumer,
7. A pattern of noncompliance, and
8. Any mitigating or aggravating circumstances.

- C. A licensee may appeal a disciplinary action taken by the Department according to A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

Adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-314. Time-frames

- A. For each type of license issued by the Department under this Article, Table 6.1 specifies the overall time-frame described in A.R.S. § 41-1072(2).
 1. An applicant or licensee and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame.
 2. The extension of the substantive review time-frame and overall time-frame may not exceed 25% of the overall time-frame.
- B. For each type of license issued by the Department under this Article, Table 6.1 specifies the administrative completeness review time-frame described in A.R.S. § 41-1072(1).
 1. The administrative completeness review time-frame begins on the date the Department receives an application required in this Article.
 2. Except as provided in subsection (B)(3), the Department shall provide written notice of administrative completeness or a notice of deficiencies to an applicant within the administrative completeness review time-frame.
 - a. If an application and required documentation is not complete, the notice of deficiencies shall list each deficiency and the information or documentation needed to complete the application.
 - b. A notice of deficiencies suspends the administrative completeness review time-frame and the overall time-frame from the date of the notice until the date the Department receives the missing information or documentation.
 - c. If the applicant does not submit to the Department all the information or documentation listed in the notice of deficiencies within 30 calendar days after the date of the notice of deficiencies, the Department shall consider the application withdrawn.
 3. If the Department issues a license during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- C. For each type of license issued by the Department under this Article, Table 6.1 specifies the substantive review time-frame described in A.R.S. § 41-1072(3), which begins on the date the Department sends a written notice of administrative completeness.
 1. Within the substantive review time-frame, the Department shall provide written notice to the applicant that the Department approved or denied the application.
 2. During the substantive review time-frame:

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- a. The Department may make one comprehensive written request for additional information or documentation; and
 - b. If the Department and the applicant agree in writing, the Department may make supplemental requests for additional information or documentation.
3. A comprehensive written request or a supplemental request for additional information or documentation suspends the substantive review time-frame and the overall time-frame from the date of the request until the date the Department receives all the information or documentation requested.
 4. If the applicant does not submit to the Department all the information or documentation listed in a comprehensive

written request or supplemental request for additional information or documentation within 30 calendar days after the date of the request, the Department shall deny the license.

- D. An applicant who is denied a license may appeal the denial according to A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

Adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

Table 3.1. Time-frames (in calendar days)

| Type of Approval | Statutory Authority | Overall Time-frame | Administrative Completeness Review Time-frame | Time to Respond to Notice of Deficiency | Substantive Review Time-frame | Time to Respond to Comprehensive Written Request |
|-------------------------------------------------|----------------------------|--------------------|-----------------------------------------------|-----------------------------------------|-------------------------------|--------------------------------------------------|
| Initial Application for a Hearing Aid Dispenser | A.R.S. §§ 36-1904, 36-1923 | 60 | 30 | 30 | 30 | 30 |
| Initial Application for a Business Organization | A.R.S. § 36-1910 | 60 | 30 | 30 | 30 | 30 |
| License Renewal | A.R.S. § 36-1904 | 60 | 30 | 30 | 30 | 30 |

Historical Note

Table 3.1 renumbered from Table 1 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Table 3.1 repealed; new Table 3.1 made and recodified under R9-16-314 by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-315. Change Affecting a License or a Licensee; Request for Duplicate License

- A. A hearing aid dispenser licensee or temporary hearing aid dispenser licensee shall submit a written notice to the Department in writing within 30 calendar days after the effective date of a change in:
 1. The licensee's home address or e-mail address, including the new home address or e-mail address;
 2. The licensee's name, including a copy of one of the following with the licensee's new name:
 - a. Marriage certificate,
 - b. Divorce decree, or
 - c. Other legal document establishing the licensee's new name; or
 3. The place or places where the licensee engages in the practice of hearing aid dispensing, including the address or addresses of the place or places where the licensee engages in the practice of hearing aid dispensing.
- B. A licensee may obtain a duplicate license by submitting to the Department a request for a duplicate license in a Department-provided format that includes:
 1. The licensee's name and address,
 2. The licensee's license number and expiration date,
 3. The licensee's signature and date of signature, and
 4. A duplicate license fee specified in R9-16-316.
- C. A business hearing aid dispenser licensee shall submit a written notice to the Department within 30 calendar days after the licensee:
 1. Has a change in the information provided in R9-16-307(A)(1)(b).
 2. Closes a location specified in R9-16-307(A)(1)(b) and (c), including the location address.

3. Begins operating at new location, not specified in R9-16-307(A)(1)(c), including the new location address.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2688, effective June 7, 2002 (Supp. 02-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

Table 1. Renumbered**Historical Note**

Table 1 made by final rulemaking at 8 A.A.R. 2688, effective June 7, 2002 (Supp. 02-2). Table 1 renumbered to Table 3.1 by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-316. Fees

- A. An applicant shall submit to the Department the following fee for:
 1. A nonrefundable initial application, \$100;
 2. An initial license for a regular or business hearing aid dispenser, \$200;
 3. A renewal application for temporary hearing aid dispenser license, \$100.
 4. A regular or business hearing aid dispenser licensee for a renewal license, \$200.
- B. If a renewal application is submitted within 30 calendar days after the license expiration date, a licensee shall submit with the renewal application a \$25 late fee.
- C. The fee for a duplicate license is \$25.

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- D. An applicant, who is not a business organization, for initial licensure is not required to submit the applicable fee in subsection (A) if the applicant, as part of the applicable application in R9-16-303 or R9-16-306, submits an attestation that the applicant meets the criteria for waiver of licensing fees in A.R.S. § 41-1080.01.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Historical note corrected to reflect the rulemaking action on file and effective with the 04-2 supplement (Supp. 05-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-317. Repealed**Historical Note**

New Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

ARTICLE 4. REGISTRATION OF ENVIRONMENTAL HEALTH SANITARIANS**R9-16-401. Definitions**

The following definitions apply in this Article, unless otherwise specified:

1. "Accredited" means that an educational institution is recognized by the U.S. Department of Education as providing standards necessary to meet acceptable levels of quality for its graduates to gain admission to other reputable institutions of higher learning or to achieve credentials for professional practice.
2. "Administrative completeness review time-frame" has the same meaning as in A.R.S. § 41-1072.
3. "Applicant" means an individual who submits an application packet or renewal application packet for registration as an environmental health sanitarian.
4. "Application packet" means the information, documents, and fees required by the Department to:
 - a. Determine eligibility to take a sanitarian examination, and
 - b. Be registered as an environmental health sanitarian.
5. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run and including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
6. "Continuing education" means a course that provides instruction and training that is designed to develop or improve a registered environmental health sanitarian's professional competence in disciplines directly related to the practice of a registered environmental health sanitarian.
7. "Continuing education hour" means 50 to 60 minutes of continuous course work.
8. "Course" means a workshop, seminar, lecture, conference, or other learning program activities as approved by the Department.
9. "Department" means the Arizona Department of Health Services established in A.R.S. § 36-104 and the Sanitarians Council established in A.R.S. § 36-136.01.
10. "Environmental health" means the science and practice of preventing human injury and illness and promoting well-being by identifying sources that produce potential hazardous physical, chemical, and biological agents in air, water, soil, food, and other conditions; and eliminating or minimizing exposure to the sources that adversely affect or may adversely affect human health.
11. "Environmental health sanitarian aide" means an individual who performs and assists with environmental health services as described and under the supervision of an individual in R9-16-403.
12. "Hazardous environmental agent" means a material, whether liquid, solid, gas, or sludge, that contains properties that make the material potentially harmful to public health or the environment.
13. "Immediate family member" means an individual related by birth, marriage, or adoption.
14. "License or licensed" means a permit, certificate, or similar form of approval issued by a state agency according to state law that an individual may practice in the profession indicated by the approval.
15. "Natural science" means a branch of science that deals with the physical world, including life, physical, and health sciences.
16. "Overall time-frame" has the same meaning as in A.R.S. § 41-1072.
17. "Practice of a registered environmental health sanitarian" means acting under the authority of R9-16-402.
18. "Registered environmental health sanitarian" means the same as a "registered sanitarian" in A.R.S. § 36-136.01.
19. "Renewal application packet" means the information, documents, and fees required by the Department to apply for a renewal registration as an environmental health sanitarian.
20. "Sanitarian examination" means a test that consists of questions related to environmental health including natural sciences, facility and system inspections, investigations, compliance, responding to emergencies, and promoting environmental public health awareness.
21. "Semester credit" means one earned academic unit of study or equivalent, with a grade of "C" or better, at an accredited college or university by:
 - a. Attending a 50 to 60 minute class session each calendar week for at least 16 weeks, or
 - b. Completing practical work for a class as determined by the accredited college or university.
22. "Substantive review time-frame" has the same meaning as in A.R.S. § 41-1072.
23. "Supervision" means being responsible for and providing direction to an individual who:
 - a. Performs and assists a registered environmental health sanitarian with environmental health services as described in R9-16-403, and
 - b. Is employed as an environmental health sanitarian aide in a position directly related to environmental health.

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24. "Testing center" means a facility, approved by the Department that provides a proctored computer-based sanitarian examination.

Historical Note

Adopted effective September 29, 1976 (Supp. 76-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5257, effective September 30, 2001 (Supp. 01-4). New Section made by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2). Amended by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 23 A.A.R. 3038, effective October 5, 2017 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 1875, with an immediate effective date of September 2, 2020 (Supp. 20-3).

R9-16-402. Eligibility and Responsibilities for a Registered Environmental Health Sanitarian

- A.** An individual is eligible to be a registered environmental health sanitarian, if the individual meets at least one of the following:
- Has completed at least 30 semester credits at an accredited college or university in the natural sciences or the equivalent credits from a college or university from outside the United States or its territories verified by a Department-approved third party evaluation service;
 - Has completed at least five years of employment as a sanitarian aide in a position directly related to environmental health;
 - Has completed at least five years of active military service in the field of environmental health;
 - Is currently licensed as a sanitarian in another jurisdiction, has passed a sanitarian examination that is equivalent to this state's examination as specified in A.R.S. § 36-136.01, and has completed at least one of the requirements identified in subsections (A)(1), (2), or (3); or
 - Has received a copy of official sanitarian examination test results from a testing center that contains the sanitarian examination test results with a score of 70% or more and has completed at least one of the requirements identified in subsections (A)(1), (2), or (3).
- B.** An individual who is eligible to be a registered environmental health sanitarian according to subsection (A)(1) through (3) shall pass a sanitarian examination administered by a testing center.
- C.** The practice of a registered environmental health sanitarian may include:
- Investigate, sample, measure, and assess hazardous environmental agents;
 - Recommend and apply protective interventions that control hazards to health;
 - Develop, promote, and enforce guidelines, policies, rules, statutes, and regulations;
 - Perform system analysis;
 - Interpret research utilizing science and evidence to understand the relationship between health and environment; or
 - Interpret data and prepare technical summaries and reports.
- D.** A registered environmental health sanitarian shall:
- Comply with A.R.S. § 41-1009;
 - Comply with A.A.C. Title 9, Chapter 8; and
 - Review and, as applicable, sign reports prepared by a sanitarian aide.

Historical Note

Adopted effective September 29, 1976 (Supp. 76-4).

Amended effective April 12, 1985 (Supp. 85-2). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2). Amended by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 23 A.A.R. 3038, effective October 5, 2017 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 1875, with an immediate effective date of September 2, 2020 (Supp. 20-3).

R9-16-403. Requirements for an Environmental Health Sanitarian Aide

- A.** An environmental health sanitarian aide may perform and assist in any of the following environmental health services:
- Inspections related to food establishments, food processing, food distribution, sewage and refuse disposal, water supplies, hotels, motels, campground, swimming pools, and other related public facilities regulated under A.A.C. Title 9, Chapter 8;
 - Investigations of complaints to ensure compliance with environmental regulations;
 - Routine samplings of water, sewage, food, and other samples for analysis; or
 - Application of ordinances, codes, rules, and regulations governing public health.
- B.** An environmental health sanitarian aide shall:
- Have reports reviewed by a registered environmental health sanitarian;
 - Not approve or disapprove the operation of an establishment under A.A.C. Title 9, Chapter 8; and
 - Not sign on behalf of a registered environmental health sanitarian.
- C.** A sanitarian aide, who has completed at least five years of employment as an environmental health sanitarian aide in a position directly related to environmental health, may apply for registration as an environmental health sanitarian according to R9-16-405.
- D.** An individual who provides supervision to an environmental health sanitarian aide shall:
- Ensure that the number of hours and type of supervision in providing environmental health services is consistent with:
 - The sanitarian aide's skills and experience,
 - The setting where the environmental health services are provided, and
 - The tasks assigned;
 - Establish a record for the environmental health sanitarian aide who receives supervision that includes:
 - The sanitarian aide's name, address, e-mail address, and telephone number;
 - A plan indicating the types of skills and the number of hours allocated to the development of each skill that the environmental health sanitarian aide is expected to complete;
 - Documentation of evaluations provided to the environmental health sanitarian aide during the time supervision was provided; and
 - Documentation of when supervision began and ended; and
 - Maintain a sanitarian aide's record throughout the period that the environmental health sanitarian aide received supervision.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2444,

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effective May 16, 2002 (Supp. 02-2). Former R9-16-403 renumbered to R9-16-404; new R9-16-403 made by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 23 A.A.R. 3038, effective October 5, 2017 (Supp. 17-4).

R9-16-404. Continuing Education Requirements; Continuing Education Deferral; and Renewal Extension

- A.** A registered environmental health sanitarian shall complete 12 continuing education hours during the 12 months prior to December 31 of each calendar year, unless the registered environmental health sanitarian:
1. Has been a registered environmental health sanitarian for less than 12 months as indicated on the renewal application;
 2. Was prevented from completing continuing education according to subsection (A) due to a personal or immediate family member's illness during at least six continuous months of the preceding 12 months; or
 3. Was called to active military service.
- B.** Except for a registered environmental health sanitarian in subsection (A)(1) and (3), by November 1 of each calendar year, a registered environmental health sanitarian may request to defer continuing education by submitting:
1. A request in a Department-provided format that contains:
 - a. The registered environmental health sanitarian's name, address, e-mail address, and telephone number;
 - b. The registered environmental health sanitarian's registration number;
 - c. A statement regarding the registered environmental health sanitarian's personal or immediate family member's illness;
 - d. Indicate the number of continuing education hours requesting to defer;
 - e. An attestation that the Department is authorized to verify all information provided in the continuing education deferral request; and
 - f. The registered environmental health sanitarian's signature, including date of signature;
 2. Documentation that verifies the duration of the registered environmental health sanitarian's personal or immediate family member's illness from the physician treating or who treated the registered environmental health sanitarian's personal or immediate family member's illness; and
 3. If a registered environmental health sanitarian has completed any continuing education hours, report the completed continuing education hours according to R9-16-406(D)(1)(h).
- C.** A registered environmental health sanitarian that deferred continuing education in subsection (B) shall obtain:
1. The deferred continuing education by the end of the subsequent renewal year, and
 2. The continuing education required in subsection (A) for the current renewal year.
- D.** A registered environmental health sanitarian called to active military service:
1. Shall submit:
 - a. Written notice for renewal extension to the Department that includes:
 - i. The registered environmental health sanitarian's name, address, e-mail address, and telephone number;
 - ii. The registered environmental health sanitarian's registration number;

- iii. A statement stating the reason for the notice of renewal extension; and
 - iv. The registered environmental health sanitarian's signature, including date of signature; and
 - b. A copy of the registered environmental health sanitarian's deployment documentation;
2. Retains registration as an environmental health sanitarian for the term of service or deployment plus 180 calendar days;
 3. Defers the requirement for completing the continuing education for the term of service or deployment plus 180 calendar days; and
 4. Shall submit a renewal application packet according to R9-16-406 after the term of service or deployment plus 180 calendar days.
- E.** The Department shall review the request to defer continuing education submitted in subsection (B) for approval according to R9-16-407 and Table 4.1.
- F.** If the Department denies a registered environmental health sanitarian's request to defer continuing education, the registered environmental health sanitarian shall submit the required continuing education hours in subsection (A) according to R9-16-406(D)(1)(h).

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2). Former R9-16-404 renumbered to R9-16-406; new R9-16-404 renumbered from R9-16-403 and amended by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 23 A.A.R. 3038, effective October 5, 2017 (Supp. 17-4).

R9-16-405. Application for Sanitarian Examination and Registration

- A.** An individual may apply to take the sanitarian examination for registration as a sanitarian if the individual meets one of the eligibility requirements in R9-16-402(A)(1) through (A)(3).
- B.** At least seven calendar days before a Sanitarians Council meeting, an applicant for environmental health sanitarian registration shall submit an application packet to the Department containing:
1. The following information in a Department-provided format:
 - a. The applicant's name, address, e-mail address, and telephone number;
 - b. If applicable, applicant's former names;
 - c. The applicant's social security number, required under A.R.S. §§ 25-320 and 25-502;
 - d. If applicable, the applicant's current employment information:
 - i. The employer's name, address, e-mail address, and telephone number;
 - ii. The applicant's position title; and
 - iii. The applicant's employment start date;
 - e. If an applicant meets the eligibility requirement in R9-16-402(A)(1), the following for each college or university where the applicant completed semester credits or the equivalent credits from a college or university:
 - i. The college or university's name, address, e-mail address, and telephone number;
 - ii. The number of natural science semester credits completed; and
 - iii. If applicable, the degree obtained;

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- f. If an applicant meets the eligibility requirement in R9-16-402(A)(2), the following for each employer during the five years the applicant was employed as a sanitarian aide:
 - i. The employer's name, address, e-mail address, and telephone number;
 - ii. The name, title, e-mail address, and telephone number of a contact individual for the employer;
 - iii. The applicant's position and description of responsibilities; and
 - iv. The months and years of employment;
 - g. If an applicant meets the eligibility requirement in R9-16-402(A)(3), the following for each active military service assignment during the five years the applicant held a military job position in the field of environmental health:
 - i. The military branch name, address, e-mail address, and telephone number;
 - ii. The name, title, e-mail address, and telephone number of a contact individual from the military branch;
 - iii. The applicant's military job position and description of responsibilities; and
 - iv. The months and years of active military service assignments;
 - h. If an applicant meets the eligibility requirement in R9-16-402(A)(4), the following for a sanitarian licensed in another state or jurisdiction:
 - i. The state, county, and city that issued the applicant's current license as a sanitarian;
 - ii. The testing organization that administered the sanitarian examination;
 - iii. The name of the sanitarian examination;
 - iv. The sanitarian examination administration date;
 - v. The number of sanitarian examination questions;
 - vi. The sanitarian examination score;
 - vii. The other eligibility requirement in R9-16-402(A)(1) through (A)(3) met by the applicant; and
 - viii. As applicable, the information required in subsection (B)(1)(e), (f), or (g);
 - i. If an applicant meets the eligibility requirement in R9-16-402(A)(5), an applicant shall provide the following information:
 - i. The name of the testing center;
 - ii. The date the sanitarian examination was completed;
 - iii. The sanitarian examination score; and
 - iv. As applicable, the information required in subsection (B)(1)(e), (f), or (g);
 - j. Whether the applicant is or has been licensed as a sanitarian in another state or jurisdiction;
 - k. Whether the applicant has had an application for licensure as a sanitarian denied in a state or jurisdiction;
 - l. If the applicant has had an application for licensure as a sanitarian denied, the:
 - i. Reason for denial;
 - ii. Date of the denial; and
 - iii. Name, address, and telephone number of the licensing agency that denied the applicant's application;
 - m. Whether the applicant has had a license as a sanitarian suspended or revoked by a state or jurisdiction or entered into a consent agreement with a state or jurisdiction;
 - n. If the applicant has had a license as a sanitarian suspended or revoked or entered into a consent agreement, the:
 - i. Reason for the suspension, revocation, or consent agreement;
 - ii. Date of the suspension, revocation, or consent agreement; and
 - iii. Name, address, and telephone number of the licensing agency that suspended, revoked, or entered into a consent agreement with the applicant;
 - o. Whether the applicant has been convicted of a felony or a misdemeanor related to the functions of the applicant's employment or occupation as a sanitarian in this state or another state;
 - p. If the applicant has been convicted of a felony or a misdemeanor in subsection (B)(1)(o):
 - i. The date of the conviction,
 - ii. The state or jurisdiction of the conviction,
 - iii. An explanation of the crime of which the applicant was convicted, and
 - iv. The disposition of the case;
 - q. Whether the applicant agrees to allow the Department to submit supplemental requests for additional information or documentation in R9-16-407;
 - r. An attestation that:
 - i. The applicant authorizes the Department to verify all information provided in the application packet, and
 - ii. The information submitted as part of the application packet is true and accurate; and
 - s. The applicant's signature and date of signature;
2. In addition to the application in subsection (B)(1), the following:
 - a. A copy of applicant's Social Security card;
 - b. Proof of U.S. citizenship or alien status according to A.R.S. § 41-1080;
 - c. If applicable, a copy of an applicant's sanitarian license issued by another state or jurisdiction;
 - d. If an official transcript is issued by a college or university from outside of the United States or its territories, documentation from a third party evaluation service verifying equivalent credits identified in subsection (B)(1)(e);
 - e. If applicable, a letter verifying an applicant's start and end dates of employment for each employer identified in subsection (B)(1)(f);
 - f. If applicable, a letter verifying an applicant's start and end dates of the military job position for each active military service assignment identified in subsection (B)(1)(g);
 - g. If applicable, documentation of the completed sanitarian examination, including the sanitarian examination test results, from the testing center or jurisdiction that administered the sanitarian examination required by another state or jurisdiction in subsection (B)(1)(h); and
 - h. If applicable, a copy of the official notice from a testing center in subsection (B)(1)(i); and
 3. The nonrefundable \$25 application fee.

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- C. If an official transcript documents natural science semester credit hours identified in subsection (B)(1)(e), an applicant shall instruct the college or university to send the official transcript to the Department.
- D. The Department shall review an application packet for an applicant to take a sanitarian examination according to R9-16-407 and Table 4.1.
- E. The Department shall review a sanitarian examination for an applicant licensed by another state or jurisdiction for approval for the applicant to practice as a registered environmental health sanitarian according to R9-16-407 and Table 4.1.
- F. An applicant approved to take a sanitarian examination shall:
1. Select a testing center,
 2. Take a scheduled sanitarian examination administered by the testing center,
 3. Pass the sanitarian examination with a score of 70% or more and submit a copy of the applicant's official sanitarian examination test results to the Department.
- G. The Department shall review an application packet for approval for an applicant to practice as a registered environmental health sanitarian according to R9-16-407 and Table 4.1.
- H. An applicant, who does not submit a copy of official sanitarian examination test results to the Department in subsection (F) within six months after the date that the applicant received the notice of approval to take the sanitarian examination, shall submit a new application packet according to R9-16-405(B).
- I. An applicant, who submits a copy of official sanitarian examination test results to the Department in subsection (F) within six months after the date that the applicant received the notice of approval to take the sanitarian examination and does not score 70% or more, shall:
1. Have 12 months from the date of the approval letter the applicant received from the Department to provide a copy of official sanitarian examination test results in subsection (F); and
 2. Comply with subsection (F)(1) through (F)(3) to retake the sanitarian examination.
- Historical Note**
 Adopted effective September 29, 1976 (Supp. 76-4). Amended effective April 12, 1985 (Supp. 85-2). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5257, effective September 30, 2001 (Supp. 01-4). New Section made by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2). Former R9-16-405 renumbered to R9-16-407; new R9-16-405 made by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 23 A.A.R. 3038, effective October 5, 2017 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 1875, with an immediate effective date of September 2, 2020 (Supp. 20-3).
- R9-16-406. Application for Renewal Registration**
- A. Except as provided in R9-16-404(D), a registered environmental health sanitarian shall submit an application packet for registration renewal on or before December 31 of each calendar year.
- B. A registered environmental health sanitarian who does not submit a renewal application packet by December 31 has a grace period until February 15 to submit a renewal application packet.
- C. A registered environmental health sanitarian, who does not submit a renewal application packet by February 15, shall not practice as a registered environmental health sanitarian.
- D. By December 31 of each calendar year, an applicant shall submit to the Department a renewal application packet containing:
1. The following information in a Department-provided format:
 - a. The applicant's name, address, e-mail address, and telephone number;
 - b. The applicant's environmental health sanitarian registration number;
 - c. Whether the applicant, since the applicant last submitted an application packet or renewal application packet, has had a license as a sanitarian suspended or revoked by a state or jurisdiction or entered into a consent agreement with another jurisdiction;
 - d. If the applicant has had a license as a sanitarian suspended or revoked or entered into a consent agreement with another jurisdiction, the:
 - i. Reason for the suspension, revocation, or consent agreement;
 - ii. Date of the suspension, revocation, or consent agreement; and
 - iii. Name, address, and telephone number of the licensing agency that suspended, revoked, or entered into a consent agreement;
 - e. Whether the applicant, since the applicant last submitted a renewal application packet, has been convicted of a felony or a misdemeanor related to the applicant's employment or occupation as a sanitarian in this state or another jurisdiction;
 - f. If the applicant has been convicted of a felony or a misdemeanor as stated according to subsection (D)(1)(e):
 - i. The date of the conviction,
 - ii. The state or jurisdiction of the conviction,
 - iii. An explanation of the crime of which the applicant was convicted, and
 - iv. The disposition of the case;
 - g. Whether the applicant requested to defer continuing education due to a personal or immediate family member's illness according to R9-16-404(B);
 - h. Except for a registered environmental health sanitarian in R9-16-404(A), for each continuing education course completed during the previous 12 months, the following:
 - i. The course title,
 - ii. A course description,
 - iii. The name of the individual providing the continuing education course,
 - iv. The date the continuing education course was completed, and
 - v. The total number of continuing education hours attended;
 - i. Whether the applicant has been a registered environmental health sanitarian for less than 12 months according to R9-16-404(A)(1);
 - j. An attestation that:
 - i. The applicant affirms that the continuing education courses specified according to subsection (h) are applicable and consistent with the Department's approved continuing education courses or with the practice of a registered

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environmental sanitarian described in R9-16-402(C);

- ii. The applicant authorizes the Department to verify all information provided in the renewal application packet; and
- iii. The information submitted as part of the renewal application packet is true and accurate; and

k. The applicant's signature and date of signature;

- 2. If applicable, a copy of the approved request to defer continuing education; and
- 3. The \$10 renewal application fee.

E. If a registered environmental health sanitarian does not submit a renewal application packet in subsection (D) by February 15:

- 1. The registered environmental health sanitarian's registration expires on February 16; and
- 2. Before practicing as a registered environmental health sanitarian, a registered environmental health sanitarian whose environmental health sanitarian registration expired shall submit a new application packet according to R9-16-405.

F. The Department shall review the renewal application packet for approval of registration as an environmental health sanitarian according to R9-16-407 and Table 4.1.

Historical Note

Adopted effective September 29, 1976 (Supp. 76-4). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2). Former R9-16-406 renumbered to R9-16-408; new R9-16-406 renumbered from R9-16-404 by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 23 A.A.R. 3038, effective October 5, 2017 (Supp. 17-4).

R9-16-407. Time-frames

A. The overall time-frame begins, for:

- 1. A sanitarian examination approval, on the date the Department receives an application packet in R9-16-405;
- 2. An environmental health sanitarian registration approval, on the date the Department receives the applicant's sanitarian examination test results administered by:
 - a. A testing center described in R9-16-405(B)(1)(i) or (F), or
 - b. A testing organization or jurisdiction that administered the sanitarian examination required by another state or jurisdiction described in R9-16-405(B)(1)(h);
- 3. A continuing education deferral approval, on the date the Department receives the continuing education deferral request in R9-16-404; and
- 4. A renewal registration approval, on the date the Department receives a renewal application packet in R9-16-406.

B. The applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame. The substantive review time-frame and the overall time-frame may not be extended by more than 25% of the overall time-frame.

C. Within the administrative completeness review time-frame in Table 4.1, the Department shall:

- 1. Provide a notice of administrative completeness to an applicant; or
- 2. Provide a notice of deficiencies to an applicant, including a list of the missing information or documents.

D. If the Department provides a notice of deficiencies to an applicant:

- 1. The administrative completeness review time-frame and the overall time-frame are suspended after the date of the notice of deficiencies until the date the Department receives the missing information or documents from the applicant;
- 2. If the applicant submits the missing information or documents to the Department within the time-frame in Table 4.1, the substantive review time-frame resumes on the date the Department receives the missing information or documents; and
- 3. If the applicant does not submit the missing information or documents to the Department within the time-frame in Table 4.1, the Department shall consider the application or the request withdrawn.

E. If the Department issues a registration or notice of an approval during the administrative completeness review time-frame, the Department may not issue a separate written notice of administrative completeness.

F. Within the substantive review time-frame specified in Table 4.1, the Department:

- 1. Shall approve an:
 - a. Applicant's request for registration as an environmental health sanitarian or
 - b. Applicant, who did not score 70% or more on the sanitarian examination, to resubmit a sanitarian examination according to R9-16-405(I);
- 2. Shall deny an applicant's request for registration as an environmental health sanitarian;
- 3. May make a written comprehensive request for additional information or documentation; and
- 4. May make supplemental requests for additional information and documentation if agreed to by the applicant.

G. If the Department provides a written comprehensive request for additional information or documentation or a supplemental request to the applicant:

- 1. The substantive review time-frame and overall time-frame are suspended from the date of the written comprehensive request or supplemental request until the date the Department receives the information and documents requested; and
- 2. The applicant shall submit to the Department the information and documents listed in the written comprehensive request within 15 calendar days after the date of the written comprehensive request or supplemental request.

H. The Department shall issue:

- 1. An approval to an applicant who submits:
 - a. An application packet to take a sanitarian examination that complies with the requirements in R9-16-405;
 - b. An application packet and a sanitarian examination with a score of 70% or more from a testing center that complies with the requirements in R9-16-405;
 - c. An application packet and a sanitarian examination test results from the testing organization or jurisdiction that administered the sanitarian examination that complies with the requirements in R9-16-405;
 - d. A continuing education deferral request that complies with the requirements in R9-16-404; and
 - e. An application for renewal registration that complies with the requirements R9-16-406; or

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2. A denial to an applicant, including the reason for the denial and the appeal process in A.R.S. Title 41, Chapter 6, Article 10, if:
 - a. The applicant does not submit all of the information and documentation listed in a written comprehensive request or supplemental request for additional information or documentation; or
 - b. The applicant does not comply with A.R.S. § 36-136.01 and this Article.

Historical Note

Adopted effective September 29, 1976 (Supp. 76-4). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2). Former R9-16-407 renumbered to R9-16-409; new R9-16-407 renumbered from R9-16-405 and amended by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 23 A.A.R. 3038, effective October 5, 2017 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 1875, with an immediate effective date of September 2, 2020 (Supp. 20-3).

Table 4.1. Time-frames (in calendar days)

| Type of Approval | Statutory Authority | Overall Time-frame | Administrative Completeness Review Time-frame | Time to Respond to Deficiency Notice | Substantive Review Time-frame | Time to Respond to Written Comprehensive Request |
|-------------------------------------------|-----------------------|--------------------|-----------------------------------------------|--------------------------------------|-------------------------------|--------------------------------------------------|
| Sanitarian Examination (R9-16-405) | A.R.S. § 36-136.01(B) | 150 | 30 | 30 | 120 | 15 |
| Initial Registration (R9-16-405) | A.R.S. § 36-136.01(B) | 40 | 10 | 15 | 30 | 15 |
| Registration by Reciprocity (R9-16-405) | A.R.S. § 36-136.01(C) | 150 | 30 | 30 | 120 | 15 |
| Deferred Continuing Education (R9-16-404) | A.R.S. § 36-136.01(E) | 45 | 30 | 15 | 15 | 15 |
| Renewal Registration (R9-16-406) | A.R.S. § 36-136.01(D) | 75 | 60 | 15 | 15 | 15 |

Historical Note

Table 4.1 Time-frames made by final rulemaking at 23 A.A.R. 3038, effective October 5, 2017 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 1875, with an immediate effective date of September 2, 2020 (Supp. 20-3).

R9-16-408. Requesting a Change

Within 30 calendar days after the effective date of a change, a registered environmental health sanitarian requesting a change to personal information shall submit in a Department-provided format:

1. A written notice stating the information to be changed and indicating the new information; and
2. If the change is to the registered environmental health sanitarian's legal name, a copy of one of the following with the registered environmental health sanitarian's new name:
 - a. Marriage certificate,
 - b. Divorce decree,
 - c. Professional license, or
 - d. Other legal document establishing the registered environmental health sanitarian's legal name.

Historical Note

Adopted effective September 29, 1976 (Supp. 76-4). Section repealed by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2). Section R9-16-408 renumbered from R9-16-406 by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 23 A.A.R. 3038, effective October 5, 2017 (Supp. 17-4).

R9-16-409. Denial, Suspension, or Revocation

- A. The Department may deny an application packet for approval for registration or renewal of registration if the Department determines that an applicant:
 1. Intentionally provided false information or documents in an application packet or renewal application packet;

2. Had an application for a license related to the practice of a registered environmental health sanitarian denied by a state or jurisdiction;
3. Had a license related to the practice of a registered environmental health sanitarian suspended or revoked by a state or jurisdiction or entered into a consent agreement with a state or jurisdiction; or
4. Was convicted of or entered into a plea of no contest to a misdemeanor resulting from employment as a registered environmental health sanitarian or a felony.
- B. The Department may suspend or revoke a registered environmental health sanitarian's registration if the Department determines that a registered environmental health sanitarian:
 1. Assisted an individual who is not a registered environmental health sanitarian to circumvent the requirements in this Article;
 2. Allowed an individual who is not a registered environmental health sanitarian to use the registered environmental health sanitarian's registration;
 3. Falsified records to interfere with or obstruct an investigation or regulatory process of the Department or a political subdivision; or
 4. Failed to comply with any of the requirements in A.R.S. § 36-136.01 or this Article.
- C. In determining whether to suspend or revoke a registered environmental health sanitarian's registration, the Department shall consider the threat to public health based on:
 1. Whether there is repeated non-compliance with statutes or rules,
 2. Type of non-compliance,

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3. Severity of non-compliance, and
4. Number of non-compliance actions.

- D. The Department's notice of suspension or revocation to the applicant or registered environmental health sanitarian shall comply with A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

Adopted effective September 29, 1976 (Supp. 76-4). Amended effective April 12, 1985 (Supp. 85-2). Section repealed by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2). Section R9-16-409 renumbered from R9-16-407 and amended by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 23 A.A.R. 3038, effective October 5, 2017 (Supp. 17-4).

R9-16-410. Repealed**Historical Note**

Adopted effective September 29, 1976 (Supp. 76-4). Former Section R9-16-410 repealed, new Section R9-16-410 adopted effective April 12, 1985 (Supp. 85-2). Section repealed by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2).

R9-16-411. Repealed**Historical Note**

Adopted effective September 29, 1976 (Supp. 76-4). Former Section R9-16-411 renumbered as Section R9-16-414, new Section R9-16-411 adopted effective April 12, 1985 (Supp. 85-2). Section repealed by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2).

R9-16-412. Repealed**Historical Note**

Adopted effective April 12, 1985 (Supp. 85-2). Section repealed by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2).

R9-16-413. Repealed**Historical Note**

Adopted effective April 12, 1985 (Supp. 85-2). Section repealed by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2).

R9-16-414. Expired**Historical Note**

Former Section R9-16-411 renumbered as Section R9-16-414 effective April 12, 1985 (Supp. 85-2). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5257, effective September 30, 2001 (Supp. 01-4).

Table 1. Repealed**Historical Note**

Table 1. Time-frames made by final rulemaking under new Section R9-16-405 at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2). Table 1. Time-frames following Section R9-16-405 renumbered below Section R9-16-407 and amended by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3). Table 1. Time-frames repealed by final rulemaking at 23 A.A.R. 3038, effective October 5, 2017 (Supp. 17-4).

ARTICLE 5. LICENSING SPEECH-LANGUAGE PATHOLOGIST ASSISTANTS**R9-16-501. Definitions**

In addition to the definitions in A.R.S. § 36-1901, the following definitions apply in this Article unless otherwise specified:

1. "Accredited" means approved by the:
 - a. New England Commission of Higher Education,
 - b. Middle States Commission on Higher Education,
 - c. Higher Learning Commission,
 - d. Northwest Commission on Colleges and Universities,
 - e. Southern Association of Colleges and Schools Commission on Colleges, or
 - f. WASC Senior College and University Commission.
2. "Applicant" means an individual who submits a license application and required documentation for approval to practice as a speech-language pathologist assistant.
3. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
4. "Continuing education" means a course that provides instruction and training that is designed to develop or improve a licensee's professional competence in disciplines that directly relate to the licensee's scope of practice.
5. "Course" means a workshop, seminar, lecture, conference, or class.
6. "Documentation" means information in written, photographic, electronic, or other permanent form.
7. "General education" means instruction that includes:
 - a. Oral communication,
 - b. Written communication,
 - c. Mathematics,
 - d. Computer instruction,
 - e. Social sciences, and
 - f. Natural sciences.
8. "Observation" means to witness:
 - a. The provision of speech-language pathology services to a client, or
 - b. A demonstration of how to provide speech-language pathology services to a client.
9. "Semester credit hour" means one earned academic unit of study completed, at an accredited college or university, by:
 - a. Attending a 50 to 60 minute class session each calendar week for at least 16 weeks, or
 - b. Completing practical work for a course as determined by the accredited college or university.
10. "Speech-language pathologist" means an individual who is licensed under A.R.S. § 36-1940.01.
11. "Speech-language pathology technical course work" means a curriculum that provides knowledge to develop core skills and assume job responsibilities, including:
 - a. Language acquisition,
 - b. Speech development,
 - c. Communication disorders,
 - d. Articulation and phonology, and
 - e. Intervention techniques for speech and language disorders.

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12. "Supervision" means instruction and monitoring provided by a licensed speech-language pathologist as required in A.R.S. § 36-1940.04(E) and (F) to an individual training to become a speech-language pathologist assistant.

Historical Note

New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 26 A.A.R. 852, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-502. Initial Application**A.** An applicant for licensure shall submit to the Department:

1. An application in a Department-provided format that contains:
 - a. The applicant's name, home address, telephone number, and e-mail address;
 - b. The applicant's Social Security number, as required under A.R.S. §§ 25-320 and 25-502;
 - c. If applicable, the name of the applicant's employer and the employer's business address and telephone number;
 - d. Whether the applicant has ever been convicted of a felony or of a misdemeanor in this state or another state;
 - e. If the applicant has been convicted of a felony or a misdemeanor:
 - i. The date of the conviction,
 - ii. The state or jurisdiction of the conviction,
 - iii. An explanation of the crime of which the applicant was convicted, and
 - iv. The disposition of the case;
 - f. Whether the applicant has had a license revoked or suspended by any state;
 - g. Whether the applicant is currently ineligible for licensure in any state because of a prior license revocation or suspension;
 - h. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-506;
 - i. An attestation that the information submitted is true and accurate; and
 - j. The applicant's signature and date of signature;
2. If applicable, a list of all states and countries in which the applicant is or has been licensed as a speech-language pathologist assistant;
3. If a license for an applicant has been revoked or suspended by any state, documentation that includes:
 - a. The date of the revocation or suspension,
 - b. The state or jurisdiction of the revocation or suspension, and
 - c. An explanation of the revocation or suspension;
4. If the applicant is currently ineligible for licensure in any state because of a prior license revocation or suspension, documentation that includes:
 - a. The date of the ineligibility for licensure,
 - b. The state or jurisdiction of the ineligibility for licensure, and
 - c. An explanation of the ineligibility for licensure;
5. Documentation of the applicant's citizenship or alien status that complies with A.R.S. § 41-1080.

6. A transcript or equivalent documentation issued to the applicant from an accredited college or university, showing completion of at least 60 semester credit hours of general education and speech-language pathology technical course work specified in A.R.S. § 36-1940.04(A) that requires:
 - a. No less than 20 semester credit hours of general education, and
 - b. No less than 20 semester credit hours of speech-language pathology technical course work;

7. Documentation, signed by a licensed speech-language pathologist as required in A.R.S. §36-1940.04 who provided supervision to the applicant, confirming the applicant's completion of at least 100 hours of clinical interaction that did not include observation; and
8. The application and licensing fees specified in R9-16-508.

B. In addition to complying with subsection (A)(1) through (5), an applicant that may be eligible for licensure under A.R.S. § 36-1922 shall submit documentation to the Department that includes:

1. The name of each state that issued the applicant a current speech-language pathologist assistant, including:
 - a. The license number of each current speech-language pathologist assistant license, and
 - b. The date each current speech-language pathologist assistant license was issued;
2. Documentation of the professional license or certification issued to the applicant by each state in which the applicant holds a professional license or certification;
3. For each state named in subsection (B)(1), a statement, signed and dated by the applicant, attesting that the applicant:
 - a. Has been licensed or certified in another state for at least one year, with a scope of practice consistent with the scope of practice for which licensure is being requested;
 - b. Has met minimum education requirements according to A.R.S. § 36-1940.04;
 - c. Has not voluntarily surrendered a license or certification in any other state or country while under investigation for unprofessional conduct; and
 - d. Does not have a complaint, allegation, or investigation pending before another regulatory entity in another state or country related to unprofessional conduct.

C. A regular license is valid for two years from the date of issue.**D.** The Department shall review the application and required documentation for an initial license to practice as a speech-language pathologist assistant according to R9-16-506 and Table 5.1.**E.** If the Department does not issue an initial license to an applicant, the Department shall refund the license fee to the applicant.**Historical Note**

New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Section R9-16-502 repealed; new Section R9-16-502 renumbered from R9-16-503 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 26 A.A.R. 852, with an immediate effective date of April 8, 2020

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(Supp. 20-2).

R9-16-503. License Renewal

A. Before the expiration date of a speech-language pathologist assistant license, a licensee shall submit to the Department:

1. An application in a Department-provided format for renewal of a speech-language pathologist assistant license that contains:
 - a. The licensee's name, home address, telephone number, and e-mail address;
 - b. The licensee's current employment, if applicable, including:
 - i. The employer's name,
 - ii. The licensee's position,
 - iii. Dates of employment,
 - iv. The address of the employer,
 - v. The supervisor's name,
 - vi. The supervisor's e-mail address, and
 - vii. The supervisor's telephone number;
 - c. If applicable, the name of the licensee's supervising speech-language pathologist;
 - d. The licensee's license number and date of expiration;
 - e. Since the previous license application, whether the licensee has been convicted of a felony or a misdemeanor involving moral turpitude in this or another state;
 - f. If the licensee has been convicted of a felony or a misdemeanor:
 - i. The date of the conviction,
 - ii. The state or jurisdiction of the conviction,
 - iii. An explanation of the crime of which the licensee was convicted, and
 - iv. The disposition of the case;
 - g. Whether the licensee has had a license revoked or suspended by any state within the previous two years;
 - h. Whether the licensee is currently ineligible for licensure in any state because of a prior license revocation or suspension;
 - i. Whether the licensee agrees to allow the Department to submit supplemental requests for information under R9-16-506;
 - j. An attestation that the licensee has completed continuing education required under A.R.S. 36-1904 and this Article and documentation of completion is available upon request;
 - k. An attestation that the information required as part of the renewal application is true and accurate; and
 - l. The licensee's signature and date of signature;
2. If a license for a licensee has been revoked or suspended by any state within the previous two years, documentation that includes:
 - a. The date of the revocation or suspension,
 - b. The state or jurisdiction of the revocation or suspension, and
 - c. An explanation of the revocation or suspension;
3. If the licensee is currently ineligible for licensure in any state because of a prior license revocation or suspension, documentation that includes:
 - a. The date of the ineligibility for licensure,
 - b. The state or jurisdiction of the ineligibility for licensure, and
 - c. An explanation of the ineligibility for licensure;
4. A renewal fee specified in R9-16-508.

B. According to A.R.S. § 36-1904, the Department shall allow a speech-language pathologist assistant to renew a license within 30 calendar days after the expiration date of the license by submitting to the Department:

1. The renewal application, including documentation required in subsection (A), and
2. Fees specified in R9-16-508.

C. An individual who does not submit a renewal application, documentation; and fees required in subsection (A) or (B), shall reapply for an initial license according to R9-16-502.

Historical Note

New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Section R9-16-503 renumbered to R9-16-502; new Section R9-16-503 renumbered from R9-16-504 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 26 A.A.R. 852, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-504. Continuing Education

A. Twenty-four months prior to submitting a renewal application, a licensee shall complete continuing education.

B. Continuing education shall:

1. Directly relate to the practice of speech-language pathology;
2. Have educational objectives that exceed an introductory level of knowledge of speech-language pathology; and
3. Consist of courses that include advances within the last five years in:
 - a. Practice of speech-language pathology,
 - b. Auditory rehabilitation,
 - c. Ethics, or
 - d. Federal and state statutes or rules.

C. A continuing education course developed, endorsed, or sponsored by one of the following meets the requirements in subsection (B):

1. Hearing Healthcare Providers of Arizona,
2. Arizona Speech-Language-Hearing Association,
3. American Speech-Language-Hearing Association,
4. International Hearing Society,
5. International Institute for Hearing Instrument Studies,
6. American Auditory Society,
7. American Academy of Audiology,
8. Academy of Doctors of Audiology,
9. Arizona Medical Association,
10. American Academy of Otolaryngology-Head and Neck Surgery, or
11. An organization determined by the Department to be consistent with an organization in subsection (C)(1) through (10).

D. A speech-language pathologist assistant shall comply with the requirements in A.R.S. § 36-1904.

Historical Note

New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Section R9-16-504 renumbered to R9-16-503; new Section R9-16-504 renumbered from R9-16-506 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 26 A.A.R. 852, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-505. Enforcement

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- A. The Department may, as applicable:
1. Deny, revoke, or suspend an speech-language pathologist assistant license under A.R.S. § 36-1934;
 2. Request an injunction under A.R.S. § 36-1937; or
 3. Assess a civil money penalty under A.R.S. § 36-1939.
- B. In determining which disciplinary action specified in subsection (A) is appropriate, the Department shall consider:
1. The type of violation,
 2. The severity of the violation,
 3. The danger to public health and safety,
 4. The number of violations,
 5. The number of clients affected by the violations,
 6. The degree of harm to a client,
 7. A pattern of noncompliance, and
 8. Any mitigating or aggravating circumstances.

Historical Note

New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 852, with an immediate effective date of April 8, 2020 (Supp. 20-2).

Table 1. Renumbered**Historical Note**

New Table 1 made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Table 1 renumbered to Table 5.1 by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

R9-16-506. Time-frames

- A. For each type of license issued by the Department under this Article, Table 5.1 specifies the overall time-frame described in A.R.S. § 41-1072(2).
1. An applicant or licensee and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame.
 2. The extension of the substantive review time-frame and the overall time-frame may not exceed 25% of the overall time-frame.
- B. For each type of license issued by the Department under this Article, Table 5.1 specifies the administrative completeness review time-frame described in A.R.S. § 41-1072(1).
1. The administrative completeness review time-frame begins on the date the Department receives an application and required documentation required in this Article.
 2. Except as provided in subsection (B)(3), the Department shall provide a written notice of administrative completeness or a notice of deficiencies to an applicant within the administrative completeness review time-frame.
 - a. If an application or required documentation is not complete, the notice of deficiencies shall list each

deficiency and the information or documentation needed to complete the application.

- b. A notice of deficiencies suspends the administrative completeness review time-frame and the overall time-frame from the date of the notice until the date the Department receives the missing documents or information.
 - c. If the applicant does not submit to the Department all or documentation listed in the notice of deficiencies within 30 calendar days after the date of the notice of deficiencies, the Department shall consider the application withdrawn.
3. If the Department issues a license during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- C. For each type of license issued by the Department under this Article, Table 5.1 specifies the substantive review time-frame described in A.R.S. § 41-1072(3), which begins on the date of the notice of administrative completeness.
1. Within the substantive review time-frame, the Department shall provide a written notice to the applicant that the Department issued or denied the license.
 2. During the substantive review time-frame:
 - a. The Department may make one comprehensive written request for additional information or documentation; and
 - b. If the Department and the applicant agree in writing, the Department may make supplemental requests for additional information or documentation.
 3. A comprehensive written request or a supplemental request for additional information or documentation suspends the substantive review time-frame and the overall time-frame from the date of the request until the date the Department receives all the documents and information requested.
 4. If the applicant does not submit to the Department all the information or documentation listed in a comprehensive written request or supplemental request for additional information or documentation within 30 calendar days after the date of the request, the Department shall deny the license.
- D. An applicant who is denied a license may appeal the denial according to A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Section R9-16-506 renumbered to R9-16-504; new Section R9-16-506 renumbered from R9-16-507 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 852, with an immediate effective date of April 8, 2020 (Supp. 20-2).

Table 5.1. Time-frames (in calendar days)

| Type of Approval | Statutory Authority | Overall Time-Frame | Administrative Completeness Review Time-Frame | Time to Respond to Notice of Deficiency | Substantive Review Time-Frame | Time to Respond to Comprehensive Written Request |
|-----------------------------|----------------------------------|--------------------|-----------------------------------------------|-----------------------------------------|-------------------------------|--------------------------------------------------|
| Initial License (R9-16-502) | A.R.S. §§ 36-1904 and 36-1940.04 | 60 | 30 | 30 | 30 | 30 |

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|-----------------------------|------------------|----|----|----|----|----|
| Renewal License (R9-16-503) | A.R.S. § 36-1904 | 60 | 30 | 30 | 30 | 30 |
|-----------------------------|------------------|----|----|----|----|----|

Historical Note

Table 5.1 renumbered from Table 1 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Table 5.1 repealed; new Table 5.1 made and recodified under Section R9-16-506 by final expedited rulemaking at 26 A.A.R. 852, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-507. Changes Affecting a License or a Licensee; Request for a Duplicate License

- A.** A licensee shall submit a notice to the Department in writing within 30 calendar days after the effective date of a change in:
1. The licensee's home address or e-mail address, including the new home address or e-mail address;
 2. The licensee's name, including one of the following with the licensee's new name:
 - a. Marriage certificate,
 - b. Divorce decree, or
 - c. Other legal document establishing the licensee's new name; or
 3. The place or places, including address or addresses, where the licensee engages in the practice of speech-language pathology.
- B.** A licensee may obtain a duplicate license by submitting to the Department a written request for a duplicate license in a Department-provided format that contains:
1. The licensee's name and address,
 2. The licensee's license number and expiration date,
 3. The licensee's signature and date of signature, and
 4. A duplicate license fee specified in R9-16-508.

Historical Note

New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Section R9-16-507 renumbered to R9-16-506; new Section R9-16-507 renumbered from R9-16-508 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 26 A.A.R. 852, with an immediate effective date of April 8, 2020 (Supp. 20-2).

R9-16-508. Fees

- A.** An applicant shall submit to the Department the following fees:
1. An initial nonrefundable application fee, \$100; and
 2. An initial license fee, \$200.
- B.** An applicant shall submit to the Department a \$200 license fee for renewal.
- C.** If an applicant submits a renewal license application specified in subsection (B) within 30 calendar days after the license expiration date, the applicant shall submit with the renewal license application a \$25 late fee.
- D.** An applicant for initial licensure is not required to submit the applicable fee in subsection (A), if the applicant submits an attestation that the applicant meets the criteria for waiver of licensing fees in A.R.S. § 41-1080.01.
- E.** The fee for a duplicate license is \$25.

Historical Note

New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). R9-16-508 renumbered to R9-16-507 by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). New Section made by final expedited rulemaking at 26 A.A.R.

852, with an immediate effective date of April 8, 2020 (Supp. 20-2).

ARTICLE 6. RADIATION TECHNOLOGISTS**R9-16-601. Definitions**

In addition to the definitions in A.R.S. § 32-2801, the following definitions apply in this Article unless otherwise specified:

1. "Applicant" means:
 - a. An individual who submits an application packet, or
 - b. A person who submits a request for approval of a radiation technologist training program.
2. "Application packet" means the information, documents, and fees required by the Department for a certificate or permit.
3. "ARRT" means the American Registry of Radiologic Technologists.
4. "Authorized user" means the same as in A.A.C. R9-7-102.
5. "Calendar day" means each day, not including the day of the act, event, or default, from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
6. "CBRPA" means the Certification Board for Radiology Practitioner Assistants.
7. "Certification" means the issuing of a certificate.
8. "Chest radiography" means radiography performed to visualize the heart and lungs only.
9. "Continuing education" means a course or learning activity that provides instruction and training designed to develop or improve the professional competence of a certificate holder related to the certificate holder's scope of practice.
10. "Contrast media" means material intentionally administered to a human body to define a part or parts of the human body that are not normally radiographically visible.
11. "Department-approved educational program" means a curriculum of courses and learning activities that is accredited by a nationally recognized accreditation body or granted approval through the Department.
12. "Department-approved examination" means a test administered through ARRT, NMTCB, ISCD, or CBRPA.
13. "Extremity" means the same as in A.A.C. R9-7-102.
14. "Fluoroscopy" means the use of radiography to directly visualize internal structures of the human body, the motion of internal structures, and fluids in real time, or near real-time, to aid in the treatment or diagnosis of disease or the performance of other medical procedures.
15. "ISCD" means the International Society for Clinical Densitometry.
16. "Nationally recognized accreditation body" means ARRT, NMTCB, ISCD, or CBRPA.

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17. "NMTCB" means the Nuclear Medicine Technology Certification Board.
18. "Radiograph" means the record of an image, representing anatomical details of a part of a human body examined through the use of ionizing radiation, formed by the differential absorption of ionizing radiation within the part of the human body.
19. "Radiography" means the use of ionizing radiation in making radiographs.
20. "Radiopharmaceutical agent" means a radionuclide or radionuclide compound designed and prepared for administration to human beings.

Historical Note

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

R9-16-602. Training Programs

- A. The Department shall maintain a list of Department-approved educational programs according to A.R.S. § 32-2804 on the Department's website at <https://www.azdhs.gov/licensing/special/index.php#mrt-approved-schools>.
- B. An applicant may request Department approval of a curriculum of courses and learning activities as a training program by submitting an application packet that contains:
 1. An application, in a Department-provided format, that includes:
 - a. The name and address of the school providing the training program;
 - b. The name, title, telephone number, and e-mail address of the administrator or designee of the school; and
 - c. A list of each training program for which approval is being requested, including the number of hours of instruction provided for each;
 2. A copy of the curriculum that includes course titles and course descriptions; and
 3. A list of instructors providing the instruction and the credentials of each.
- C. The Department shall:
 1. Review each application packet according to R9-16-621; and
 2. If approved, add the applicant's school to the list of Department-approved educational programs in subsection (A).
- D. If an applicant for certification or permit did not complete a Department-approved educational program, the applicant may submit to the Department a copy of the curriculum for the training program completed by the applicant with the applicant's application packet in R9-16-606(B), R9-16-607(A), or R9-16-609(A).

Historical Note

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).
Amended by final expedited rulemaking at 28 A.A.R. 3572 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-16-603. Practical Technologist in Radiology - Eligibility and Scope of Practice

- A. An individual is eligible for certification as a practical technologist in radiology if the individual:
 1. Is at least 18 years of age; and
 2. Either:
 - a. Has completed a training program in radiologic technology through a Department-approved educational program and achieved a score of at least 67% on a Department-approved examination; or
 - b. Meets the criteria in A.R.S. § 32-4302(A).

- B. An individual certified as a practical technologist in radiology shall:
 1. Follow the standards specified in the 2019 American Society of Radiologic Technologists Limited X-Ray Machine Operator Practice Standards available at https://www.asrt.org/docs/default-source/practice-standards-published/ps_lxmo.pdf?sfvrsn=29e176d0_16, incorporated by reference, on file with the Department, and including no future editions or amendments;
 2. Perform only:
 - a. Chest radiography, and
 - b. Radiography of the extremities; and
 3. Not use fluoroscopy or contrast media.

Historical Note

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).
Amended by final expedited rulemaking at 28 A.A.R. 3572 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-16-604. Practical Technologist in Podiatry - Eligibility and Scope of Practice

- A. An individual is eligible for certification as a practical technologist in podiatry if the individual:
 1. Is at least 18 years of age; and
 2. Either:
 - a. Has:
 - i. Completed a training program in podiatry radiology through a Department-approved educational program;
 - ii. Received a signed and dated attestation from a podiatrist licensed according to A.R.S. Title 32, Chapter 7, verifying that the applicant:
 - (1) Completed training under the direction of the licensed podiatrist, and
 - (2) Is proficient in independently taking radiographs; and
 - iii. Achieved a score of at least 70% on a Department-approved examination; or
 - b. Meets the criteria in A.R.S. § 32-4302(A).
- B. An individual certified as a practical technologist in podiatry shall:
 1. Follow the standards specified in the 2019 American Society of Radiologic Technologists Limited X-Ray Machine Operator Practice Standards, available at https://www.asrt.org/docs/default-source/practice-standards-published/ps_lxmo.pdf?sfvrsn=29e176d0_16, incorporated by reference, on file with the Department, and including no future editions or amendments; and
 2. Only perform radiographic examinations of the lower leg, ankle, and foot, without the use of fluoroscopy or contrast media.

Historical Note

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).
Amended by final expedited rulemaking at 28 A.A.R.

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3572 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-16-605. Practical Technologist in Bone Densitometry - Eligibility and Scope of Practice

- A.** An individual is eligible for certification as a practical technologist in bone densitometry if the individual:
1. Is at least 18 years of age; and
 2. Either:
 - a. Has completed a training program in bone densitometry through a Department-approved educational program and achieved a score of at least 70% on a Department-approved examination; or
 - b. Meets the criteria in A.R.S. § 32-4302(A).
- B.** An individual certified as a practical technologist in bone densitometry shall:
1. Follow the standards specified in the 2019 American Society of Radiologic Technologists Bone Densitometry Practice Standards, available at https://www.asrt.org/docs/default-source/practice-standards-published/ps_bd.pdf?sfvrsn=11e176d0_22, incorporated by reference, on file with the Department, and including no future editions or amendments; and
 2. Apply ionizing radiation only to a person's hips, spine, and extremities through the use of a bone density machine without the use of fluoroscopy or contrast media.

Historical Note

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3). Amended by final expedited rulemaking at 28 A.A.R. 3572 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-16-606. Application for Examination

- A.** An individual may apply for examination if the individual meets eligibility criteria for a:
1. Practical technologist in radiology listed in R9-16-603(A);
 2. Practical technologist in podiatry listed in R9-16-604(A); or
 3. Practical technologist in bone densitometry listed in R9-16-605(A).
- B.** An applicant for examination shall submit an application packet to the Department that includes:
1. The information and documents required in R9-16-619;
 2. Except as provided in R9-16-602(D), documentation of completion of a Department-approved educational program; and
 3. For an applicant for examination as a practical technologist in podiatry, the attestation specified in R9-16-604(A)(2)(a)(ii).
- C.** The Department shall approve or deny an individual's application for examination according to R9-16-621.
- D.** If the Department determines that the application packet submitted under subsection (B) is complete and in compliance, the Department shall notify the applicant that the applicant is approved to test.
- E.** Upon notification by the Department according to subsection (D), and applicant:
1. Shall arrange testing through ARRT, and
 2. Has six months to complete testing before the applicant is required to re-apply for examination.

Historical Note

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3). Amended by final expedited rulemaking at 28 A.A.R. 3572 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-16-607. Application for Initial Certification as a Practical Technologist in Radiology, Practical Technologist in Podiatry, or Practical Technologist in Bone Densitometry

- A.** Except as provided in subsection (B), an applicant for initial certification as a practical technologist in radiology, practical technologist in podiatry, or practical technologist in bone densitometry shall submit an application packet to the Department that includes:
1. The information and documents required in R9-16-619;
 2. Except as provided in R9-16-602(D), documentation of completion of a Department-approved educational program;
 3. Documentation of achieving the applicable minimum score on a Department-approved examination;
 4. For an application for a practical technologist in podiatry, the signed attestation in R9-16-604(A)(2)(a)(ii) containing:
 - a. The name and date of birth of the applicant,
 - b. The name and license number of the licensed podiatrist,
 - c. A statement by the licensed podiatrist verifying completion of the applicant's clinical training and approval of radiographic images taken by the applicant, and
 - d. The licensed podiatrist's signature and date; and
 5. The applicable fee in R9-16-623.
- B.** If an applicant for initial certification as a practical technologist in radiology, practical technologist in podiatry, or practical technologist in bone densitometry may be eligible for certification under A.R.S. § 32-4302(A), the applicant shall submit an application packet to the Department that includes:
1. The information and documentation required in R9-16-619;
 2. Documentation of the professional license or certification issued to the applicant by each state in which the applicant holds a professional license or certification;
 3. A statement, signed and dated by the applicant, attesting that the applicant:
 - a. Has been licensed or certified in another state for at least one year, with a scope of practice consistent with the scope of practice for which certification is being requested;
 - b. Has met minimum education requirements and, if applicable, work experience and clinical supervision requirements, according to A.R.S. § 32-4302(A)(3);
 - c. Has not voluntarily surrendered a license or certification in any other state or country while under investigation for unprofessional conduct; and
 - d. Does not have a complaint, allegation, or investigation pending before another regulatory entity in another state or country related to unprofessional conduct; and
 4. The applicable fee in R9-16-623.
- C.** The Department shall approve or deny an individual's application for initial certification according to R9-16-621.

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Historical Note

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

R9-16-608. Radiologic Technologist, Nuclear Medicine Technologist, and Radiation Therapy Technologist - Eligibility and Scope of Practice

- A.** An individual is eligible to apply for initial certification as a radiologic technologist, nuclear medicine technologist, or radiation therapy technologist if the individual:
1. Is at least 18 years of age; and
 2. Satisfies one of the following:
 - a. Holds current applicable ARRT or NMTCB certification,
 - b. Has completed a Department-approved educational program in radiation technology and has a passing score on a Department-approved examination, or
 - c. Meets the criteria in A.R.S. § 32-4302(A).
- B.** An individual certified as a radiologic technologist shall follow the standards specified in the 2019 American Society of Radiologic Technologists Radiography Practice Standards, available at https://www.asrt.org/docs/default-source/practice-standards-published/ps_rad.pdf?sfvrsn=13e176d0_18, incorporated by reference, on file with the Department, and including no future editions or amendments.
- C.** An individual certified as a nuclear medicine technologist shall:
1. Follow the standards specified in the 2019 American Society of Radiologic Technologists Nuclear Medicine Practice Standards, available at https://www.asrt.org/docs/default-source/practice-standards-published/ps_nm.pdf?sfvrsn=1ee176d0_14, incorporated by reference, on file with the Department, and including no future editions or amendments; and
 2. Use radiopharmaceutical agents on humans for diagnostic or therapeutic purposes only.
- D.** An individual certified as a radiation therapy technologist shall follow the standards specified in the 2019 American Society of Radiologic Technologists Radiation Therapy Practice Standards, available at https://www.asrt.org/docs/default-source/practice-standards-published/ps_rt.pdf?sfvrsn=18e076d0_16, incorporated by reference, on file with the Department, and including no future editions or amendments.

Historical Note

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).
Amended by final expedited rulemaking at 28 A.A.R. 3572 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-16-609. Application for Initial Certification as a Radiation Technologist, Nuclear Medicine Technologist, or Radiation Therapy Technologist

- A.** Except as provided in subsection (B), an applicant for initial certification as a radiation technologist, nuclear medicine technologist, or radiation therapy technologist shall submit an application packet to the Department that includes:
1. The information and documents required in R9-16-619;
 2. Either:
 - a. A copy of the applicant's current ARRT or NMTCB certification; or
 - b. Documentation of:
 - i. Completing a Department-approved educational program, except as provided in R9-16-602(D); and

- ii. Having a passing score on a Department-approved examination; and

3. The applicable fee in R9-16-623.

- B.** If an applicant for initial certification as a radiation technologist, nuclear medicine technologist, or radiation therapy technologist may be eligible for certification under A.R.S. § 32-4302(A), the applicant shall submit an application packet to the Department that includes:
1. The information and documentation required in R9-16-619;
 2. Documentation of the professional license or certification issued to the applicant by each state in which the applicant holds a professional license or certification;
 3. A statement, signed and dated by the applicant, attesting that the applicant:
 - a. Has been licensed or certified in another state for at least one year, with a scope of practice consistent with the scope of practice for which certification is being requested;
 - b. Has met minimum education requirements and, if applicable, work experience and clinical supervision requirements, according to A.R.S. § 32-4302(A)(3);
 - c. Has not voluntarily surrendered a license or certification in any other state or country while under investigation for unprofessional conduct; and
 - d. Does not have a complaint, allegation, or investigation pending before another regulatory entity in another state or country related to unprofessional conduct; and
 4. The applicable fee in R9-16-623.
- C.** The Department shall approve or deny an individual's application for initial certification according to R9-16-621.

Historical Note

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

R9-16-610. Mammographic Technologist - Eligibility and Scope of Practice

- A.** An individual is eligible to apply for initial certification as a mammographic technologist if the individual:
1. Is at least 18 years of age;
 2. Possesses a current Department-issued certification in radiologic technology; and
 3. Satisfies one of the following:
 - a. Holds a current ARRT certification in mammography;
 - b. Meets the initial training and education requirements in 21 CFR 900.12 and has a passing score on a Department-approved examination in mammography, or
 - c. Meets the criteria in A.R.S. § 32-4302(A).
- B.** An individual certified as a mammographic technologist:
1. Shall follow the standards specified in the 2019 American Society of Radiologic Technologists Mammography Practice Standards, available at https://www.asrt.org/docs/default-source/practice-standards-published/ps_mamm.pdf?sfvrsn=10e076d0_16, incorporated by reference, on file with the Department, and including no future editions or amendments; and
 2. May perform diagnostic mammography or screening mammography, as defined in A.R.S. § 30-651.

Historical Note

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

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Amended by final expedited rulemaking at 28 A.A.R. 3572 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-16-611. Student Mammography Permits

- A.** Before beginning the initial training in 21 CFR 900.12 under R9-16-610(A)(3)(b), an individual shall obtain a student mammography permit from the Department.
- B.** An applicant for a student mammography permit shall submit an application packet to the Department that includes:
 - 1. The information and documents required under R9-16-619; and
 - 2. A Department-provided agreement form that includes the following:
 - a. The name and date of birth of the applicant;
 - b. The name, license number, e-mail address, and telephone number of a radiologist, licensed under A.R.S. Title 32, Chapter 13 or 17 and certified in radiology by the American Board of Radiology;
 - c. A statement that the licensed radiologist is accepting responsibility for the applicant's supervision and training; and
 - d. The licensed radiologist's signature and date of signing.
- C.** The Department shall approve or deny an individual's application for a student mammography permit according to R9-16-621.
- D.** A student mammography permit is valid for one year from the date issued and may not be renewed.

Historical Note

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

R9-16-612. Application for Initial Certification as a Mammographic Technologist

- A.** Except as provided in subsection (B), an applicant for initial certification as a mammographic technologist shall submit an application packet to the Department that includes:
 - 1. The information and documents required in R9-16-619;
 - 2. The applicant's current radiology technologist certificate number;
 - 3. The applicant's current student mammography permit number, if applicable;
 - 4. Either:
 - a. A copy of current ARRT certification in mammography; or
 - b. Documentation of:
 - i. Completing of initial education and training that meets the requirements specified in 21 CFR 900.12, and
 - ii. Having a passing score on a Department-approved examination in mammography; and
 - 5. The applicable fee in R9-16-623.
- B.** If an applicant for initial certification as a mammographic technologist may be eligible for certification under A.R.S. § 32-4302(A), the applicant shall submit an application packet to the Department that includes:
 - 1. The information and documentation required in R9-16-619;
 - 2. Documentation of the license or certification as a mammographic technologist issued to the applicant by each state in which the applicant holds the license or certification;
 - 3. A statement, signed and dated by the applicant, attesting that the applicant:

- a. Has been licensed or certified as a mammographic technologist in another state for at least one year;
- b. Has met minimum education requirements and, if applicable, work experience and clinical supervision requirements, according to A.R.S. § 32-4302(A)(3);
- c. Has not voluntarily surrendered a license or certification in any other state or country while under investigation for unprofessional conduct; and
- d. Does not have an complaint, allegation, or investigation pending before another regulatory entity in another state or country related to unprofessional conduct; and

- 4. The applicable fee in R9-16-623.

- C.** The Department shall approve or deny an individual's application for initial certification as a mammographic technologist according to R9-16-621.

Historical Note

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

R9-16-613. Computed Tomography Technologist - Eligibility and Scope of Practice

- A.** An individual is eligible to apply for initial certification as a computed tomography technologist if the individual:
 - 1. Is at least 18 years of age;
 - 2. Possesses a current Department-issued certification as a radiologic technologist or nuclear medicine technologist; and
 - 3. Satisfies one of the following:
 - a. Holds a current ARRT or NMTCB certification in computed tomography,
 - b. Has completed two years of training in computed tomography and twelve hours of computed tomography-specific education, or
 - c. Meets the criteria in A.R.S. § 32-4302(A).
- B.** An individual certified as a computed tomography technologist:
 - 1. Shall follow the standards specified in the 2019 American Society of Radiologic Technologists Computed Tomography Practice Standards, available at https://www.asrt.org/docs/default-source/practice-standards-published/ps_ct.pdf?sfvrsn=9e076d0_16, incorporated by reference, on file with the Department, and including no future editions or amendments; and
 - 2. May apply ionizing radiation to a human using a computed tomography machine for diagnostic purposes.

Historical Note

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

Amended by final expedited rulemaking at 28 A.A.R. 3572 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-16-614. Application for Computed Tomography Technologist Preceptorship and Temporary Certification

- A.** Before beginning training under R9-16-613(A)(3)(b), an individual shall obtain a computed tomography preceptorship certificate from the Department.
- B.** An applicant for a computed tomography preceptorship certificate shall submit an application packet to the Department that includes:
 - 1. The information and documents required under R9-16-619;

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2. A Department-provided agreement form from a radiologist, licensed under A.R.S. Title 32, Chapter 13 or 17 and certified in radiology by the American Board of Radiology, that includes the following:
 - a. The name and date of birth of the applicant;
 - b. The name, license number, e-mail address, and telephone number of the licensed radiologist;
 - c. A statement that the licensed radiologist is accepting responsibility for the applicant's supervision and training; and
 - d. The licensed radiologist's signature and date of signing; and
3. The applicable fee in R9-16-623.
- C. The Department shall approve or deny an individual's application for a computed tomography preceptorship certificate according to R9-16-621.
- D. A computed tomography preceptorship certificate is valid for one year from the date issued and may not be renewed.
- E. At least 30 days before the expiration of an individual's computed tomography preceptorship certificate, the individual may apply for a computed tomography temporary certificate by submitting an application packet to the Department that includes:
 1. The information and documents required under R9-16-619;
 2. A Department-provided agreement form from a radiologist, licensed under A.R.S. Title 32, Chapter 13 or 17 and certified in radiology by the American Board of Radiology, that includes the following:
 - a. The name and date of birth of the applicant;
 - b. The name, license number, e-mail address, and telephone number of the licensed radiologist;
 - c. A statement that the licensed radiologist is accepting responsibility for the applicant's supervision and training; and
 - d. The licensed radiologist's signature and date of signing; and
 3. The applicable fee in R9-16-623.
- F. The Department shall approve or deny an individual's application for a computed tomography temporary certificate according to R9-16-621.
- G. A computed tomography temporary certificate is valid for one year and may not be renewed.
- b. Documentation of completion of:
 - i. Two years of training in computed tomography, and
 - ii. Twelve hours of computed tomography-specific education; and
5. The applicable fee in R9-16-623.
- B. If an applicant for initial certification as a computed tomography technologist may be eligible for certification under A.R.S. § 32-4302(A), the applicant shall submit an application packet to the Department that includes:
 1. The information and documentation required in R9-16-619;
 2. Documentation of the license or certification as a computed tomography technologist issued to the applicant by each state in which the applicant holds the license or certification;
 3. A statement, signed and dated by the applicant, attesting that the applicant:
 - a. Has been licensed or certified as a computed tomography technologist in another state for at least one year;
 - b. Has met minimum education requirements and, if applicable, work experience and clinical supervision requirements, according to A.R.S. § 32-4302(A)(3);
 - c. Has not voluntarily surrendered a license or certification in any other state or country while under investigation for unprofessional conduct; and
 - d. Does not have an complaint, allegation, or investigation pending before another regulatory entity in another state or country related to unprofessional conduct; and
 4. The applicable fee in R9-16-623.
- C. The Department shall approve or deny an individual's application for initial certification as a computed tomography technologist according to R9-16-621.

Historical Note

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

R9-16-616. Radiologist Assistant - Eligibility and Scope of Practice

- A. An individual is eligible to apply for initial certification as a radiologist assistant if the individual:
 1. Is at least 18 years of age; and
 2. Satisfies one of the following:
 - a. Holds a current ARRT or CBRPA certification as a radiologist assistant;
 - b. Has:
 - i. Completed a baccalaureate degree or post-baccalaureate certificate from an accredited educational institution that encompasses a radiologist assistant curriculum that includes a radiologist-directed clinical preceptorship, and
 - ii. Achieved a passing score on an ARRT or a CBRPA examination for radiologist assistants;
 - c. Meets the criteria in A.R.S. § 32-4302(A).
- B. An individual certified as a radiologist assistant:
 1. Shall follow the standards specified the 2019 American Society of Radiologic Technologists Radiologist Assistant Practice Standards, available at https://www.asrt.org/docs/default-source/practice-standards-published/ps_raa.pdf?sfvrsn=1ae076d0_16, incorporated by refer-

Historical Note
 New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).
 Section heading corrected to heading made in the table of contents at 25 A.A.R. 2409; Section amended by final rulemaking at 26 A.A.R. 350, effective April 5, 2020 (Supp. 20-1).

R9-16-615. Application for Initial Certification for a Computed Tomography Technologist

- A. Except as provided in subsection (B), an applicant for initial certification as a computed tomography technologist shall submit an application packet to the Department that includes:
 1. The information and documents required in R9-16-619;
 2. The applicant's current radiation technologist or nuclear medicine technologist certificate number;
 3. The applicant's computed tomography preceptorship number or temporary certificate number, if applicable;
 4. Either:
 - a. A copy of the applicant's current ARRT or NMTCB certification in computed tomography; or

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ence on file with the Department, and including no future editions or amendments; and

2. May perform the following procedures under the direction of a radiologist, licensed under A.R.S. Title 32, Chapter 13 or 17 and certified in radiology by the American Board of Radiology:
 - a. Fluoroscopy;
 - b. Assessment and evaluation of the physiological and psychological responsiveness of individuals undergoing radiologic procedures;
 - c. Evaluation of image quality, making initial image observations and communicating observations to the supervising radiologist; and
 - d. Administration of contrast media or other medications prescribed by the supervising radiologist.
- C. A radiologist assistant shall not interpret images, make diagnoses, or prescribe medications or therapies.

Historical Note

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).
Amended by final expedited rulemaking at 28 A.A.R. 3572 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-16-617. Application for Initial Certification as a Radiologist Assistant

- A. Except as provided in subsection (B), an applicant for initial certification as a radiologist assistant shall submit an application packet to the Department that includes:
 1. The information and documents required in R9-16-619;
 2. Either:
 - a. The applicant's current ARRT or CBRPA certification as a radiologist assistant; or
 - b. Documentation of:
 - i. Completing a baccalaureate degree or post-baccalaureate certificate from an accredited educational institution that encompasses a radiologist assistant curriculum that includes a radiologist-directed clinical preceptorship, and
 - ii. Having a passing score on an ARRT or a CBRPA examination for radiologist assistants; and
 3. The applicable fee in R9-16-623.
- B. If an applicant for initial certification as a radiologist assistant may be eligible for certification under A.R.S. § 32-4302(A), the applicant shall submit an application packet to the Department that includes:
 1. The information and documentation required in R9-16-619;
 2. Documentation of the license or certification as a radiologist assistant issued to the applicant by each state in which the applicant holds the license or certification;
 3. A statement, signed and dated by the applicant, attesting that the applicant:
 - a. Has been licensed or certified as a radiologist assistant in another state for at least one year;
 - b. Has met minimum education requirements and, if applicable, work experience and clinical supervision requirements, according to A.R.S. § 32-4302(A)(3);
 - c. Has not voluntarily surrendered a license or certification in any other state or country while under investigation for unprofessional conduct; and
 - d. Does not have an complaint, allegation, or investigation pending before another regulatory entity in

another state or country related to unprofessional conduct; and

4. The applicable fee in R9-16-623.

- C. The Department shall approve or deny an individual's application for initial certification as a radiologist assistant according to R9-16-621.

Historical Note

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

R9-16-618. Special Permits

- A. An applicant for a special permit under A.R.S. § 32-2814(B) shall submit an application packet to the Department containing:
 1. The information and documents required in R9-16-619;
 2. An attestation, in a Department-provided format, from the health care institution in which the applicant proposes to practice:
 - a. Stating that the requesting health care institution is located in an Arizona medically underserved area, as defined in A.A.C. R9-15-101(4), or a health professional shortage area, as defined in A.A.C. R9-15-101(25);
 - b. Verifying that the health care institution developed and is implementing a program of continuing education for the applicant to protect the health and safety of individuals undergoing radiologic procedures; and
 - c. Signed and dated by the health care institution's administrator or designee; and
 3. A letter signed by the health care institution's administrator or designee that provides justification for the issuance of a special permit.
- B. The Department shall approve or deny an application for a special permit according to R9-16-621.
- C. A special permit is valid for no more than one year, but may be renewed as provided in subsection (A) if the circumstances justifying the issuance of a special permit have not changed.

Historical Note

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

R9-16-619. Application Information

An applicant for certification shall submit to the Department:

1. The following information in a Department-provided format:
 - a. The applicant's name;
 - b. The applicant's residential address and, if different, mailing address;
 - c. The applicant's telephone number;
 - d. The applicant's e-mail address;
 - e. The applicant's Social Security number, as required under A.R.S. §§ 25-320 and 25-502;
 - f. The applicant's date of birth;
 - g. The applicant's current employment in the radiation technology field, if applicable, including:
 - i. The employer's name,
 - ii. The applicant's position,
 - iii. Dates of employment,
 - iv. The address of the employer,
 - v. The supervisor's name,
 - vi. The supervisor's email address, and
 - vii. The supervisor's telephone number;

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- h. The applicant's educational history related to radiation technology, including:
 - i. The name and address of each educational institution,
 - ii. The degree or certification received, and
 - iii. The applicant's date of graduation;
 - i. The type of certificate being applied for;
 - j. Whether the applicant has ever been convicted of a felony or a misdemeanor in this or another state;
 - k. If the applicant has been convicted of a felony or a misdemeanor:
 - i. The date of the conviction,
 - ii. The state or jurisdiction of the conviction,
 - iii. An explanation of the crime of which the applicant was convicted, and
 - iv. The disposition of the case;
 - l. Whether the applicant holds other professional licenses or certifications and, if so:
 - i. The professional license or certification, and
 - ii. The state in which the professional license or certification was issued;
 - m. Whether the applicant has had a professional license or certificate suspended, revoked, or had disciplinary action taken against the professional license or certificate;
 - n. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-621;
 - o. An attestation that the information submitted as part of an application packet is true and accurate; and
 - p. The applicant's signature and date of signing;
2. If the applicant has had a professional license or certificate suspended, revoked, or had disciplinary action taken against the professional license or certificate within the previous five years, documentation that includes:
- a. The date of the disciplinary action, revocation, or suspension;
 - b. The state or nationally accredited certifying body that issued the disciplinary action, revocation, or suspension; and
 - c. An explanation of the disciplinary action, revocation, or suspension;
3. If the applicant is currently ineligible for licensing or certification in any state because of a license revocation or suspension, documentation that includes:
- a. The date of the ineligibility for licensing or certification,
 - b. The state or jurisdiction of the ineligibility for licensing or certification, and
 - c. An explanation of the ineligibility for licensing or certification; and
4. Documentation for the applicant that complies with A.R.S. § 41-1080.
2. Within the 30-day period after the expiration date of the certificate holder's certification, if the certificate holder pays the late renewal penalty fee in R9-16-623; or
3. Within the extension time period granted under A.R.S. § 32-4301.
- C. An applicant for renewal of a certification shall submit to the Department an application packet, including:
- 1. The following in a Department-provided format:
 - a. The applicant's name, address, telephone number, email address, date of birth, and Social Security number;
 - b. The applicant's current certification number and type;
 - c. The applicant's current employment in the radiation technology field, if applicable, including:
 - i. The employer's name,
 - ii. The applicant's position,
 - iii. Dates of employment,
 - iv. The address of the employer,
 - v. The supervisor's name,
 - vi. The supervisor's email address, and
 - vii. The supervisor's telephone number;
 - d. Whether the applicant has, within the two years before the date of the application, had:
 - i. A certificate issued under this Article suspended or revoked; or
 - ii. A professional license or certificate revoked by another state, jurisdiction, or nationally recognized accreditation body;
 - e. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-621;
 - f. Attestation that all the information submitted as part of the application packet is true and accurate; and
 - g. The applicant's signature and date of signature;
 - 2. As applicable:
 - a. For renewal of certification as a mammographic technologist, documentation that meets the requirements in A.R.S. § 32-2841(E); or
 - b. For renewal of all other certifications issued under this Article, either:
 - i. An attestation that the applicant completed continuing education required under A.R.S. § 32-2815(D) and that documentation of completion is available upon request, signed and dated by the applicant; or
 - ii. A copy of the applicant's current certification from a nationally recognized accreditation body; and
 - 3. The applicable renewal fee and, if applicable, the late renewal penalty fee required in R9-16-623.
- D. The Department shall approve or deny an application for recertification according to R9-16-621.

Historical Note

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

R9-16-620. Renewal of Certification

- A. Certifications issued under R9-16-607, R9-16-609, R9-16-612, R9-16-615, and R9-16-617 are valid for two years after issuance, unless revoked.
- B. A certificate holder may apply to renew a certification:
 - 1. Within 90 days before the expiration date of the certificate holder's current certification;

Historical Note

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3). Amended by final expedited rulemaking at 28 A.A.R. 3572 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-16-621. Review Time-frames

- A. For each type of certificate or permit issued by the Department under this Article, Table 6.1 specifies the overall time-frame described in A.R.S. § 41-1072(2).

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1. An applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame.
 2. The extension of the substantive review time-frame and overall time-frame may not exceed 25% of the overall time-frame.
- B.** For each type of certificate or permit issued by the Department under this Article, Table 6.1 specifies the administrative completeness review time-frame described in A.R.S. § 41-1072(1).
1. The administrative completeness review time-frame begins on the date the Department receives an application packet required in this Article.
 2. Except as provided in subsection (B)(3), the Department shall provide written notice of administrative completeness or a notice of deficiencies to an applicant within the administrative completeness review time-frame.
 - a. If an application packet is not complete, the notice of deficiencies shall list each deficiency and the information or documentation needed to complete the application packet.
 - b. A notice of deficiencies suspends the administrative completeness review time-frame and the overall time-frame from the date of the notice until the date the Department receives the missing information or documentation.
 - c. If the applicant does not submit to the Department all the information or documentation listed in the notice of deficiencies within 30 calendar days after the date of the notice of deficiencies, the Department shall consider the application packet withdrawn.
 3. If the Department issues a certificate during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- C.** For each type of certificate or permit issued by the Department under this Article, Table 6.1 specifies the substantive review time-frame described in A.R.S. § 41-1072(3), which begins on the date the Department sends a written notice of administrative completeness.
1. Within the substantive review time-frame, the Department shall provide written notice to the applicant that the Department approved or denied the application.
 2. During the substantive review time-frame:
 - a. The Department may make one comprehensive written request for additional information or documentation; and
 - b. If the Department and the applicant agree in writing, the Department may make supplemental requests for additional information or documentation.
 3. A comprehensive written request or a supplemental request for additional information or documentation suspends the substantive review time-frame and the overall time-frame from the date of the request until the date the Department receives all the information or documentation requested.
 4. If the applicant does not submit to the Department all the information or documentation listed in a comprehensive written request or supplemental request for additional information or documentation within 30 calendar days after the date of the request, the Department shall deny the certificate or permit.
- D.** An applicant who is denied a certificate or permit may appeal the denial according to A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

Table 6.1. Time-frames

| Type of Application | Administrative Completeness Review Time-frame (in Calendar Days) | Substantive Review Time-frame (in Calendar Days) | Overall Time-frame (in Calendar Days) |
|--------------------------------------------------------------------------------------------|------------------------------------------------------------------|--------------------------------------------------|---------------------------------------|
| Application for Examination | 30 | 30 | 60 |
| Initial Certificate | 30 | 30 | 60 |
| Renewal Certificate | 30 | 30 | 60 |
| Student Mammography Permit | 30 | 30 | 60 |
| Computed Tomography Preceptorship Certificate or Computed Tomography Temporary Certificate | 30 | 30 | 60 |
| Special Permit | 30 | 30 | 60 |
| School Approval | 60 | 60 | 120 |

Historical Note

New Table 6.1 made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

R9-16-622. Changes Affecting a Certificate or Certificate Holder; Request for a Duplicate Certificate

- A.** A certificate holder shall notify the Department in writing, within 30 calendar days after the effective date of a change in:
1. The certificate holder's residential address, mailing address, or e-mail address, including the new residential address, mailing address, or e-mail address;
 2. The certificate holder's name, including a copy of the legal document establishing the certificate holder's new name; or
 3. The certificate holder's employer, including the name and address of the new employer.
- B.** A certificate holder may obtain a duplicate certificate by submitting to the Department:
1. A written request for a duplicate certificate, in a Department-provided format, that includes:
 - a. The certificate holder's name and address,
 - b. The certificate holder's certificate number and expiration date, and
 - c. The certificate holder's signature and date of signature; and
 2. The duplicate certificate fee in R9-16-623.
- C.** A certificate holder may submit to the Department, either as a separate written document or as part of the renewal applica-

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tion, a signed and dated request to transfer to inactive status or retirement status under A.R.S. § 32-2816(F).

Historical Note

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

R9-16-623. Fees

- A.** Except as provided in subsection (C) or (D), an applicant shall submit to the Department the following nonrefundable fees for:
1. An initial application or renewal application for certification as a practical technologist in radiology, practical technologist in podiatry, or practical technologist in bone densitometry, \$100;
 2. An initial application or renewal application for certification as a radiation technologist, nuclear medicine technologist, or radiation therapy technologist, \$100;
 3. An initial application or renewal application for certification as a mammographic technologist, \$20;
 4. A computed tomography preceptorship certificate or computed tomography temporary certificate, \$10;
 5. An initial application or renewal application for certification as a computed tomography technologist, \$20;
 6. An initial application or renewal application for certification as a radiologist assistant, \$100; and
 7. A late renewal penalty fee according to A.R.S. § 32-2816(C), \$50.
- B.** The fee for a duplicate certificate is \$10.
- C.** An applicant for initial certification is not required to submit the applicable fee in subsection (A) if the applicant, as part of the applicable application packet in R9-16-607, R9-16-609, R9-16-612, R9-16-615, or R9-16-617, submits an attestation that the applicant meets the criteria for waiver of licensing fees in A.R.S. § 41-1080.01.
- D.** As allowed under A.R.S. § 32-2816(F), a certificate holder is not required to submit a fee for renewal of certification if the certificate holder submits to the Department an affidavit stating that the certificate holder:
1. Is retired from the practice of radiologic technology, or
 2. Requests to be placed on inactive status.

Historical Note

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).
Section amended by final rulemaking at 26 A.A.R. 350, effective April 5, 2020 (Supp. 20-1).

R9-16-624. Enforcement

- A.** The Department may, as applicable:
1. Deny, revoke, or suspend a certificate or permit under A.R.S. § 32-2821;
 2. Request an injunction under A.R.S. § 32-2825; or
 3. Assess a civil money penalty under A.R.S. § 32-2821.
- B.** In determining which disciplinary action specified in subsection (A) is appropriate, the Department shall consider:
1. The type of violation,
 2. The severity of the violation,
 3. The danger to public health and safety,
 4. The number of violations,
 5. The number of individuals affected by the violations,
 6. The degree of harm to an individual,
 7. A pattern of noncompliance, and
 8. Any mitigating or aggravating circumstances.

- C.** A certificate holder or permittee may appeal a disciplinary action taken by the Department according to A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).
A.R.S. title citations corrected under subsection (A)(1) through (3) at the request of the Department in Supp. 24-1, File No. R24-47.

ARTICLE 7. LASER TECHNICIANS**R9-16-701. Definitions**

In addition to the definitions in A.R.S. §§ 32-516 and 32-3231, the following definitions apply in this Article unless otherwise specified:

1. "Applicant" means an individual who submits an application packet.
2. "Application packet" means the information, documents, and fees required by the Department for a certificate.
3. "Calendar day" means each day, not including the day of the act, event, or default, from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
4. "Department-certified training program" means a curriculum of courses and learning activities that is granted approval through the Department under 9 A.A.C. 7, Article 14.

Historical Note

New Section made by final rulemaking at 30 A.A.R. 173 (January 26, 2024), with an immediate effective date of January 4, 2024 (Supp. 24-1).

R9-16-702. Laser Technician - Eligibility and Scope of Practice

- A.** An individual is eligible for certification as a laser technician if the individual:
1. Is at least 18 years of age; and
 2. Either:
 - a. Has:
 - i. Completed a course consistent with requirements in 9 A.A.C. 7, Article 14, provided by a Department-certified training program;
 - ii. Achieved a score of at least 80% on an examination consistent with requirements in 9 A.A.C. 7, Article 14;
 - iii. For use of a laser or IPL device for hair removal, completed 10 procedures and 24 hours of hands-on training for hair removal consistent with requirements in 9 A.A.C. 7, Article 14; and
 - iv. For use of a laser or IPL device for a cosmetic procedure other than hair removal, has completed, in addition to the hands-on training required according to subsection (A)(2)(a)(iii), an additional 10 procedures and 24 hours of hands-on training for the other cosmetic procedure consistent with requirements in 9 A.A.C. 7, Article 14; or
 - b. Meets the criteria in A.R.S. § 32-4302(A).

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- B.** An individual certified as a laser technician is authorized to use a laser or IPL device to perform:
1. Only those cosmetic procedures specified on the certificate issued by the Department to the individual according to R9-16-703, R9-16-704, or R9-16-705;
 2. Hair removal under the indirect supervision of a health professional licensed under A.R.S. Title 32 whose scope of practice permits the supervision; and
 3. For a cosmetic procedure other than hair removal, under the direct supervision of a health professional licensed under A.R.S. Title 32 whose scope of practice permits the supervision.

Historical Note

New Section made by final rulemaking at 30 A.A.R. 173 (January 26, 2024), with an immediate effective date of January 4, 2024 (Supp. 24-1).

R9-16-703. Application for Initial Certification as a Laser Technician

- A.** Except as provided in subsection (B), an applicant for certification as a laser technician shall submit to the Department an application packet that includes:
1. The following information in a Department-provided format:
 - a. The applicant's name;
 - b. The applicant's residential address and, if different, mailing address;
 - c. The applicant's telephone number;
 - d. The applicant's email address;
 - e. The applicant's Social Security number, as required under A.R.S. §§ 25-320 and 25-502;
 - f. The applicant's date of birth;
 - g. The applicant's current employment as a laser technician, if applicable, including:
 - i. The employer's name,
 - ii. The applicant's position,
 - iii. Dates of employment,
 - iv. The address of the employer,
 - v. The supervisor's name,
 - vi. The supervisor's email address, and
 - vii. The supervisor's telephone number;
 - h. Each type of cosmetic procedure, from the list of Department-approved cosmetic procedures on the Department's website at <https://www.azdhs.gov/licensing/special/index.php#laser-technicians-provider-application>, for which the applicant is requesting certification;
 - i. Whether the applicant holds other professional licenses or certifications and, if so:
 - i. The professional license or certification, and
 - ii. The state in which the professional license or certification was issued;
 - j. Whether the applicant has had a professional license or certificate suspended, revoked, or had disciplinary action taken against the professional license or certificate;
 - k. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-706;
 - l. An attestation that the information and documentation submitted as part of an application packet is true and accurate; and
 - m. The applicant's signature and date of signing;
 2. If the applicant has had a professional license or certificate suspended, revoked, or had disciplinary action taken against the professional license or certificate within the previous five years, documentation that includes:
 - a. The date of the disciplinary action, revocation, or suspension;
 - b. The state or nationally accredited certifying body that issued the disciplinary action, revocation, or suspension; and
 - c. An explanation of the disciplinary action, revocation, or suspension;
 3. If the applicant is currently ineligible for licensing or certification in any state because of a professional license revocation or suspension, documentation that includes:
 - a. The date of the ineligibility for licensing or certification,
 - b. The state or jurisdiction of the ineligibility for licensing or certification, and
 - c. An explanation of the ineligibility for licensing or certification;
 4. A copy of the provisional certificate for course completion issued to the applicant consistent with requirements in 9 A.A.C. 7, Article 14;
 5. Either:
 - a. Documentation from a Department-certified training program certifying that the applicant completed 10 procedures and 24 hours of hands-on training for each type of cosmetic procedure specified according to subsection (A)(1)(h); or
 - b. Both:
 - i. A copy of the document, in a Department-provided format, issued to the applicant by the supervising health professional or laser technician, consistent with requirements in 9 A.A.C. 7, Article 14, verifying and attesting to the successful completion of the applicant's 24 hours of hands-on training; and
 - ii. A log, in a Department-provided format, documenting 10 procedures and 24 hours of hands-on training for each type of cosmetic procedure specified according to subsection (A)(1)(h);
 6. Documentation for the applicant that complies with A.R.S. § 41-1080; and
 7. The applicable fee in R9-16-707.
- B.** If an applicant for initial certification as a laser technician may be eligible for certification under A.R.S. § 32-4302(A), the applicant shall submit an application packet to the Department that includes:
1. The information and documentation required in subsection (A)(1) and, if applicable, (A)(2) or (3);
 2. Documentation of the professional license or certification issued to the applicant by each state in which the applicant holds a professional license or certification;
 3. Documentation showing the types of cosmetic procedures for which the applicant has a professional license or certification;
 4. A statement, signed and dated by the applicant, attesting that the applicant:
 - a. Has been licensed or certified in another state for at least one year, with a scope of practice consistent with the scope of practice for which certification is being requested;

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- b. Has met minimum education requirements and, if applicable, work experience and clinical supervision requirements, according to A.R.S. § 32-4302(A)(3);
 - c. Has not voluntarily surrendered a professional license or certification in any other state or country while under investigation for unprofessional conduct; and
 - d. Does not have a complaint, an allegation, or an investigation pending before another regulatory entity in another state or country related to unprofessional conduct; and
5. The applicable fee in R9-16-707.
- C.** The Department shall approve or deny an application for initial certification according to R9-16-706.
- D.** Initial certification as a laser technician is valid for one year after issuance, unless revoked, and must be renewed annually.

Historical Note

New Section made by final rulemaking at 30 A.A.R. 173 (January 26, 2024), with an immediate effective date of January 4, 2024 (Supp. 24-1).

R9-16-704. Renewal of Certification

- A.** A laser technician may apply for renewal of certification:
1. Within 60 days before the expiration date of the laser technician's current certification, or
 2. Within the extension time period granted under A.R.S. § 32-4301.
- B.** An applicant for renewal of certification shall submit to the Department an application packet that includes:
1. The following information in a Department-provided format:
 - a. The applicant's name, address, telephone number, and email address;
 - b. The applicant's current certification number;
 - c. The applicant's current employment as a laser technician, if applicable, including:
 - i. The employer's name,
 - ii. The applicant's position,
 - iii. Dates of employment,
 - iv. The address of the employer,
 - v. The supervisor's name,
 - vi. The supervisor's email address, and
 - vii. The supervisor's telephone number;
 - d. Whether the applicant has, within the previous year before the date of the application, had:
 - i. A certificate issued under this Article suspended or revoked; or
 - ii. A professional license or certificate revoked by another state, jurisdiction, or nationally recognized accreditation body;
 - e. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-706;
 - f. Attestation that all the information submitted as part of the application packet is true and accurate; and
 - g. The applicant's signature and date of signature; and
 2. The renewal fee required in R9-16-707.
- C.** The Department shall approve or deny an application for renewal of certification according to R9-16-706.

Historical Note

New Section made by final rulemaking at 30 A.A.R. 173 (January 26, 2024), with an immediate effective date of January 4, 2024 (Supp. 24-1).

R9-16-705. Changes Affecting a Certificate; Request for a Revised/Duplicate Certificate

- A.** A laser technician shall notify the Department in writing, within 30 calendar days after the effective date of a change in:
1. The laser technician's residential address, mailing address, or email address, including the new residential address, mailing address, or email address, as applicable;
 2. The laser technician's name, including:
 - a. The following information, in a Department-provided format:
 - i. The laser technician's name, as recorded by the Department, and the laser technician's current certificate number and expiration date;
 - ii. The laser technician's new name; and
 - iii. The laser technician's signature and date of signature;
 - b. A copy of the legal document establishing the laser technician's new name; and
 - c. The fee required in R9-16-707 for a revised/duplicate certificate that reflects the laser technician's name change; or
 3. The laser technician's employer, including the name and address of the new employer.
- B.** A laser technician may request to add a cosmetic procedure to the laser technician's certificate by submitting to the Department an application packet that includes:
1. The following information in a Department-provided format:
 - a. The laser technician's name, address, telephone number, and email address;
 - b. The laser technician's current certification number;
 - c. Each type of cosmetic procedure that the laser technician is requesting be added to the laser technician's certificate;
 - d. Attestation that all the information submitted as part of the application is true and accurate; and
 - e. The laser technician's signature and date of signature;
 2. A copy of the document issued to the laser technician by the supervising health professional or laser technician, consistent with requirements in 9 A.A.C. 7, Article 14, verifying the successful completion of the laser technician's 24 hours of hands-on training;
 3. A log, in a Department-provided format, documenting 10 procedures and 24 hours of hands-on training for each type of cosmetic procedure specified according to subsection (B)(1)(c); and
 4. The fee required in R9-16-707 for a revised/duplicate certificate that reflects the added cosmetic procedure.
- C.** The Department shall approve or deny a request to add a cosmetic procedure to the laser technician's certificate according to R9-16-706.
- D.** In addition to the circumstances in subsections (A) and (B), a laser technician may obtain a revised/duplicate certificate by submitting to the Department:
1. A written request for a revised/duplicate certificate, in a Department-provided format, that includes:
 - a. The laser technician's name and address,
 - b. The laser technician's certificate number, and

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- c. The laser technician's signature and date of signature; and
2. The revised/duplicate certificate fee in R9-16-707.

Historical Note

New Section made by final rulemaking at 30 A.A.R. 173 (January 26, 2024), with an immediate effective date of January 4, 2024 (Supp. 24-1).

R9-16-706. Review Time-frames

- A. For each type of certificate or approval issued by the Department under this Article, Table 7.1 specifies the overall time-frame described in A.R.S. § 41-1072(2).
 1. An applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame.
 2. The extension of the substantive review time-frame and overall time-frame may not exceed 25% of the overall time-frame.
- B. For each type of certificate or approval issued by the Department under this Article, Table 7.1 specifies the administrative completeness review time-frame described in A.R.S. § 41-1072(1).
 1. The administrative completeness review time-frame begins on the date the Department receives an application packet required in this Article.
 2. Except as provided in subsection (B)(3), the Department shall provide written notice of administrative completeness or a notice of deficiencies to an applicant within the administrative completeness review time-frame.
 - a. If an application packet is not complete, the notice of deficiencies shall list each deficiency and the information or documentation needed to complete the application packet.
 - b. A notice of deficiencies suspends the administrative completeness review time-frame and the overall time-frame from the date of the notice until the date the Department receives the missing information or documentation.
 - c. If the applicant does not submit to the Department all the information or documentation listed in the notice of deficiencies within 30 calendar days after

the date of the notice of deficiencies, the Department shall consider the application packet withdrawn.

3. If the Department issues a certificate or approval during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- C. For each type of certificate or approval issued by the Department under this Article, Table 7.1 specifies the substantive review time-frame described in A.R.S. § 41-1072(3), which begins on the date the Department sends a written notice of administrative completeness.
 1. Within the substantive review time-frame, the Department shall provide written notice to the applicant that the Department approved or denied the application.
 2. During the substantive review time-frame:
 - a. The Department may make one comprehensive written request for additional information or documentation; and
 - b. If the Department and the applicant agree in writing, the Department may make supplemental requests for additional information or documentation.
 3. A comprehensive written request or a supplemental request for additional information or documentation suspends the substantive review time-frame and the overall time-frame from the date of the request until the date the Department receives all the information or documentation requested.
 4. If the applicant does not submit to the Department all the information or documentation listed in a comprehensive written request or supplemental request for additional information or documentation within 30 calendar days after the date of the request, the Department shall deny the certificate or approval.
- D. An applicant who is denied a certificate or approval may appeal the denial according to A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

New Section made by final rulemaking at 30 A.A.R. 173 (January 26, 2024), with an immediate effective date of January 4, 2024 (Supp. 24-1).

Table 7.1. Time-frames

| Type of Application | Administrative Completeness Review Time-frame (in Calendar Days) | Substantive Review Time-frame (in Calendar Days) | Overall Time-frame (in Calendar Days) |
|-------------------------------------------|------------------------------------------------------------------|--------------------------------------------------|---------------------------------------|
| Initial laser technician certificate | 30 | 30 | 60 |
| Renewal of a laser technician certificate | 30 | 30 | 60 |
| Addition of a procedure | 30 | 30 | 60 |

Historical Note

Table 7.1 made by final rulemaking at 30 A.A.R. 173 (January 26, 2024), with an immediate effective date of January 4, 2024 (Supp. 24-1).

R9-16-707. Fees

- A. Except as provided in subsection (B), an applicant shall submit to the Department the following nonrefundable fees for:
 1. An initial application or renewal application for certification as a laser technician, \$30; and
 2. A revised/duplicate certificate, \$10.
- B. An applicant for initial certification as a laser technician is not required to submit the applicable fee in subsection (A)(1) if the applicant, as part of the application packet in R9-16-703, submits an attestation that the applicant meets the criteria for waiver of licensing fees in A.R.S. § 41-1080.01.

Historical Note

New Section made by final rulemaking at 30 A.A.R. 173 (January 26, 2024), with an immediate effective date of January 4, 2024 (Supp. 24-1).

R9-16-708. Enforcement

- A. The Department may deny, revoke, or suspend a certificate under A.R.S. § 32-3233.
- B. In determining which disciplinary action specified in subsection (A) is appropriate, the Department shall consider:
 1. The type of violation,

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2. The severity of the violation,
 3. The danger to public health and safety,
 4. The number of violations,
 5. The number of individuals affected by the violations,
 6. The degree of harm to an individual,
 7. A pattern of noncompliance, and
 8. Any mitigating or aggravating circumstances.
- C. A laser technician may appeal a disciplinary action taken by the Department according to A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

New Section made by final rulemaking at 30 A.A.R. 173 (January 26, 2024), with an immediate effective date of January 4, 2024 (Supp. 24-1).

ARTICLE 8. COMMUNITY HEALTH WORKERS**R9-16-801. Definitions**

In addition to the definitions in A.R.S. § 36-765, the following definitions apply in this Article, unless otherwise specified:

1. "Accredited" means approved by the:
 - a. New England Commission of Higher Education,
 - b. Middle States Commission on Higher Education,
 - c. Higher Learning Commission,
 - d. Northwest Commission on Colleges and Universities,
 - e. Southern Association of Colleges and Schools Commission on Colleges, or
 - f. WASC Senior College and University Commission.
2. "Administrative completeness review time-frame" has the same meaning as in A.R.S. § 41-1072.
3. "Applicant" means an individual who submits an application and required documentation for approval to practice as a certified CHW.
4. "Behavioral health services" means information and care provided by certified or licensed behavioral health professionals consistent with practices specified in A.R.S. § 32-3251(8).
5. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run and including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
6. "Certification" means an approval granted to individuals who meet the qualifications, including education and training requirements, in this Article for certified CHWs.
7. "Certified CHW" means the same as a "certified community health worker" in A.R.S. § 36-765.
8. "CHW" means the same as a "community health worker" in A.R.S. § 36-765.
9. "CHW trainer" means an individual who meets the requirements in R9-16-803 and provides training and supervision to individuals who seek certification as a certified CHW.
10. "CHW training program" means approved community health education and instruction required for individuals seeking a CHW certification issued by the Department.
11. "Client" means an individual receiving community health services provided by a certified CHW.
12. "Community Health Representative" or "CHR" means an individual who has completed an Indian Health Services National Training Program for:
 - a. Basic training through completing general health education to promote health and social services and assist in the prevention of disease and disabilities in tribal communities; or
 - b. Advanced training through increased health and knowledge for a variety of public health topics designed to improve outreach capacity to advance tribal health systems.
13. "Community health services" means non-medical support, care, and assistance:
 - a. Specified in the scope of practice and core competencies in this Article;
 - b. Provided by a certified CHW to a client on behalf of a service provider, whether physical health services or behavioral health services; and
 - c. Improves the quality of delivery and coordination of care resulting in better medical and behavioral health outcomes.
14. "Continuing education" means a course that provides training and instruction that is designed to develop or improve a certified CHW's or certified CHW trainer's professional competence in areas directly related to the practice of a CHW.
15. "Contractor" means the same as in A.R.S. § 36-2901.
16. "Core competencies" means curriculum that provides knowledge to develop core skills and assume job responsibilities, including:
 - a. Communication skills,
 - b. Interpersonal and relationship-building,
 - c. Service coordination and navigation,
 - d. Capacity-building,
 - e. Advocacy,
 - f. Education and facilitation,
 - g. Individual and community assessment,
 - h. Outreach,
 - i. Professional skills and conduct,
 - j. Evaluation and research skills, and
 - k. Knowledge base.
17. "Course" means a workshop, seminar, lecture, conference, or class.
18. "Direct services" means personal interaction to assist or deliver care provided by a certified CHW, including:
 - a. Transportation assistance,
 - b. Fall risk assessments,
 - c. Welfare checks,
 - d. Employment assistance, and
 - e. Other similar health and social services not provided by a licensed health or behavioral health professional.
19. "Documentation" means information in written, photographic, electronic or other permanent form.
20. "Licensed health care facility" means the same as "health care institution" specified in A.R.S. § 36-401.
21. "National Training Program" means a health education and skills management curriculum approved by Indian Health Services for individuals wishing to obtain a CHR certification to provide community health services in a tribal and Native community.
22. "Observation" means to witness:
 - a. The provision of community health services to a client, or
 - b. A demonstration of how to provide community health services to a client.

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23. "Organization" means a person specified in A.R.S. § 1-215, and includes a tribal government.
 24. "Overall time-frame" has the same meaning as in A.R.S. § 41-1072.
 25. "Person" means the same as in A.R.S. § 1-215 and includes a governmental agency.
 26. "Physical health services" means information and care provided by licensed health professionals consistent with practices specified in A.R.S. § 32-3201.
 27. "Service provider" means a person, who engages in practice of health professionals specified in A.R.S. § 32-320, and behavioral health professionals specified in A.R.S. § 32-3251(8) who provide services to clients according to a contract or service agreement.
 28. "Supervision" means training and monitoring provided by a certified CHW trainer specified in A.R.S. § 36-765.02(A)(5) to prepare individuals wishing to obtain a CHW certification.
 29. "Training and instruction" means educational activities that develop and improve an individual's professional competence in areas related to the practice as a certified CHW specified in A.R.S. § 36-765 and specific to the delivery of services identified in CHW's scope of practice and core competencies specified in this Article.
- i. Basic training certification and 480 hours of paid or volunteer CHR or CHW experience completed during the previous three years; or
 - ii. Advanced training certification and 380 hours of paid or volunteer CHR or CHW experience completed during the previous three years; and
4. Completes an initial CHW application.
- C.** A certified CHW's scope of practice includes:
1. Providing cultural mediation among individuals, communities, and health and social systems;
 2. Providing culturally appropriate health education and information;
 3. Providing care coordination, case coordination and system navigation;
 4. Providing coaching and social support;
 5. Advocating for individuals and communities;
 6. Building individual and community capacity;
 7. Providing direct services;
 8. Implementing individual and community assessments;
 9. Conducting outreach; and
 10. Participating in evaluation and research.
- D.** In addition to core competencies specified in R9-16-801(16), a CHW's roles and activities may include:
1. Diabetes education;
 2. Disease intervention;
 3. Nutrition, specifically food preparation and purchasing;
 4. Parenting education;
 5. Community wellness partner;
 6. Connect clients to health education and community resources;
 7. Blood pressure education;
 8. Delivery of medical supplies and equipment to assist client's needs;
 9. Outreach to clients who are out of care;
 10. Hearing and vision screenings; and
 11. Other similar health and social services provided on behalf of a health and behavioral health service providers.
- E.** A certified CHW shall not provide physical health services or behavioral health services to a client.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 2552 (September 30, 2022), effective November 7, 2022 (Supp. 22-3).

R9-16-802. Community Health Workers Eligibility and Scope of Practice

- A.** An individual may provide community health services in Arizona without obtaining certification as a certified CHW specified in this Article.
- B.** An individual is eligible to practice as a certified CHW, if the individual:
1. Is 18 years of age or older;
 2. Has at least a high school diploma or high school equivalency diploma;
 3. Has documentation of:
 - a. Nine hundred and sixty hours of paid or volunteer experience providing CHR or CHW services in the core competencies specified in this Article and completed during the previous three-year time-period:
 - i. In a licensed health care facility;
 - ii. In the service of a licensed health care provider specified in A.R.S. § 32-3201(2), including licensed behavioral health care providers specified in A.R.S. § 32-3251(8); or
 - iii. In the service of a contractor providing CHR or CHW services under A.R.S. Title 36, Chapter 29, Article 1 specified in A.R.S. § 36-765.02(C);
 - b. Completing a CHW certificate program, including core competencies, provided by an accredited college, and 480 hours of paid or volunteer CHR or CHW experience completed during the previous three years;
 - c. Completing a CHW training program provided by an organization or certified CHW trainer, including core competencies and 480 hours of paid or volunteer CHR or CHW experience completed during the previous three years; or
 - d. Completing a CHR National Training Program for:

Historical Note

New Section made by final rulemaking at 28 A.A.R. 2552 (September 30, 2022), effective November 7, 2022 (Supp. 22-3).

R9-16-803. Community Health Workers Trainer Qualifications

- A.** A certified CHW, who wishes to provide training and supervision to individuals who wish to obtain a CHW certification, shall:
1. Be 21 years of age or older;
 2. Have at least:
 - a. A high school diploma or high school equivalency diploma and 250 hours providing training and instruction related to practices specified in R9-16-802(C) and (D) to individuals who wish to obtain a CHW certification;
 - b. A diploma in public health or other medical disciplines, including behavioral health, from an accredited college or university for which the individual received a degree, and 150 hours of providing training and instruction related to practices specified in R9-16-802(C) and (D) to individuals who wish to obtain a CHW certification; or

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- c. A diploma in public health or other medical disciplines, including behavioral health, from an accredited college or university for which the individual received a degree and provided training and instruction related to practices specified in R9-16-802(C) and (D) to individuals who wish to obtain a CHW certification including;
 - i. An associate's degree and 200 hours providing training and instruction;
 - ii. A bachelor's degree and 150 hours providing training and instruction;
 - iii. A master's degree and 100 hours providing training and instruction; or
 - iv. A doctorate's degree and 50 hours providing training and instruction;
- 3. Maintain documentation that demonstrates completion of the requirements in subsection (A)(2); and
- 4. Provide copy of documentation specified in subsection (A)(3) to individuals who wish to obtain a CHW certification for individuals to provide to the Department when completing an initial CHW application.
- B.** A certified CHW trainer who provides training and supervision to an individual seeking certification as a certified CHW shall:
 - 1. Establish a record for each individual who receives training and supervision that includes:
 - a. The individual's name, home address, telephone number, and e-mail address;
 - b. A plan indicating the types of skills and number of hours allocated to the development of each skill that is expected to be completed;
 - c. A document listing each occurrence of training and supervision provided to an individual that includes:
 - i. Business name and address where training or supervision occurred,
 - ii. The date and time when a training or supervision started and ended,
 - iii. The types of knowledge and skills provided, and
 - iv. Notation explaining the individual's progress;
 - d. Documentation of evaluations provided to the individual during the time training or supervision was provided; and
 - e. Documentation of when training and supervision was terminated.
 - 2. Maintain an individual's CHW records for at least two years after the last date the individual received training and supervision from the certified CHW trainer.
 - 3. Provide individuals, who have completed training and supervision, a certificate that specifies:
 - a. The individual's first and last name;
 - b. The title of the training;
 - c. A description of the knowledge or types of skills provided;
 - d. The core competencies covered;
 - e. The number of classroom training hours attended;
 - f. The number of supervision hours provided, if applicable;
 - g. The individual's training score, whether pass or not pass;
 - h. The date the training was held or completed;
 - i. The name of the organization providing training and location; and
 - j. The CHW trainer's written name, signature, and date signed.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 2552 (September 30, 2022), effective November 7, 2022 (Supp. 22-3).

R9-16-804. Initial Community Health Workers Application

A. An applicant for a CHW certification shall submit to the Department:

- 1. An application provided in a Department-provided format that contains:
 - a. The applicant's name, home address, telephone number, and e-mail address;
 - b. The applicant's Social Security number, as required under A.R.S. §§ 25-320 and 25-502;
 - c. Whether the applicant has completed high school or a high school equivalency program;
 - d. Whether the applicant is or has been certified as a CHW in another state or country;
 - e. Whether the applicant has ever been convicted of a felony or a misdemeanor involving moral turpitude in this or another state;
 - f. If the applicant has been convicted of a felony or a misdemeanor involving moral turpitude:
 - i. The date of the conviction,
 - ii. The state or jurisdiction of the conviction,
 - iii. An explanation of the crime of which the applicant was convicted, and
 - iv. The disposition of the case;
 - g. Whether the applicant has had a certification or license revoked or suspended by any state within the previous two years;
 - h. Whether the applicant is currently ineligible for certification or licensure in any state because of a revocation or suspension;
 - i. Whether any disciplinary action has been imposed by any state, territory or district in this country for an act related to the applicant's practice as a CHW;
 - j. Whether the applicant agrees to allow the Department to submit supplemental requests for information under A.R.S. § 41-1075;
 - k. An attestation that the information submitted is true and accurate; and
- l. The applicant's signature and date of signature;
- 2. If applicable, a list of all states and countries in which the applicant is or has been certified or licensed as a CHW;
- 3. Documentation of an applicant's conviction of a felony or a misdemeanor involving moral turpitude in this or another state that includes:
 - a. The date of the conviction,
 - b. The state or jurisdiction of the conviction,
 - c. A description of the crime of which the applicant was convicted, and
 - d. The disposition of the case;
- 4. If a certificate or license for the applicant has been revoked or suspended by any state within the previous two years, documentation that includes:
 - a. The date of the revocation or suspension,
 - b. The state or jurisdiction of the revocation or suspension, and
 - c. An explanation of the revocation or suspension;

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5. If the applicant is currently ineligible for certificate or license in any state because of a revocation or suspension, documentation that includes:
 - a. The date of the ineligibility for certification or license,
 - b. The state or jurisdiction of the ineligibility for certification or license, and
 - c. An explanation of the ineligibility for certification or license;
 6. If the applicant has been disciplined by any state, territory, or district of this country for an act related to the applicant's practice as a CHW, documentation that includes:
 - a. The date of the disciplinary action,
 - b. The state or jurisdiction of the disciplinary action,
 - c. An explanation of the disciplinary action, and
 - d. Any other applicable documents, including a legal order or settlement agreement;
 7. Documentation of the applicant's citizenship or alien status that complies with A.R.S. § 41-1080;
 8. As applicable, documentation that demonstrates:
 - a. Nine hundred and sixty hour of paid or volunteer CHW experience in core competencies specified in R9-16-802(B)(3)(a):
 - i. The applicant's name;
 - ii. As applicable, the name of each health care facility, licensed health care provider, or contractor for whom core competencies were completed;
 - iii. Name of the applicant's supervisor and supervisor's title;
 - iv. The types of core competencies completed for each health care facility, licensed health care provider, or contractor listed in subsection (A)(8)(a)(ii);
 - v. The dates or range of dates when the core competencies in subsection (A)(8)(a)(iv) were completed;
 - vi. The number of hours completed for the core competencies listed in subsection (A)(8)(a)(v); and
 - vii. The supervisor's signature and date of signature;
 - b. Completion of a CHW certificate program provided by an accredited college and 480 hours of paid or volunteer CHW experience specified in R9-16-802(B)(3)(b);
 - c. Completion of a CHW training program provided by an organization or certified CHW trainer and 480 hours of paid or volunteer CHW experience specified in R9-16-802(B)(3)(c), including:
 - i. The applicant's name;
 - ii. The name of the CHW training program attended;
 - iii. The name of the organization providing the CHW training program;
 - iv. The types of core competencies completed;
 - v. The dates or range of dates when the core competencies in subsection (A)(8)(c)(iii) were completed;
 - vi. The number of hours completed for each core competency completed in subsection (A)(8)(c)(iv); and
 - vii. The signature of the individual overseeing the instruction of the CHW training program and the date of signature;
 - d. Completion of a CHR National Training Program specific in R9-16-802(B)(3)(d):
 - i. Basic training certification and 480 hours of paid or volunteer CHR or CHW experience; or
 - ii. Advanced training certification and 380 hours of paid or volunteer CHR or CHW experience; and
 - e. Completion of high school or high school equivalency or higher degree; and
 9. A fee specified in R9-16-810.
- B.** In lieu of the documentation required in (A)(8), an applicant may submit documentation to the Department that includes:
1. The name of each state that issued the applicant a current certification, including:
 - a. The certification number of each current certification, and
 - b. The date each current certification was issued;
 2. Documentation of the professional certificate or license issued to the applicant by each state in which the applicant holds a professional certificate or license;
 3. A statement, signed and dated by the applicant, attesting that the applicant:
 - a. Has been certified or licensed in another state for at least one year, with a scope of practice consistent with the scope of practice for which certification is being requested;
 - b. Has met minimum education requirements specified in this Article;
 - c. Has not voluntarily surrendered a certification or license in any other state or country while under investigation for unprofessional conduct; and
 - d. Does not have a complaint, allegation, or investigation pending before another regulatory entity in another state or country related to unprofessional conduct.
- C.** The Department shall review the application and required documentation for certification as a CHW according to R9-16-808 and Table 8.1.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 2552 (September 30, 2022), effective November 7, 2022 (Supp. 22-3).

R9-16-805. Certification Renewal

- A.** From the date of issuance, a CHW certification is valid for two years.
- B.** At least 30 calendar days before the expiration date of a certification, an applicant shall submit to the Department:
1. A renewal application in a Department-provided format that contains:
 - a. The applicant's name, home address, telephone number, and e-mail address;
 - b. The applicant's certification number and date of expiration;
 - c. Since the previous certification application, whether the applicant has been convicted of a felony or a misdemeanor involving moral turpitude in this or another state;
 - d. If the applicant was convicted of a felony or a misdemeanor involving moral turpitude:
 - i. The date of the conviction,

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- ii. The state or jurisdiction of the conviction,
- iii. An explanation of the crime of which the applicant was convicted, and
- iv. The disposition of the case;
- e. Whether the applicant has had, within two years before the renewal application date, a certificate suspended or revoked by any state;
- f. An attestation that:
 - i. The applicant has completed 24 hours of continuing education required in R9-16-806 and documentation of the completed continuing education is available upon the Department's request;
 - ii. The applicant authorizes the Department to verify all information provided in the renewal application packet;
 - iii. The information submitted as part of the renewal application packet is true and accurate; and
 - iv. The applicant's signature and date of signature.
- 2. A fee specified in R9-16-810.
- C. Documentation of an applicant's conviction of a felony or a misdemeanor involving moral turpitude in this or another state that includes the information specified in subsection (A)(1)(d) issued by the prosecuting state or jurisdiction.
- D. An applicant who does not submit the documentation and the fee in subsection (B) shall apply for a new certificate in R9-16-804.
- E. The Department shall review the application and required documentation for renewal certification as a CHW according to R9-16-808 and Table 8.1.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 2552 (September 30, 2022), effective November 7, 2022 (Supp. 22-3).

R9-16-806. Continuing Education

- A. A certified CHW shall complete 24 hours of continuing education hours within the two years prior to renewing certification specified in A.R.S. § 36-765.02.
- B. Continuing education shall:
 - 1. Directly relate to CHW core competencies including services, skills, and knowledge that:
 - a. Facilitates access to quality of care delivery and health outcomes for clients receiving services; and
 - b. Expands health and wellness in diverse communities to reduce health disparities;
 - 2. Have educational objectives that exceed an introductory level of knowledge related to health and community services; and
 - 3. Consist of courses related to core competencies, such as:
 - a. Health and social service systems;
 - b. Disease prevention to help manage health conditions;
 - c. Health promotion education;
 - d. Health literacy and cross-cultural communication;
 - e. Referrals and providing follow-up;
 - f. Individual support and coaching;
 - g. Outreach methods and strategies;
 - h. Client and community assessment;
 - i. Health education for behavior change;
 - j. Provide direct services;
 - k. Home visits to provide education, assessment, and social support; and

- l. Support, advocacy, and health system navigation for clients.

- C. A continuing education course developed, endorsed, or sponsored by one of the following that meets the requirements in subsection (B):
 - 1. National Community Health Worker Training Center;
 - 2. Arizona Community Health Workers Association;
 - 3. Centers for Disease Control and Prevention: Training and Continuing Education;
 - 4. Arizona Alliance for Community Health Centers;
 - 5. National Commission for Health Education Credentialing;
 - 6. American Diabetes Association;
 - 7. Western Region Public Health Training Center;
 - 8. Indian Health Service; and
 - 9. Other certified CHW training programs approved by the Department.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 2552 (September 30, 2022), effective November 7, 2022 (Supp. 22-3).

R9-16-807. Enforcement

- A. The Department may deny, suspend, or revoke a certificate holder's certification, permanently or for a fixed period of time specified in A.R.S. § 36-765.03 and this Article.
- B. In determining which disciplinary action specified in subsection (A) is appropriate, the Department shall consider:
 - 1. The type of violation,
 - 2. The severity of the violation,
 - 3. The danger to the public health and safety,
 - 4. The number of violations,
 - 5. The number of clients affected by the violations,
 - 6. The degree of harm to the consumer,
 - 7. A pattern of noncompliance, and
 - 8. Any mitigating or aggravating circumstances.
- C. A certificate holder may appeal an enforcement action taken by the Department according to A.R.S. Title 41, Chapter 6, Article 10.
- D. If a certified CHW is employed by a tribe and appears to have violated this Article according to A.R.S. § 36-765.03(D), the tribal government having jurisdiction and following Tribal ordinances and policies shall:
 - 1. Review and determine whether the certified CHW has violated this Article; and
 - 2. Provide the Department with a written determination whether denied, suspended, or revoked, including specific penalties from disciplinary actions taken by the tribal government.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 2552 (September 30, 2022), effective November 7, 2022 (Supp. 22-3).

R9-16-808. Time-frames

- A. For a certificate or approval issued by the Department under this Article, Table 8.1 specifies the overall time-frame.
 - 1. An applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame.
 - 2. The extension of the substantive review time-frame and the overall time-frame may not exceed 25% of the overall time-frame.

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- B.** For a certificate or approval issued by the Department under this Article, Table 8.1 specifies the administrative completeness review time-frame.
- The administrative completeness review time-frame begins the date the Department receives an application required in this Article.
 - Except as provided in subsection (B)(3), the Department shall provide a written notice of administrative completeness or a notice of deficiencies to an applicant within the administrative completeness review time-frame.
 - If a certificate application is not complete, the notice of deficiencies listing each deficiency and the information or documentation needed to complete the application.
 - A notice of deficiencies suspends the administrative completeness review time-frame and the overall time-frame from the date of the notice until the date the Department receives the missing information or documentation.
 - If the applicant does not submit to the Department all the information or documentation listed in the notice of deficiencies within 30 calendar days after the date of the notice of deficiencies, the Department shall consider the application withdrawn.
 - If the Department issues a certificate during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- C.** For a certificate or approval issued by the Department under this Article, Table 8.1 specifies the substantive review time-frame, which begins on the date the Department sends a written notice of administrative completeness.
- Within the substantive review time-frame, the Department shall provide a written notice to the applicant that the Department approved or denied the application.
 - During the substantive review time-frame:
 - The Department may make one comprehensive written request for additional information or documentation; and
 - If the Department and the applicant agree in writing, the Department may make supplemental requests for additional information or documentation.
 - A comprehensive written request or a supplemental request for additional information or documentation suspends the substantive review time-frame and the overall time-frame from the date of the request until the date the Department receives all the information or documentation requested.
 - If the applicant does not submit to the Department all the information or documentation listed in a comprehensive written request or supplemental request for additional information or documentation within 30 calendar days after the date of the request, the Department shall deny the certificate or approval.
- D.** An applicant who is denied a certification may appeal the denial according to A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 2552 (September 30, 2022), effective November 7, 2022 (Supp. 22-3).

Table 8.1. Time-frames (in calendar days)

| Type of Approval | Statutory Authority | Overall Time-frame | Administrative Completeness Review Time-frame | Time to Respond to Deficiency Notice | Substantive Review Time-frame |
|-----------------------|---------------------|--------------------|-----------------------------------------------|--------------------------------------|-------------------------------|
| Initial Application | A.R.S. § 36-765.01 | 60 | 30 | 30 | 30 |
| Certification Renewal | A.R.S. § 36-765.01 | 60 | 30 | 30 | 30 |

Historical Note

Table 8.1, Time-Frames (in calendar days) made by final rulemaking at 28 A.A.R. 2552 (September 30, 2022), effective November 7, 2022 (Supp. 22-3).

R9-16-809. Changes Affecting a Certificate; Request for a Duplicate Certificate

- A.** A certified CHW shall submit to the Department a notice in a Department-provided format within 30 calendar days after the effective date of a change in:
- The certified CHW's home address, telephone number, or e-mail address, including the new home address, telephone number, or e-mail address; and
 - The certified CHW's name, including a copy of one of the following with the certified CHW's new name:
 - Marriage certificate,
 - Divorce decree, or
 - Other legal document establishing the certified CHW's new name.
- B.** A certificate holder may obtain a duplicate certificate by submitting to the Department a written request for a duplicate certificate in a Department-provided format that includes:
- The certified CHW's name and address,
 - The certified CHW's certification number and expiration date,
 - The certified CHW's signature and date of signature, and
 - A duplicate certificate fee specified in R9-16-810.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 2552 (September 30, 2022), effective November 7, 2022 (Supp. 22-3).

R9-16-810. Fees

- A.** An applicant shall submit to the Department for a CHW certification, a \$100 nonrefundable initial application fee.
- B.** An applicant shall submit to the Department for a CHW certification, a \$200 initial certification fee.
- C.** A certified CHW shall submit to the Department for a renewal certification, a \$200 nonrefundable renewal fee.
- D.** The fee for a duplicate certificate is \$25.
- E.** An applicant for initial certification is not required to submit the applicable fee in subsections (A) and (B) if the applicant, as part of the applicable application in R9-16-804, submits an attestation that the applicant meets the criteria for waiver of licensing fees in A.R.S. § 41-1080.01.
- F.** Subject to the availability of Department funding, an applicant may receive a discounted fee for an initial application, initial certification, or renewal certification.

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Historical Note

New Section made by final rulemaking at 28 A.A.R.
2552 (September 30, 2022), effective November 7, 2022
(Supp. 22-3).

ARTICLE 9. DOULA CERTIFICATION**R9-16-901. Definitions**

In addition to the definitions in A.R.S. § 36-766, the following definitions apply in this Article unless otherwise specified:

1. "Administrative completeness review time-frame" has the same meaning as in A.R.S. § 41-1072.
2. "Applicant" means an individual who submits an application and required documentation for approval to practice as a certified doula.
3. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run and including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
4. "Certification" means an approval granted to individuals who meet the qualifications, including education and training requirements, in this Article for certified doulas.
5. "Certified doula" means the same as "state-certified doula" in A.R.S. § 36-766.
6. "Client" means an individual receiving doula services provided by a certified doula.
7. "Code of ethics agreement" means the document submitted to the Department by an applicant that agrees to the general ethics and compliance of the standards of practice, and doula scope of practice of a certified doula.
8. "Continuing education" means a course that provides training and instruction that is designed to develop or improve a certified doula's professional competence in areas directly related to the practice of a doula.
9. "Core competencies" means a curriculum that provides knowledge to develop core skills and assume job responsibilities, including:
 - a. Entrepreneurship,
 - b. Standards of practice and ethics,
 - c. The childbirth processes,
 - d. Parental engagement,
 - e. Postpartum care,
 - f. Grief,
 - g. Trauma-informed care,
 - h. Cultural doula practices,
 - i. Anatomy and physiology, and
 - j. HIPAA.
10. "Course" means a workshop, seminar, lecture, conference, or class.
11. "Department" means the same as in A.R.S. § 36-101.
12. "Doula scope of practice" includes:
 - a. Providing care coordination, coaching, and social support;
 - b. Providing emotional support of the individuals parenting choices;
 - c. Providing encouragement and positive affirmations;
 - d. Advocating for parents;
 - e. Assessing the needs of the family;
 - f. Providing newborn care hands-on education and care including:
 - i. Normal newborn behavior,
 - ii. Newborn appearance,
 - iii. Sleep habits,
 - iv. Feeding,
 - v. Bathing, and
 - vi. Dressing the baby;
 - g. Infant feeding support;
 - h. Cord and circumcision care;
 - i. Establishing a routine;
 - j. Organizing the nursery and home; and
 - k. Sibling education and transition.
13. "Documentation" means information in written, photographic, electronic or other permanent form.
14. "Evaluation" means the assessment of the client in order to provide doula services.
15. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, according to U.S. Public Law 104-191.
16. "Licensed midwife" has the same meaning as "midwife" in A.R.S. § 36-751 and is licensed by the Department to provide midwifery services.
17. "Medical provider" means an individual licensed in the state of Arizona as a:
 - a. "Physician" as defined in A.R.S. §§ 32-1401, 32-1501, or 32-1800;
 - b. "Certified nurse midwife" as defined in A.R.S. § 32-1601; or
 - c. "Clinical nurse specialist" as defined in A.R.S. § 32-1601.
18. "Observing" means to witness:
 - a. The provision of doula services to a client, or
 - b. A demonstration of how to provide doula services to a client.
19. "Organization" means a person specified in A.R.S. § 1-215, and includes a tribal government.
20. "Overall time-frame" has the same meaning as in A.R.S. § 41-1072.
21. "Physical health services" means information and care provided by licensed health professionals consistent with practices specified in A.R.S. § 32-3201.
22. "Postpartum" means the six-week period following delivery of a newborn and placenta.
23. "Training and instruction" means educational activities that develop and improve an individual's professional competence in areas related to the practice as a certified doula specified in A.R.S. § 36-766.03 and specific to the delivery of services identified in the doula scope of practice and core competencies specified in this Article.

Historical Note

New Section made by exempt rulemaking at 29 A.A.R.
803 (March 31, 2023), effective August 1, 2023 (Supp.
23-1).

R9-16-902. Doula Eligibility and Doula Scope of Practice

- A.** An individual may provide doula services in Arizona without obtaining certification as a certified doula specified in this Article.
- B.** An individual is eligible to apply for certification as a certified doula, if the individual:
 1. Is 18 years of age or older;
 2. Has at least a high school diploma or high school equivalency diploma;
 3. Has training or education covering at least one of the following:
 - a. Completion of at least 30 hours of in-person instruction or a combination of in-person and online

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- instruction in core competency specified in this Article; or
- b. Community training in non-western doula practices, as determined by the Department, documentation confirming that core competencies have been met through culturally specific training or education subject to Department review; or
 - c. Other related individualized or experiential training or education that is subject to review by the Director;
4. Has written documentation of:
 - a. Observing at least one birth after completing the training or education specified in subsection (B)(3), signed and dated by the medical provider or licensed midwife who assisted the laboring mother;
 - b. Attending a minimum of three births while serving as the primary doula, including evaluations from the laboring mother and from the medical provider or licensed midwife who assisted the laboring mother;
 - c. Completing first aid and adult basic cardiopulmonary resuscitation through a course recognized by the American Heart Association;
 - d. Completing neonatal resuscitation through a course recognized by the American Academy of Pediatrics or American Heart Association;
 - e. A code of ethics agreement as prescribed by the Department, and
 - f. A valid fingerprint clearance card issued according to A.R.S. Title 41, Chapter 12, Article 3.1;
 5. Meets the requirements of core competencies as specified in R9-16-901(9) and certified doula scope of practice as specified in R9-16-901(12); and
 6. Submits an initial doula application in a Department-provided format to the Department.
- C.** Proof that an individual has current certification from a nationally recognized doula organization may substitute for requirements in subsections (B)(3).
- D.** An individual who does not meet the requirements in subsections (B)(3) and (4)(a) and (b), but who has been practicing as a doula in this state for at least five years before September 29, 2021, may be eligible to be a certified doula if the individual has:
1. Proof of current certification from a nationally recognized doula organization; and
 2. Three letters of recommendation from medical providers or licensed midwives who have worked with the individual within the preceding two years and can attest to the individual's competency in providing doula services.
- E.** A certified doula shall not provide physical health services or behavioral health services, as defined in A.R.S. § 36-401 to a client.
- Historical Note**
- New Section made by exempt rulemaking at 29 A.A.R. 803 (March 31, 2023), effective August 1, 2023 (Supp. 23-1). Amended by final expedited rulemaking at 29 A.A.R. 3431 (October 27, 2023), with an immediate effective date of October 4, 2023 (Supp. 23-4).
- R9-16-903. Certification Initial Application**
- A.** An applicant for a doula certification shall submit to the Department:
1. An application in a Department-provided format that contains:
 - a. The applicant's name, date of birth, home address, telephone number, and email address;
 - b. The applicant's Social Security number, as required under A.R.S. §§ 25-320 and 25-502;
 - c. Whether the applicant has completed high school or a high school equivalency program;
 - d. Whether the applicant is or has been certified as a doula in another state or country;
 - e. Whether the applicant has had a certification or license revoked or suspended by any state within the previous two years;
 - f. Whether the applicant is currently ineligible for certification or licensure in any state because of a revocation or suspension;
 - g. Whether any disciplinary action has been imposed by any state, territory or district in this country for an act related to the applicant's practice as a doula;
 - h. Whether the applicant agrees to allow the Department to submit supplemental requests for information under A.R.S. § 41-1075;
 - i. An attestation that the information submitted is true and accurate; and
 - j. The applicant's signature and date of signature;
 2. If applicable, a list of all states and countries in which the applicant is or has been certified as a doula;
 3. If a certificate or license for the applicant has been revoked or suspended by any state within the previous two years, documentation that includes:
 - a. The date of the revocation or suspension,
 - b. The state or jurisdiction of the revocation or suspension, and
 - c. An explanation of the revocation or suspension;
 4. If the applicant is currently ineligible for any occupational certificate or license in any state because of a revocation or suspension, documentation that includes:
 - a. The date of the ineligibility for certification or license,
 - b. The state or jurisdiction of the ineligibility for certification or license, and
 - c. An explanation of the ineligibility for certification or license;
 5. If the applicant has been disciplined by any state, territory, or district of this country for an act related to the applicant's practice as a doula, documentation that includes:
 - a. The date of the disciplinary action,
 - b. The state or jurisdiction of the disciplinary action,
 - c. An explanation of the disciplinary action, and
 - d. Any other applicable documents, including a legal order or settlement agreement;
 6. Documentation of the applicant's citizenship or alien status that complies with A.R.S. § 41-1080;
 7. As applicable, documentation that demonstrates compliance with:
 - a. R9-16-902(B)(3) and (4),
 - b. R9-16-902(C), or
 - c. R9-16-902(D); and
 8. A fee specified in R9-16-909(A) and (B).
- B.** In lieu of the documentation required in R9-16-902(B)(3), and (4)(a) and (b), an applicant may submit documentation to the Department that includes:
1. The name of each state that issued the applicant a current certification, including:

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- a. The certification number of each current certification, and
 - b. The date each current certification was issued;
- 2. Documentation of the professional certificate or license issued to the applicant by each state in which the applicant holds a professional certificate or license;
- 3. A statement, signed and dated by the applicant, attesting that the applicant:
 - a. Has been certified or licensed in another state for at least one year, with a scope of practice consistent of a certified doula;
 - b. Has met minimum education requirements specified in this Article;
 - c. Has not voluntarily surrendered a certification or license in any other state or country while under investigation for unprofessional conduct; and
 - d. Does not have a complaint, allegation, or investigation pending before another regulatory entity in another state or country related to unprofessional conduct.
- C. The Department shall review the application and required documentation for certification as a certified doula according to R9-16-907 and Table 9.1.

Historical Note

New Section made by exempt rulemaking at 29 A.A.R. 803 (March 31, 2023), effective August 1, 2023 (Supp. 23-1). Amended by final expedited rulemaking at 29 A.A.R. 3431 (October 27, 2023), with an immediate effective date of October 4, 2023 (Supp. 23-4).

R9-16-904. Certification Renewal

- A. From the date of issuance, a doula certification is valid for three years.
- B. At least 30 calendar days and not more than 90 calendar days before the expiration date of a certification, an applicant for renewal of certification shall submit to the Department:
 - 1. The following information in a Department-provided format:
 - a. The applicant's name, home address, telephone number, and email address;
 - b. The applicant's certification number and date of expiration;
 - c. Whether the applicant has had, within three years before the renewal application date, a certificate suspended or revoked by any state;
 - d. An attestation that:
 - i. The applicant has completed at least 15 hours of continuing education, as required in R9-16-905; and
 - ii. The documentation of the completed continuing education is available upon the Department's request;
 - e. Whether the applicant agrees to allow the Department to submit supplemental request for information under R9-16-907(C);
 - f. An attestation that the information submitted as part of the renewal application packet is true and accurate; and
 - g. The applicant's signature and date of signature;
 - 2. If the applicant has had a certificate suspended or revoked, as specified according to subsection (B)(1)(c), documentation that includes:
 - a. The date of the revocation or suspension,
 - b. The state or jurisdiction of the revocation or suspension, and
 - c. An explanation of the revocation or suspension; and
- 3. A fee specified in R9-16-909(C).
- C. An applicant who does not submit the documentation and the fee according to subsection (B) shall apply for a new certificate according to R9-16-903.
- D. The Department shall review the application and required documentation for renewal certification as a doula according to R9-16-907 and Table 9.1.

Historical Note

New Section made by exempt rulemaking at 29 A.A.R. 803 (March 31, 2023), effective August 1, 2023 (Supp. 23-1). Amended by final expedited rulemaking at 29 A.A.R. 3431 (October 27, 2023), with an immediate effective date of October 4, 2023 (Supp. 23-4).

R9-16-905. Continuing Education

- A. A certified doula shall complete 15 hours of continuing education hours within the three years prior to renewing certification specified in A.R.S. § 36-766.01.
- B. Continuing education shall:
 - 1. Directly relate to doula core competencies as specified in R9-16-901(9) including services, skills, and knowledge that:
 - a. Facilitates access to quality of care delivery and health outcomes for clients receiving services; and
 - b. Expands health and wellness in diverse communities to reduce health disparities;
 - 2. Have educational objectives that exceed an introductory level of knowledge related to doula core competencies and scope of practices; and
 - 3. Consist of courses related to core competencies, such as:
 - a. Health and social service systems, including disease prevention to help manage health conditions;
 - b. Health promotion education;
 - i. Health literacy and cross-cultural communication;
 - ii. Referrals and providing follow-up;
 - iii. Individual support and coaching; and
 - iv. Outreach methods and strategies;
 - c. Client and community assessment;
 - d. Health education for behavior change;
 - e. Provide direct services;
 - f. Home visits to provide education, assessment, and social support; and
 - g. Support, advocacy, and health system navigation for clients.
- C. A continuing education course developed, endorsed, or sponsored by the Department according to A.R.S. § 36-766.09(B) is available at www.azdhs.gov.

Historical Note

New Section made by exempt rulemaking at 29 A.A.R. 803 (March 31, 2023), effective August 1, 2023 (Supp. 23-1).

R9-16-906. Enforcement

- A. The Department may deny, suspend, or revoke a certificate holder's certification, permanently or for a fixed period of time specified in A.R.S. § 36-766.04 and this Article.
- B. In determining which disciplinary action specified in subsection (A) is appropriate, the Department shall consider:
 - 1. The type of violation,
 - 2. The severity of the violation,

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3. The danger to public health and safety,
 4. The number of violations,
 5. The number of clients affected by the violations,
 6. The degree of harm to the consumer,
 7. A pattern of noncompliance, and
 8. Any mitigating or aggravating circumstances.
- C. A certificate holder may appeal an enforcement action taken by the Department according to A.R.S. Title 41, Chapter 6, Article 10.
- D. If a certified doula is employed by a tribe and appears to have violated this Article according to A.R.S. § 36-766.04(C), the tribal government having jurisdiction and following tribal ordinances and policies shall:
1. Review and determine whether the certified doula has violated this Article; and
 2. Provide the Department with a written determination of whether denied, suspended, or revoked, including specific penalties from disciplinary actions taken by the tribal government.
- b. A notice of deficiencies suspends the administrative completeness review time-frame and the overall time-frame from the date of the notice until the date the Department receives the missing information or documentation.
- c. If the applicant does not submit to the Department all the information or documentation listed in the notice of deficiencies within 30 calendar days after the date of the notice of deficiencies, the Department shall consider the application withdrawn.
3. If the Department issues a certificate during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- C. For a certificate or approval issued by the Department under this Article, Table 9.1 specifies the substantive review time-frame, which begins on the date the Department sends a written notice of administrative completeness.

Historical Note

New Section made by exempt rulemaking at 29 A.A.R. 803 (March 31, 2023), effective August 1, 2023 (Supp. 23-1).

R9-16-907. Time-frames

- A. For a certificate or approval issued by the Department under this Article, Table 9.1 specifies the overall time-frame.
1. An applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame.
 2. The extension of the substantive review time-frame and the overall time-frame may not exceed 25% of the overall time-frame.
- B. For a certificate or approval issued by the Department under this Article, Table 9.1 specifies the administrative completeness review time-frame.
1. The administrative completeness review time-frame begins the date the Department receives an application required in this Article.
 2. Except as provided in subsection (B)(3), the Department shall provide a written notice of administrative completeness or a notice of deficiencies to an applicant within the administrative completeness review time-frame.
 - a. If a certificate application is not complete, the notice of deficiencies listing each deficiency and the information or documentation needed to complete the application.
3. A comprehensive written request or a supplemental request for additional information or documentation suspends the substantive review time-frame and the overall time-frame from the date of the request until the date the Department receives all the information or documentation requested.
4. If the applicant does not submit to the Department all the information or documentation listed in a comprehensive written request or supplemental request for additional information or documentation within 30 calendar days after the date of the request, the Department shall deny the certificate or approval.
- D. An applicant who is denied certification may appeal the denial according to A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

New Section made by exempt rulemaking at 29 A.A.R. 803 (March 31, 2023), effective August 1, 2023 (Supp. 23-1).

Table 9.1. Time-frames (in calendar days)

| Type of Approval | Statutory Authority | Overall Time-frame | Administrative Completeness Review Time-frame | Time to Respond to Deficiency Notice | Substantive Review Time-frame | Time to Respond to a Comprehensive Written Request |
|-----------------------|---------------------|--------------------|-----------------------------------------------|--------------------------------------|-------------------------------|----------------------------------------------------|
| Initial Application | A.R.S. § 36-766.02 | 60 | 30 | 30 | 30 | 30 |
| Certification Renewal | A.R.S. § 36-766.02 | 60 | 30 | 30 | 30 | 30 |

Historical Note

New Table 9.1, Time-Frames (in calendar days) made by exempt rulemaking at 29 A.A.R. 803 (March 31, 2023), effective August 1, 2023 (Supp. 23-1).

R9-16-908. Changes Affecting a Certificate; Request for a Duplicate Certificate

- A. A certified doula shall submit to the Department a notice in a Department-provided format within 30 calendar days after the effective date of a change in:

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1. The certified doula's home address, telephone number, or email address, including the new home address, telephone number, or email address; and
 2. The certified doula's name, including a copy of one of the following with the certified doula's new name:
 - a. Marriage certificate,
 - b. Divorce decree, or
 - c. Other legal documents establishing the certified doula's new name.
- B.** A certificate holder may obtain a duplicate certificate by submitting to the Department a written request for a duplicate certificate in a Department-provided format that includes:
1. The certified doula's name and address,
 2. The certified doula's certification number and expiration date,
 3. The certified doula's signature and date of signature, and
 4. A duplicate certificate fee specified in R9-16-909.

Historical Note

New Section made by exempt rulemaking at 29 A.A.R. 803 (March 31, 2023), effective August 1, 2023 (Supp. 23-1).

R9-16-909. Fees

- A.** An applicant shall submit to the Department for a doula certification, a \$100 nonrefundable initial application fee.
- B.** An applicant shall submit to the Department for a doula certification, a \$200 initial certification fee.
- C.** A certified doula shall submit to the Department for a renewal certification, a \$200 nonrefundable renewal fee.
- D.** The fee for a duplicate certificate is \$25.
- E.** An applicant for initial certification is not required to submit the applicable fee in subsections (A) and (B) if the applicant, as part of the applicable application in R9-16-903, submits an attestation that the applicant meets the criteria for waiver of licensing fees in A.R.S. § 41-1080.01.
- F.** Subject to the availability of Department funding, an applicant may receive a discounted fee for an initial application, initial certification, or renewal certification.

Historical Note

New Section made by exempt rulemaking at 29 A.A.R. 803 (March 31, 2023), effective August 1, 2023 (Supp. 23-1).

ARTICLE 10. OUT-OF-STATE TELEHEALTH PROVIDERS**R9-16-1001. Definitions**

In addition to the definitions in A.R.S. § 36-3601, the following definitions apply in this Article unless otherwise stated:

1. "Applicant" means an individual who is licensed in another state and seeking the Department's approval of registration as a registered health care provider.
2. "Client" means an individual who is examined or treated by a registered health care provider.
3. "Department" means the same as in A.R.S. § 36-101.
4. "Health care decision maker" means an individual designated to make a medical decision on behalf of a client receiving telehealth services.
5. "Health care services" means assessment, diagnosis, consultation, or treatment, consistent with A.R.S. Title 32, Chapter 28; A.R.S. Title 36, Chapter 6, Article 7; or A.R.S. Title 36, Chapter 17, provided to a client.
6. "Informed consent" means documented verbal, electronic, or written permission, given by a client or the client's health care decision maker, for the client to receive

- health care services from a registered health care provider according to A.R.S. Title 36, Chapter 36, and this Article.
7. "License" means a valid and current agency permit, certificate, approval, registration, or similar form of permission required by law that is issued by a state authorizing an individual to provide health care services consistent with:
 - a. A.R.S. Title 32, Chapter 28, for radiologic technology;
 - b. A.R.S. Title 36, Chapter 6, for licensed midwifery; or
 - c. A.R.S. Title 36, Chapter 17, for audiologists, hearing aid dispensers, speech-language pathologists, and speech-language pathologist assistants.
 8. "Registered health care provider" means an individual who:
 - a. Resides and holds a current and valid license in another state, and
 - b. Has been approved by the Department to provide telehealth services in Arizona.
 9. "Telehealth services" means health care services provided through telehealth.

Historical Note

New Section made by final rulemaking at 30 A.A.R. 695 (April 5, 2024), effective May 13, 2024 (Supp. 24-1).

R9-16-1002. Initial Application

- A.** An applicant for initial registration to provide telehealth services in Arizona shall submit to the Department an application that contains:
1. The following information in a Department-provided format:
 - a. The applicant's name, home address, telephone number, and email address;
 - b. The applicant's Social Security number, as required under A.R.S. §§ 25-320 and 25-502;
 - c. The type of telehealth registration the applicant is requesting;
 - d. Information about the license held by the applicant, including the:
 - i. State or jurisdiction that issued the license,
 - ii. The license number, and
 - iii. The license date of expiration;
 - e. The name of the applicant's professional liability insurance company, including whether the insurance policy covers claims occurring in Arizona;
 - f. The name, address, telephone number, email address, and, if applicable, business name of the applicant's statutory agent in Arizona;
 - g. Whether the applicant has ever been convicted of a felony or a misdemeanor in this or another state or jurisdiction and, if so:
 - i. The date of the conviction,
 - ii. The state or jurisdiction of the conviction,
 - iii. An explanation of the crime of which the applicant was convicted, and
 - iv. The disposition of the case;
 - h. Whether the applicant has had a license revoked or suspended;
 - i. Whether the applicant has had a disciplinary action taken against the applicant's license by any state or jurisdiction and, if so:
 - i. The date of the disciplinary action,

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- ii. The state or jurisdiction of the disciplinary action, and
 - iii. An explanation of the disciplinary action;
 - j. Whether the applicant is currently ineligible for licensure in any state because of a revocation or suspension and, if so, documentation that includes:
 - i. The date of ineligibility for licensure,
 - ii. The state or jurisdiction of the ineligibility for licensure, and
 - iii. An explanation of the ineligibility for licensure;
 - k. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-1006;
 - l. An attestation that the applicant authorizes the Department to verify all information provided in the application;
 - m. An attestation that the applicant agrees to comply with the requirements in this Article and A.R.S. § 36-3606;
 - n. An attestation that the information submitted as part of the application is true and accurate; and
 - o. The applicant's signature and date of signature;
 - 2. A copy of the license for each jurisdiction where the applicant holds or held a license;
 - 3. A copy of the applicant's professional liability insurance policy, including:
 - a. The name of the insurance provider,
 - b. Policy number,
 - c. Coverage for telehealth services, and
 - d. Policy limits and amounts;
 - 4. Documentation that complies with A.R.S. § 41-1080;
 - 5. If applicable, documentation about each conviction of a felony or misdemeanor supporting the information specified in subsection (A)(1)(g);
 - 6. If applicable, documentation about each disciplinary action specified in subsection (A)(1)(i), including any legal order or settlement agreement related to the action taken;
 - 7. If applicable, documentation about each revocation or suspension specified in subsection (A)(1)(j), including any legal order or settlement agreement; and
 - 8. A nonrefundable fee of \$100.
- B.** The Department shall review the application and required documentation for initial registration as a registered health care provider according to R9-16-1006 and Table 10.1.
- C.** The Department shall approve or deny an application for registration according to R9-16-1002.

Historical Note

New Section made by final rulemaking at 30 A.A.R. 695 (April 5, 2024), effective May 13, 2024 (Supp. 24-1).

R9-16-1003. Renewal

- A.** At least 30 calendar days before the expiration date of a registered health care provider's registration, the registered health care provider shall submit to the Department:
- 1. The following information in a Department-provided format:
 - a. The registered health care provider's name, home address, telephone number, and email address;
 - b. The registered health care provider's registration number and date of expiration;
 - c. The name of the registered health care provider's professional liability insurance company, including

whether the insurance policy covers claims occurring in Arizona;

- d. The name, address, telephone number, email address, and if applicable, a business name of the registered health care provider's statutory agent in Arizona;
 - e. Since the previous registration application, whether the applicant has:
 - i. Been convicted of a felony or a misdemeanor in this or another state,
 - ii. Had a license revoked or suspended in this or another state, or
 - iii. Had a disciplinary action taken against the applicant's license by any state or jurisdiction;
 - f. Whether the licensee is currently ineligible for licensure in any state because of a prior license revocation or suspension;
 - g. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-1006;
 - h. An attestation that the applicant authorizes the Department to verify all information provided in the application;
 - i. An attestation that the applicant agrees to comply with the requirements in this Article and A.R.S. § 36-3606;
 - j. An attestation that the information submitted as part of the application is true and accurate; and
 - k. The applicant's signature and date of signature;
2. A report on the telehealth services provided by the registered health care provider in Arizona during the preceding year, including:
- a. The beginning and ending dates for the report,
 - b. The number of clients the registered health care provider served in Arizona, and
 - c. The total number and type of encounters provided;
3. A copy of the applicant's professional liability insurance policy; and
4. If applicable, documentation about each conviction, revocation or suspension, or disciplinary action, or ineligible license taken specified in subsection (A)(1)(e).
- B.** A registered health care provider who does not submit the application in subsection (A) by the expiration date of the registration certificate shall apply for a new registration according to R9-16-1003.
- C.** The Department shall review the application and required documentation for renewal registration as a registered health care provider according to R9-16-1006 and Table 10.1.
- D.** The Department shall approve or deny an application for registration according to R9-16-1003.

Historical Note

New Section made by final rulemaking at 30 A.A.R. 695 (April 5, 2024), effective May 13, 2024 (Supp. 24-1).

R9-16-1004. Time-frames

- A.** For a registration or approval issued by the Department under this Article, Table 10.1 specifies the overall time-frame.
- 1. An applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame.
 - 2. The extension of the substantive review time-frame and the overall time-frame may not exceed 25% of the overall time-frame.

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- B.** For a registration or approval issued by the Department under this Article, Table 10.1 specifies the administrative completeness review time-frame.
- The administrative completeness review time-frame begins the date the Department receives an application required in this Article.
 - Except as provided in subsection (B)(3), the Department shall provide a written notice of administrative completeness or a notice of deficiencies to an applicant within the administrative completeness review time-frame.
 - If an application is not complete, the notice of deficiencies listing each deficiency and the information or documentation needed to complete the application.
 - A notice of deficiencies suspends the administrative completeness review time-frame and the overall time-frame from the date of the notice until the date the Department receives the missing information or documentation.
 - If the applicant does not submit to the Department all the information or documentation listed in the notice of deficiencies within 30 calendar days after the date of the notice of deficiencies, the Department shall consider the application withdrawn.
 - If the Department issues a registration during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- C.** For a registration or approval issued by the Department under this Article, Table 10.1 specifies the substantive review time-frame, which begins on the date the Department sends a written notice of administrative completeness.
- Within the substantive review time-frame, the Department shall provide a written notice to the applicant that the Department approved or denied the application.
 - During the substantive review time-frame:
 - The Department may make one comprehensive written request for additional information or documentation; and
 - If the Department and the applicant agree in writing, the Department may make supplemental requests for additional information or documentation.
 - A comprehensive written request or a supplemental request for additional information or documentation suspends the substantive review time-frame and the overall time-frame from the date of the request until the date the Department receives all the information or documentation requested.
 - If the applicant does not submit to the Department all the information or documentation listed in a comprehensive written request or supplemental request for additional information or documentation within 30 calendar days after the date of the request, the Department shall deny the registration or approval.
- D.** The Department shall issue a registration:
- According to Table 10.1, after receiving the registration fee, and
 - From the effective date, the registration is valid for one year.
- E.** An applicant who is denied a registration may appeal the denial according to A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

New Section made by final rulemaking at 30 A.A.R. 695 (April 5, 2024), effective May 13, 2024 (Supp. 24-1).

Table 10.1 Time-frames (in calendar days)

| Type of Approval | Statutory Authority | Overall Time-frame | Administrative Completeness Review | Time to Respond to Deficiency Notice | Substantive Review |
|----------------------|---------------------|--------------------|------------------------------------|--------------------------------------|--------------------|
| Initial Application | A.R.S. § 36-3606 | 60 | 30 | 30 | 30 |
| Registration Renewal | A.R.S. § 36-3606 | 60 | 30 | 30 | 30 |

Historical Note

New Table 10.1 made by final rulemaking at 30 A.A.R. 695 (April 5, 2024), effective May 13, 2024 (Supp. 24-1).

R9-16-1005. Changes Affecting a Registration

Within 30 calendar days after the effective date of a change, a registered health care provider shall submit to the Department:

- The following information:
 - The registered health care provider's name, address, telephone number, and email address; and
 - The new name, address, telephone number, or email address, if applicable;
- If the registered health care provider's name has changed, a copy of one of the following with the registered health care provider's new name:
 - Marriage certificate,
 - Divorce decree, or
 - Other legal document establishing the registered health care provider's new name.
- If the registered health care provider's professional liability insurance policy has changed, a copy of the registered health care provider's new professional liability insurance policy; and
- If the statutory agent has changed, the name, address, telephone number, e-mail address, and, if applicable, business name of the statutory agent.

Historical Note

New Section made by final rulemaking at 30 A.A.R. 695 (April 5, 2024), effective May 13, 2024 (Supp. 24-1).

R9-16-1006. Providing Health Care Services Through Telehealth

- A.** Except as provided in A.R.S. § 36-3606(E), an individual wishing to provide health care services through telehealth under A.R.S. Title 36, Chapter 36, and this Article shall:
- Hold a current and valid license to practice in another state that is substantially similar to a license issued in Arizona for a minimum of one year; and
 - Be registered according to A.R.S. Title 36, Chapter 36, Article 1 and this Article prior to providing telehealth services.
- B.** A registered health care provider shall:
- Comply with the laws and rules of this state, including the requirements for medical records as defined in A.R.S. §§ 12-2291 and 32-3211;
 - Notify the Department within five days after any restriction placed on a registered health care provider's license or any disciplinary action initiated or imposed by any jurisdiction or state;

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3. Ensure the registered health care provider's professional liability insurance policy includes coverage for telehealth services provided to clients in Arizona;
 4. Maintain a statutory agent for service of process in this state;
 5. Consent to the Department's jurisdiction for any disciplinary action or legal proceeding related to the registered health care provider's acts or omission under A.R.S. Title 36, Chapter 36, Article 1, and this Article;
 6. Obtain a client's informed consent prior to:
 - a. Providing a telehealth service, or
 - b. Dissemination of images or information identifiable to a client for research or educational purposes; and
 7. Submit an annual report, in a Department provided-format, that includes:
 - a. The number of clients served in Arizona, and
 - b. The number and type of encounters that occurred during the report year.
- C.** A registered health care provider is subject to state laws and rules governing scope of practice and practice guidelines established in Arizona and in the state of licensure.
- D.** A registered health care provider may not open an office in Arizona or provide in-person health care services to a client in Arizona without first obtaining an Arizona license applicable to the registered health care provider.
- A.** The Department may deny, suspend, or revoke a registered health care provider's registration.
- B.** In determining which disciplinary action specified in subsection (A) is appropriate, the Department shall consider:
1. The type of violation,
 2. The severity of the violation,
 3. The danger to the public health and safety,
 4. The number of violations,
 5. The number of clients affected by the violations,
 6. The degree of harm to the clients,
 7. A pattern of noncompliance as specified in A.R.S. § 36-3606(C), and
 8. Any mitigating or aggravating circumstances.
- C.** Disciplinary action taken by the Department according to A.R.S. § 36-3606(C) shall be reported to the:
1. National Practitioner Database Bank, and
 2. Licensing authority in the state and all states where the registered health care provider possesses a professional license.
- D.** A registered health care provider may appeal an enforcement action taken by the Department according to A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

New Section made by final rulemaking at 30 A.A.R. 695 (April 5, 2024), effective May 13, 2024 (Supp. 24-1).

Historical Note

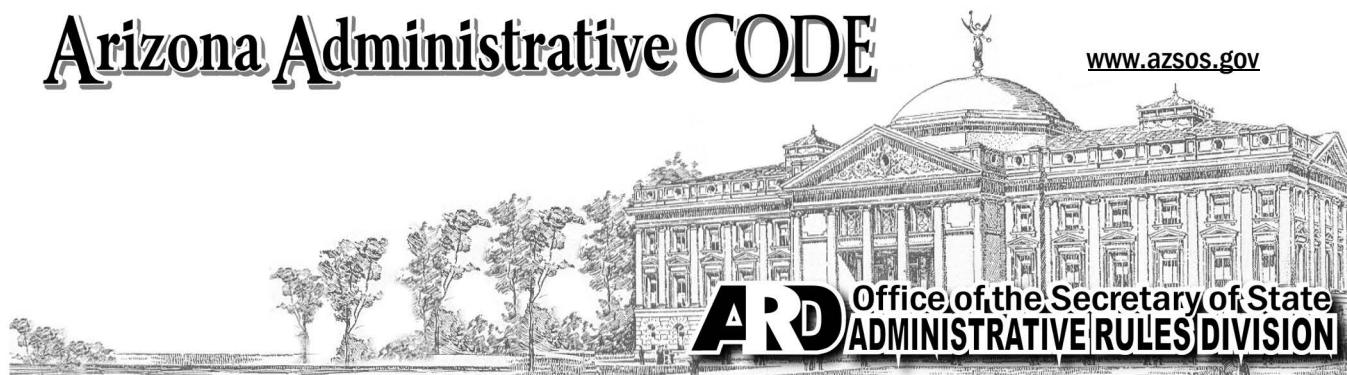
New Section made by final rulemaking at 30 A.A.R. 695 (April 5, 2024), effective May 13, 2024 (Supp. 24-1).

R9-16-1007. Enforcement

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CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

The table of contents on page one contains links to the referenced page numbers in this Chapter.

Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of January 1, 2024 through March 31, 2024

Refer to the historical notes for changes made to this Chapter in Supplement 24-1.

Questions about these rules? Contact:

Department: Arizona Department of Health Services
Bureau of Emergency Medical Services and
Trauma System

Address: 150 N. 18th Ave., Suite 540
Phoenix, AZ 85007-3248

Website: <https://www.azdhs.gov>

Name: Rachel Garcia, Bureau Chief

Telephone: (602) 364-3150

Email: Rachel.Garcia@azdhs.gov

The release of this Chapter in Supp. 24-1 replaces Supp. 23-3, 1-119 pages.

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

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division

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TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

Authority: A.R.S. §§ 36-136(F) and 36-2209(A) et seq.

Supp. 24-1

Editor's Note: Article 5 consisting of Sections R9-25-501 through R9-25-508 were recodified from Sections in Article 8 effective September 21, 2004 (Supp. 04-3). The Sections recodified from Article 8 were originally made or amended under an exemption from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6).

Editor's Note: The Office of the Secretary of State publishes all Chapters on white paper.

Editor's Note: This Chapter contains rules which were adopted, amended, and repealed under an exemption from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to A.R.S. § 36-2205(C). Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Governor's Regulatory Review Council for review; the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and the Department was not required to hold public hearings on these rules. Because this Chapter contains rules which are exempt from the regular rulemaking process, the Chapter is printed on blue paper.

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Article 1 heading amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1).

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Article 3, consisting of Sections R9-25-301 through R9-25-311 and Exhibits C through F and H, adopted effective October 15, 1996 (Supp. 96-4).

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| R9-25-303. | Changes Affecting a Training Program Certificate (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3)) | 15 |
| R9-25-304. | Course and Examination Requirements (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1), (2), and (3)) | 16 |
| R9-25-305. | Supplemental Requirements for Specific Courses (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3)) | 17 |
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| R9-25-307. | Training Program Enforcement Actions (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36- | |

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| Exhibit H. | Repealed | 20 |
| R9-25-308. | Repealed | 20 |
| R9-25-309. | Repealed | 20 |
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| R9-25-311. | Repealed | 20 |
| Exhibit D. | Repealed | 20 |
| Exhibit C. | Repealed | 20 |
| Exhibit E. | Repealed | 21 |
| R9-25-312. | Repealed | 21 |
| R9-25-313. | Repealed | 21 |
| R9-25-314. | Repealed | 21 |
| R9-25-315. | Repealed | 21 |
| R9-25-316. | Renumbered | 21 |
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| R9-25-318. | Repealed | 21 |
| Exhibit A. | Repealed | 21 |
| Exhibit B. | Expired | 21 |
| Exhibit C. | Repealed | 21 |

ARTICLE 4. EMCT CERTIFICATION

Article 4 repealed; new Article 4 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Article 4, consisting of Sections R9-25-401 through R9-25-411 and Exhibits I through K, adopted effective October 15, 1996 (Supp. 96-4).

| | |
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| Section | |
| R9-25-401. | EMCT General Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (H) and 36-2204(1), (6), and (7)) |
| R9-25-402. | EMCT Certification and Recertification Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (H) and 36-2204(1), (6), and (7)) |
| R9-25-403. | Application Requirements for EMCT Certification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and (H) and 36-2204(1) and (6)) |
| R9-25-404. | Application Requirements for EMCT Recertification (Authorized by A.R.S. §§ 36-2202(A)(2), (3), (4), and (6), (B), and (H) and 36-2204(1), (4), and (6)) |
| R9-25-405. | Extension to File an Application for EMCT Recertification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (H) and 36-2204(1), (4), (5), and (7)) |
| R9-25-406. | Requirements for Downgrading of Certification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and (H) and 36-2204(1) and (6)) |
| R9-25-407. | Notification Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), and (A)(4), 36-2204(1) and (6), and 36-2211) |
| R9-25-408. | Unprofessional Conduct; Physical or Mental Incompetence; Gross Incompetence; Gross Negligence (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (H), 36-2204(1), (6), and (7), and 36-2211) |
| R9-25-409. | Enforcement Actions (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (H), 36-2204(1), (6), and (7), and 36-2211) |
| R9-25-410. | Renumbered |
| R9-25-411. | Renumbered |
| Exhibit I. | Repealed |
| Exhibit J. | Repealed |

| | |
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| Exhibit K. | Repealed |
| R9-25-412. | Expired |

ARTICLE 5. MEDICAL DIRECTION PROTOCOLS FOR EMERGENCY MEDICAL CARE TECHNICIANS

Article 5, consisting of R9-25-501 through R9-25-508, recodified from Article 8 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Article 5 repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Article 5, consisting of Sections R9-25-501 through R9-25-515 and Exhibit P, adopted effective October 15, 1996 (Supp. 96-4).

| | |
|------------|-------------------------------------------------------------------------------------------------------------------------|
| Section | |
| R9-25-501. | Definitions |
| R9-25-502. | Scope of Practice for EMCTs |
| Table 1. | Repealed |
| Table 5.1. | Arizona Scope of Practice Skills |
| Table 5.2. | Repealed |
| Table 5.3. | Repealed |
| Table 5.4. | Repealed |
| R9-25-503. | Testing of Medical Treatments, Procedures, Medications, and Techniques that May Be Administered or Performed by an EMCT |
| Exhibit 1. | Repealed |
| Exhibit 2. | Repealed |
| Exhibit 3. | Repealed |
| R9-25-504. | Protocol for Selection of a Health Care Institution for Transport |
| R9-25-505. | Protocol for an EMT-I(99) or a Paramedic to Become Eligible to Administer an Immunizing Agent |
| Exhibit 1. | Repealed |
| Exhibit 2. | Repealed |
| R9-25-506. | Renumbered |
| R9-25-507. | Repealed |
| R9-25-508. | Repealed |
| R9-25-509. | Repealed |
| R9-25-510. | Repealed |
| Exhibit P. | Repealed |
| R9-25-511. | Repealed |
| R9-25-512. | Repealed |
| R9-25-513. | Repealed |
| R9-25-514. | Repealed |
| R9-25-515. | Repealed |

ARTICLE 6. STROKE CARE

Article 6, consisting of new Sections R9-25-601 and R9-25-602 made by exempt rulemaking effective April 5, 2013 (Supp. 13-1).

Article 6 repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Article 6, consisting of Sections R9-25-601 through R9-25-616 and Exhibits L through O and Q through S, adopted effective October 15, 1996 (Supp. 96-4).

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| Section | |
| R9-25-601. | Definitions (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3)) |
| R9-25-602. | Emergency Stroke Care Protocols (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3)) |
| R9-25-603. | Repealed |

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| R9-25-608. | Repealed | 35 |
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| R9-25-610. | Repealed | 35 |
| R9-25-611. | Repealed | 35 |
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| R9-25-614. | Repealed | 35 |
| R9-25-615. | Repealed | 35 |
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| Exhibit O. | Repealed | 36 |
| Exhibit Q. | Repealed | 36 |

ARTICLE 7. AIR AMBULANCE SERVICE LICENSING

Article 7, consisting of Sections R9-25-701 through R9-25-718 made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

| Section | | |
|------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| R9-25-701. | Definitions (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2215) | 36 |
| R9-25-702. | Applicability (A.R.S. §§ 36-2202(A)(4) and 36-2217) | 37 |
| R9-25-703. | Requirement and Eligibility for a License (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2215) | 37 |
| R9-25-704. | Application and Licensing Process (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2213, 36-2214, and 36-2215) | 37 |
| R9-25-705. | Minimum Standards for Operations as an Air Ambulance Service (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213) | 39 |
| R9-25-706. | Minimum Standards for Mission Staffing (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213) | 41 |
| R9-25-707. | Minimum Standards for Training (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2213) | 42 |
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| R9-25-709. | Changes Affecting a License (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2213) | 43 |
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| R9-25-711. | Inspections and Investigations (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2213, and 36-2214) | 44 |
| R9-25-712. | Enforcement Actions (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2213, 36-2214, | |

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| | 36-2215, 41-1092.03, and 41-1092.11(B)) | 45 |
| R9-25-713. | Renumbered | 45 |
| R9-25-714. | Repealed | 45 |
| R9-25-715. | Renumbered | 45 |
| R9-25-716. | Repealed | 45 |
| R9-25-717. | Repealed | 45 |
| R9-25-718. | Repealed | 45 |

ARTICLE 8. AIR AMBULANCE REGISTRATION

Article 8, consisting of R9-25-801 through R9-25-808, recodified to Article 5 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Article 8, consisting of R9-25-801, R9-25-802, Exhibits 1 through 4, and R9-25-803 Exhibit 1, recodified from A.A.C. R9-13-1501, R9-13-1502, Exhibits 1 through 4, and R9-13-1503 Exhibit 1; originally filed under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 98-1).

Article 8, consisting of Section R9-25-805 and Exhibits 1 through 3, adopted effective May 19, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2).

| Section | | |
|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| R9-25-801. | Requirement, Eligibility, and Application for an Initial or Renewal Certificate of Registration for an Air Ambulance (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, 36-2232(A)(11), and 36-2240(4)) | 46 |
| R9-25-802. | Minimum Standards for an Air Ambulance (Authorized by A.R.S. §§ 36-2202(A)(3), (4), and (5); 36-2209(A)(2); and 36-2212) | 47 |
| Exhibit 1. | Repealed | 49 |
| Exhibit 2. | Repealed | 49 |
| Exhibit 3. | Repealed | 49 |
| Exhibit 4. | Repealed | 49 |
| R9-25-803. | Changes Affecting Registration (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), and 36-2212) | 49 |
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| Exhibit 2. | Recodified | 50 |
| R9-25-804. | Term and Transferability of Certificate of Registration (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, and 41-1092.11) | 50 |
| R9-25-805. | Inspections (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, and 36-2232(A)(11)) | 51 |
| Exhibit 1. | Recodified | 51 |
| Exhibit 2. | Recodified | 51 |
| Exhibit 3. | Repealed | 51 |
| R9-25-806. | Repealed | 51 |
| R9-25-807. | Renumbered | 51 |
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| Table 1. | Renumbered | 51 |
| R9-25-808. | Recodified | 51 |

ARTICLE 9. GROUND AMBULANCE CERTIFICATE OF NECESSITY

Article 9, consisting of Sections R9-25-901 through R9-25-912, adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

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| R9-25-901. | Definitions (Authorized by A.R.S. § 36-2202 (A)) | Table 10.1. | Major and Minor Defects (Authorized by A.R.S. §§ 36-2202(A)(5), 36-2212, 36-2232, 36-2234) | 78 |
| R9-25-902. | Application for an Initial Certificate of Necessity (Authorized by A.R.S. §§ 36-2201(11)(h), 36-2204, 36-2232, 36-2233, 36-2234, 36-2236(A), 36-2240) | Table 10.2. | Minimum Equipment and Supplies for Ground Ambulance Vehicles (Authorized by A.R.S. § 36-2202(A)(5)) | 82 |
| R9-25-903. | Application for Renewal of a Certificate of Necessity (Authorized by A.R.S. §§ 36-2233, 36-2235, 36-2238, 36-2240, 36-2242) | | | |
| R9-25-904. | Transfer of a Certificate of Necessity (Authorized by A.R.S. §§ 36-2232, 36-2233, 36-2236(A) and (B), 36-2238) | | | |
| R9-25-905. | Application for Amendment of a Certificate of Necessity (Authorized by A.R.S. §§ 36-2232, 36-2240, 36-2247) | | | |
| R9-25-906. | Determining Public Necessity (Authorized by A.R.S. § 36-2233(F)) | | | |
| R9-25-907. | Determining Response Times, Priority for Responses, and Compliance with Specified Times (Authorized by A.R.S. §§ 36-2232, 36-2233, 36-2236) | | | |
| R9-25-908. | Operations (Authorized by A.R.S. §§ 36-2204.02, 36-2211, 36-2224, 36-2232, 36-2233, 36-2237, 36-2241) | | | |
| R9-25-909. | Ambulance Revenue and Cost Reporting Requirements (Authorized by A.R.S. §§ 36-2232, 36-2246) | | | |
| R9-25-910. | Inspections and Investigations (Authorized by A.R.S. §§ 36-2204, 36-2212, 36-2232, 36-2241, 36-2245) | | | |
| R9-25-911. | Enforcement Action (Authorized by A.R.S. §§ 36-2234(L), 36-2244, 36-2245, 41-1092.03, 41-1092.11(B)) | | | |
| R9-25-912. | Renumbered | | | |
| Exhibit 9A. | Repealed | | | |
| Exhibit A. | Renumbered | | | |
| Exhibit 9B. | Repealed | | | |
| Exhibit B. | Renumbered | | | |

ARTICLE 10. GROUND AMBULANCE VEHICLE REGISTRATION

Article 10, consisting of Sections R9-25-1001 through R9-25-1006, adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

| | |
|-------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section | |
| R9-25-1001. | Initial and Renewal Application for a Certificate of Registration (Authorized by A.R.S. §§ 36-2212, 36-2232, 36-2240) |
| R9-25-1002. | Term and Transferability of Certificates of Registration (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, and 41-1092.11) |
| R9-25-1003. | Changes Affecting Registration (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2238, and 36-2247) |
| R9-25-1004. | Ground Ambulance Vehicle Inspections (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2232(A)(11), and 36-2241) |
| R9-25-1005. | Minimum Standards for Ground Ambulance Vehicles (Authorized by A.R.S. §§ 36-2202(A)(5), 36-2232(C)(5)) |

ARTICLE 11. GROUND AMBULANCE SERVICE RATES AND CHARGES; CONTRACTS

Editor's Note: Article 11 introductory paragraph from Supp. 01-1 was inadvertently removed in Supp. 23-1. The Article introductory paragraph has been reinstated (Supp. 23-2).

Article 11, consisting of Sections R9-25-1101 through R9-25-1110, adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

| | |
|-------------|--------------------------------------------------------------------------------------------------------------------------------|
| Section | |
| R9-25-1101. | Establishing Initial General Public Rates (Authorized by A.R.S. §§ 36-2232, 36-2239) |
| R9-25-1102. | Application for Adjustment of General Public Rates (Authorized by A.R.S. §§ 36-2234, 36-2239) |
| R9-25-1103. | Application for a Contract Rate or Range of Rates Less than General Public Rates (A.R.S. §§ 36-2234(I) and (K), 36-2239) |
| R9-25-1104. | Ground Ambulance Service Contracts (A.R.S. §§ 36-2232, 36-2234(M)) |
| R9-25-1105. | Application for Provision of Subscription Service or to Establish a Subscription Service Rate (A.R.S. § 36-2232(A)(1)) |
| R9-25-1106. | Rate of Return Setting Considerations (A.R.S. §§ 36-2232, 36-2239) |
| R9-25-1107. | Rate Calculation Factors (A.R.S. § 36-2232) |
| R9-25-1108. | Implementation of Rates and Charges (A.R.S. §§ 36-2232, 36-2239) |
| R9-25-1109. | Charges (A.R.S. §§ 36-2232, 36-2239(D)) |
| R9-25-1110. | Invoices (A.R.S. §§ 36-2234, 36-2239) |

ARTICLE 12. TIME-FRAMES FOR DEPARTMENT APPROVALS

Article 12, consisting of Section R9-25-1201, Table 1, and Exhibits A and B, adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

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| Section | |
| R9-25-1201. | Time-frames (Authorized by A.R.S. §§ 36-2235, 41-1072 through 41-1079) |
| Table 12.1. | Time-frames (in days) |
| Table 1. | Renumbered |
| Exhibit A. | Recodified |
| Exhibit B. | Recodified |

ARTICLE 13. TRAUMA CENTERS AND TRAUMA REGISTRIES

Article 13, consisting of Section R9-25-1301 through R9-25-1315, Table 1 and Exhibit I, made by final rulemaking at 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

| | |
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| Section | |
| R9-25-1301. | Definitions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4)) |
| R9-25-1302. | Eligibility for Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4)) |

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| R9-25-1303. | Application and Designation Process (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4)) | 92 | R9-25-1311. | 2225(A)(5) and (6)) | 107 |
| R9-25-1303.01. | Expired | 93 | R9-25-1312. | Repealed | 108 |
| R9-25-1304. | Changes Affecting Designation Status (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4)) | 94 | R9-25-1313. | Renumbered | 108 |
| R9-25-1305. | Modification of Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4)) | 94 | R9-25-1314. | Renumbered | 108 |
| R9-25-1306. | Inspections (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4)) | 95 | R9-25-1315. | Expired | 108 |
| R9-25-1307. | Designation and Dedsignation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4)) | 96 | Table 1. | Repealed | 108 |
| R9-25-1308. | Trauma Center Responsibilities (A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(4), (5), and (6)) | 96 | Exhibit I. | Repealed | 108 |
| R9-25-1309. | Trauma Registry Data (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6)) | 104 | Table 13.1. | Arizona Trauma Center Standards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4)) | 108 |
| R9-25-1310. | Trauma Registry Data Quality Assurance (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, and 36- | | | | |

ARTICLE 14. REPEALED

Article 14, consisting of Sections R9-25-1401 through R9-25-1406 and Table 1, made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4).

| | |
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| Section | |
| R9-25-1401. | Repealed |
| R9-25-1402. | Repealed |
| Table 1. | Repealed |
| R9-25-1403. | Repealed |
| R9-25-1404. | Expired |
| R9-25-1405. | Repealed |
| R9-25-1406. | Renumbered |

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ARTICLE 1. GENERAL

R9-25-101. Definitions (Authorized by A.R.S. §§ 36-2201, 36-2202, 36-2204, and 36-2205)

In addition to the definitions in A.R.S. § 36-2201, the following definitions apply in this Chapter, unless otherwise specified:

1. "Administer" or "administration" means to directly apply or the direct application of an agent to the body of a patient by injection, inhalation, ingestion, or any other means and includes adjusting the administration rate of an agent.
2. "AEMT" has the same meaning as "advanced emergency medical technician" in A.R.S. § 36-2201.
3. "Agent" means a chemical or biological substance that is administered to a patient to treat or prevent a medical condition.
4. "ALS" has the same meaning as "advanced life support" in A.R.S. § 36-2201.
5. "ALS base hospital" has the same meaning as "advanced life support base hospital" in A.R.S. § 36-2201.
6. "Applicant" means a person requesting certification, licensure, approval, or designation from the Department under this Chapter.
7. "BLS" has the same meaning as "basic life support" in A.R.S. § 36-2201.
8. "Chain of custody" means the transfer of physical control of and accountability for an item from one individual to another individual, documented to indicate the:
 - a. Date and time of the transfer,
 - b. Integrity of the item transferred, and
 - c. Signatures of the individual relinquishing and the individual accepting physical control of and accountability for the item.
9. "Chief administrative officer" means:
 - a. For a hospital, the same as in A.A.C. R9-10-101; and
 - b. For a training program, an individual assigned to act on behalf of the training program by the body organized to govern and manage the training program.
10. "Clinical training" means experience and instruction in providing direct patient care in a health care institution.
11. "Controlled substance" has the same meaning as in A.R.S. § 32-1901.
12. "Course" means didactic instruction and, if applicable, hands-on practical skills training, clinical training, or field training provided by a training program to prepare an individual to become or remain an EMCT.
13. "Course session" means an offering of a course, during a period of time designated by a training program certificate holder, for a specific group of students.
14. "Current" means up-to-date and extending to the present time.
15. "Day" means a calendar day.
16. "Document" or "documentation" means signed and dated information in written, photographic, electronic, or other permanent form.
17. "Drug" has the same meaning as in A.R.S. § 32-1901.
18. "Electronic signature" has the same meaning as in A.R.S. § 44-7002.
19. "EMCT" has the same meaning as "emergency medical care technician" in A.R.S. § 36-2201.
20. "EMT" has the same meaning as "emergency medical technician" in A.R.S. § 36-2201.
21. "EMT-I(99)" means an individual, other than a Paramedic, who:
 - a. Was certified as an EMCT by the Department before January 28, 2013 to perform ALS, and
 - b. Has continuously maintained the certification.
22. "EMS" has the same meaning as "emergency medical services" subsections (17)(a) through (d) in A.R.S. § 36-2201.
23. "Field training" means emergency medical services experience and training outside of a health care institution or a training program facility.
24. "General hospital" has the same meaning as in A.A.C. R9-10-101.
25. "Health care institution" has the same meaning as in A.R.S. § 36-401.
26. "Hospital" has the same meaning as in A.A.C. R9-10-101.
27. "In use" means in the immediate physical possession of an EMCT and readily accessible for potential imminent administration to a patient.
28. "Infusion pump" means a device approved by the U.S. Food and Drug Administration that, when operated mechanically, electrically, or osmotically, releases a measured amount of an agent into a patient's circulatory system in a specific period of time.
29. "Interfacility transport" means an ambulance transport of a patient from one health care institution to another health care institution.
30. "IV" means intravenous.
31. "Locked" means secured with a key, including a magnetic, electronic, or remote key, or combination so that opening is not possible except by using the key or entering the combination.
32. "Medical direction" means administrative medical direction or on-line medical direction.
33. "Medical record" has the same meaning as in A.R.S. § 36-2201.
34. "Minor" means an individual younger than 18 years of age who is not emancipated.
35. "Monitor" means to observe the administration rate of an agent and the patient's response to the agent and may include discontinuing administration of the agent.
36. "On-line medical direction" means emergency medical services guidance or information provided to an EMCT by a physician through two-way voice communication.
37. "Patient" means an individual who is sick, injured, or wounded and who requires medical monitoring, medical treatment, or transport.
38. "Pediatric" means pertaining to a child.
39. "Person" has the same meaning as in A.R.S. § 1-215 and includes governmental agencies.
40. "Physician assistant" has the same meaning as in A.R.S. § 32-2501.
41. "Practical nurse" has the same meaning as in A.R.S. § 32-1601.
42. "Practicing emergency medicine" means acting as an emergency medicine physician in a hospital emergency department.
43. "Prehospital incident history report" has the same meaning as in A.R.S. § 36-2220.
44. "Refresher challenge examination" means a test given to an individual to assess the individual's knowledge, skills, and competencies compared with the national education standards established for the applicable EMCT classification level.

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45. "Refresher course" means a course intended to reinforce and update the knowledge, skills, and competencies of an individual who has previously met the national educational standards for a specific level of EMS personnel.
46. "Registered nurse" has the same meaning as in A.R.S. § 32-1601.
47. "Registered nurse practitioner" has the same meaning as in A.R.S. § 32-1601.
48. "Scene" means the location of the patient to be transported or the closest point to the patient at which an ambulance can arrive.
49. "Special hospital" has the same meaning as in A.A.C. R9-10-101.
50. "STR skill" means "Specialty Training Requirement skill," a medical treatment, procedure, or technique or administration of a medication for which an EMCT needs specific training beyond the training required in 9 A.A.C. 25, Article 4 in order to perform or administer.
51. "Transfer of care" means to relinquish to the control of another person the ongoing medical treatment of a patient.
52. "Transport agent" means an agent that an EMCT at a specified level of certification is authorized to administer only during interfacility transport of a patient for whom the agent's administration was started at the sending health care institution.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-102. Individuals to Act for a Person Regulated Under This Chapter (Authorized by A.R.S. § 36-2202)

When a person regulated under this Chapter is required by this Chapter to provide information on or sign an application form or other document, the following individual shall satisfy the requirement on behalf of the person regulated under this Chapter:

1. If the person regulated under this Chapter is an individual, the individual; or
2. If the person regulated under this Chapter is a business organization, political subdivision, government agency, or tribal government, the individual who the business organization, political subdivision, government agency, or tribal government has designated to act on behalf of the business organization, political subdivision, government agency, or tribal government and who:
 - a. Is a U.S. citizen or legal resident, and
 - b. Has an Arizona address.

Historical Note

New Section made by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

ARTICLE 2. MEDICAL DIRECTION; ALS BASE HOSPITAL CERTIFICATION**R9-25-201. Administrative Medical Direction (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), 36-****2204(5), (6), and (7), 36-2204.01, and 36-2205(A) and (D))**

- A. An emergency medical services provider or ambulance service shall:
 1. Except as specified in subsection (B) or (C), designate a physician as administrative medical director who meets one of the following:
 - a. Has emergency medicine certification issued by a member board of the American Board of Medical Specialties;
 - b. Has emergency medical services certification issued by the American Board of Emergency Medicine;
 - c. Has emergency medicine certification issued by the American Osteopathic Board of Emergency Medicine;
 - d. Has emergency medicine certification issued by the American Board of Physician Specialties;
 - e. Has completed an emergency medicine residency training program accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association; or
 - f. Is an emergency medicine physician in an emergency department located in Arizona and has current certification in:
 - i. Advanced emergency cardiac life support that includes didactic instruction and a practical skills test, consistent with training recognized by the American Heart Association;
 - ii. Advanced emergency trauma life support that includes didactic instruction and a practical skills test, consistent with training recognized by the American College of Surgeons; and
 - iii. Pediatric advanced emergency life support that includes didactic instruction and a practical skills test, consistent with training recognized by the American Heart Association;
 2. If the emergency medical services provider or ambulance service designates a physician as administrative medical director according to subsection (A)(1), notify the Department in writing:
 - a. Of the identity and qualifications of the designated physician within 10 days after designating the physician as administrative medical director; and
 - b. Within 10 days after learning that a physician designated as administrative medical director is no longer qualified to be an administrative medical director; and
 3. Maintain for Department review:
 - a. A copy of the policies, procedures, protocols, and documentation required in subsection (E); and
 - b. Either:
 - i. The name, email address, telephone number, and qualifications of the physician providing administrative medical direction on behalf of the emergency medical services provider or ambulance service; or
 - ii. If the emergency medical services provider or ambulance service provides administrative medical direction through an ALS base hospital or a centralized medical direction communications center, a copy of a written agreement with the ALS base hospital or centralized medical direction communications center documenting

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that the administrative medical director is qualified under subsection (A)(1).

- B. Except as provided in R9-25-502(A)(3), if an emergency medical services provider or ambulance service provides only BLS, the emergency medical services provider or ambulance service is not required to have an administrative medical director.
- C. If an emergency medical services provider or ambulance service provides administrative medical direction through an ALS base hospital or a centralized medical direction communications center, the emergency medical services provider or ambulance service shall ensure that the ALS base hospital or centralized medical direction communications center designates a physician as administrative medical director who meets one of the requirements in subsections (A)(1)(a) through (f).
- D. An emergency medical services provider or ambulance service may provide administrative medical direction through an ALS base hospital certified according to R9-25-203(C), if the emergency medical services provider or ambulance service:
 - 1. Uses the ALS base hospital for administrative medical direction only for patients who are children, and
 - 2. Has a written agreement for the provision of administrative medical direction with an ALS base hospital that meets the requirements in R9-25-203(B)(1) or a centralized medical direction communications center.
- E. An emergency medical services provider or an ambulance service shall ensure that:
 - 1. An EMCT receives administrative medical direction as required by A.R.S. Title 36, Chapter 21.1 and this Chapter;
 - 2. Protocols are established, documented, and implemented by an administrative medical director, consistent with A.R.S. Title 36, Chapter 21.1 and this Chapter, that include:
 - a. A communication protocol for:
 - i. How and from what sources an EMCT requests and receives on-line medical direction,
 - ii. When and how an EMCT notifies a health care institution of the EMCT's intent to transport a patient to the health care institution, and
 - iii. What procedures an EMCT follows in the event of a communications equipment failure;
 - b. A triage protocol for:
 - i. How an EMCT assesses and prioritizes the medical condition of a patient,
 - ii. How an EMCT selects a health care institution to which a patient may be transported,
 - iii. How a patient is transported to the health care institution, and
 - iv. When on-line medical direction is required;
 - c. A treatment protocol for:
 - i. How an EMCT performs a medical treatment on a patient or administers an agent to a patient, and
 - ii. When on-line medical direction is required while an EMCT is providing treatment; and
 - d. A protocol for the transfer of information to the emergency receiving facility for:
 - i. What information is required to be communicated to emergency receiving facility staff concurrent with the transfer of care and by what method, including the condition of the patient, the treatment provided to the patient, and the patient's response to the treatment;
 - ii. What information is required to be documented on a prehospital incident history report; and
 - iii. The time-frame, which is associated with the transfer of care, for completion and submission of a prehospital incident history report;
- 3. Policies and procedures are established, documented, and implemented by an administrative medical director, consistent with A.R.S. Title 36, Chapter 21.1 and this Chapter, that:
 - a. Are consistent with an EMCT's scope of practice, as specified in Table 5.1;
 - b. Cover:
 - i. Medical recordkeeping;
 - ii. Medical reporting, including to whom and by what method medical reporting is accomplished;
 - iii. Completion and submission of prehospital incident history reports;
 - iv. Obtaining, storing, transferring, and disposing of agents to which an EMCT has access including methods to:
 - (1) Identify individuals authorized by the administrative medical director to have access to agents,
 - (2) Maintain chain of custody for controlled substances, and
 - (3) Minimize potential degradation of agents due to temperature extremes;
 - v. Administration, monitoring, or assisting in patient self-administration of an agent;
 - vi. Monitoring and evaluating an EMCT's compliance with treatment protocols, triage protocols, and communications protocols specified in subsection (E)(2);
 - vii. Monitoring and evaluating an EMCT's compliance with medical recordkeeping, medical reporting, and prehospital incident history report requirements;
 - viii. Monitoring and evaluating an EMCT's compliance with policies and procedures for agents to which the EMCT has access;
 - ix. Monitoring and evaluating an EMCT's competency in performing skills authorized for the EMCT by the EMCT's administrative medical director and within the EMCT's scope of practice, as specified in Table 5.1;
 - x. Ongoing education, training, or remediation necessary to maintain or enhance an EMCT's competency in performing skills within the EMCT's scope of practice, as specified in Table 5.1;
 - xi. The process by which administrative medical direction is withdrawn from an EMCT; and
 - xii. The process for reinstating an EMCT's administrative medical direction; and
 - c. Include a quality assurance process to evaluate the effectiveness of the administrative medical direction provided to EMCTs;
- 4. Protocols in subsection (E)(2) and policies and procedures in subsection (E)(3) are reviewed annually by the administrative medical director and updated as necessary;
- 5. Requirements in A.R.S. Title 36, Chapter 21.1 and this Chapter are reviewed annually by the administrative medical director; and

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6. The Department is notified in writing no later than ten days after the date:
 - a. Administrative medical direction is withdrawn from an EMCT; or
 - b. An EMCT's administrative medical direction is reinstated.
- F. An administrative medical director for an emergency medical services provider or ambulance service shall ensure that:
 1. An EMCT for whom the administrative medical director provides administrative medical direction:
 - a. Has access to at least the minimum supply of agents required for the highest level of service to be provided by the EMCT, consistent with requirements in Article 5 of this Chapter;
 - b. Administers, monitors, or assists in patient self-administration of an agent according to the requirements in policies and procedures; and
 - c. Has access to a copy of the policies and procedures required in subsection (F)(2) while on duty for the emergency medical services provider or ambulance service;
 2. Policies and procedures for agents to which an EMCT has access:
 - a. Specify that an agent is obtained only from a person:
 - i. Authorized by law to prescribe the agent, or
 - ii. Licensed under A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23 to dispense or distribute the agent;
 - b. Cover chain of custody and transfer procedures for each supply of agents, requiring an EMCT for whom the administrative medical director provides administrative medical direction to:
 - i. Document the name and the EMCT certification number or employee identification number of each individual who takes physical control of the supply of agents;
 - ii. Document the time and date that each individual takes physical control of the supply of agents;
 - iii. Inspect the supply of agents for expired agents, deteriorated agents, damaged or altered agent containers or labels, and depleted, visibly adulterated, or missing agents upon taking physical control of the supply of agents;
 - iv. Document any of the conditions in subsection (F)(2)(b)(iii);
 - v. Notify the administrative medical director of a depleted, visibly adulterated, or missing controlled substance;
 - vi. Obtain a replacement for each affected agent in subsection (F)(2)(b)(iii) for which the minimum supply is not present; and
 - vii. Record each administration of an agent on a prehospital incident history report;
 - c. Cover mechanisms for controlling inventory of agents and preventing diversion of controlled substances; and
 - d. Include that an agent is kept inaccessible to all individuals who are not authorized access to the agent by policies and procedures required under subsection (E)(3)(b)(iv)(1) and, when not being administered, is:
 - i. Secured in a dry, clean, washable receptacle;
 - ii. While on a motor vehicle or aircraft registered to the emergency medical services provider or ambulance service, secured in a manner that restricts movement of the agent and the receptacle specified in subsection (F)(2)(d)(i); and
 - iii. If a controlled substance, in a hard-shelled container that is difficult to breach without the use of a power cutting tool and:
 - (1) Locked inside a motor vehicle or aircraft registered to the emergency medical services provider or ambulance service,
 - (2) Otherwise locked and secured in such a manner as to deter misappropriation, or
 - (3) On the person of an EMCT authorized access to the agent;
 3. The Department is notified in writing within 10 days after the administrative medical director receives notice, as required subsection (F)(2)(b)(v), that any quantity of a controlled substance is depleted, visibly adulterated, or missing; and
 4. Except when the emergency medical services provider or ambulance service obtains all agents from an ALS base hospital pharmacy, which retains ownership of the agents, agents to which an EMCT has access are obtained, stored, transferred, and disposed of according to policies and procedures; A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; 4 A.A.C. 23; and requirements of the U.S. Drug Enforcement Administration.
- G. An administrative medical director may delegate responsibilities to an individual as necessary to fulfill the requirements in this Section, if the individual is:
 1. Another physician,
 2. A physician assistant,
 3. A registered nurse practitioner,
 4. A registered nurse,
 5. A Paramedic, or
 6. An EMT-I(99).

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-201 renumbered to R9-25-207; new R9-25-201 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section repealed; new Section R9-25-201 renumbered from R9-25-202 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 953, effective July 1, 2019 (Supp. 19-2).

R9-25-202. On-line Medical Direction (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), 36-2204(5), (6), and (7), 36-2204.01, and 36-2205(A) and (D))

- A. In this Section, "physician" means an individual licensed:
 1. According to A.R.S. Title 32, Chapter 13 or 17; or
 2. When working in a health care institution operating under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation, by a similar licensing board in another state.
- B. An emergency medical services provider or ambulance service shall:
 1. Except as provided in R9-25-203(C)(3), ensure that a physician provides on-line medical direction to EMCTs on behalf of the emergency medical services provider or ambulance service only if the physician meets one of the following:

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- a. Has emergency medicine certification issued by a member board of the American Board of Medical Specialties;
 - b. Has emergency medical services certification issued by the American Board of Emergency Medicine;
 - c. Has emergency medicine certification issued by the American Osteopathic Board of Emergency Medicine;
 - d. Has emergency medicine certification issued by the American Board of Physician Specialties;
 - e. Has completed an emergency medicine residency training program accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association; or
 - f. Is an emergency medicine physician in an emergency department located in Arizona and has current certification that meets the requirements in R9-25-201(A)(1)(f)(i) through (iii);
2. For each physician providing on-line medical direction on behalf of the emergency medical services provider or ambulance service, maintain for Department review either:
 - a. The name, email address, telephone number, and qualifications of the physician providing on-line medical direction on behalf of the emergency medical services provider or ambulance service; or
 - b. If the emergency medical services provider or ambulance service provides on-line medical direction through an ALS base hospital or a centralized medical direction communications center, a copy of a written agreement with the ALS base hospital or centralized medical direction communications center documenting that the physician providing on-line medical direction is qualified under subsection (B)(1);
 3. Ensure that the on-line medical direction provided to an EMCT on behalf of the emergency medical services provider or ambulance service is consistent with:
 - a. The EMCT's scope of practice, as specified in Table 5.1; and
 - b. Communication protocols, triage protocols, treatment protocols, and protocols for prehospital incident history reports, specified in R9-25-201(E)(2); and
 4. Ensures that a physician providing on-line medical direction on behalf of the emergency medical services provider or ambulance service relays on-line medical direction only through one of the following individuals, under the supervision of the physician and consistent with the individual's scope of practice:
 - a. Another physician,
 - b. A physician assistant,
 - c. A registered nurse practitioner,
 - d. A registered nurse,
 - e. A Paramedic, or
 - f. An EMT-I(99).
- C.** An emergency medical services provider or ambulance service may provide on-line medical direction through an ALS base hospital certified according to R9-25-203(C), if the emergency medical services provider or ambulance service:
1. Uses the ALS base hospital for on-line medical direction only for patients who are children, and
 2. Has an additional written agreement for the provision of on-line medical direction with an ALS base hospital that meets the requirements in R9-25-203(B)(1) or a centralized medical direction communications center.
- D.** An emergency medical services provider or ambulance service shall ensure that the emergency medical services provider or ambulance service, or an ALS base hospital or a centralized medical direction communications center providing on-line medical direction on behalf of the emergency medical services provider or ambulance service, has:
1. Operational and accessible communication equipment that will allow on-line medical direction to be given to an EMCT;
 2. A written plan for alternative communications with an EMCT in the event of a disaster, communication equipment breakdown or repair, power outage, or malfunction; and
 3. A physician qualified under subsection (B)(1) available to give on-line medical direction to an EMCT 24 hours a day, seven days a week.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-202 renumbered to R9-25-208; new R9-25-202 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-202 renumbered to Section R9-25-201; new Section R9-25-202 renumbered from R9-25-203 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 953, effective July 1, 2019 (Supp. 19-2).

Exhibit A. Repealed**Historical Note**

Exhibit A adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-203. ALS Base Hospital General Requirements (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(5), (6), and (7))

- A.** A person shall not operate as an ALS base hospital without certification from the Department.
- B.** The Department shall certify an ALS base hospital if the applicant:
1. Is:
 - a. Licensed as a general hospital under 9 A.A.C. 10, Article 2; or
 - b. A facility operated as a hospital in this state by the United States federal government or by a sovereign tribal nation;
 2. Maintains at least one current written agreement described in A.R.S. § 36-2201(4);
 3. Has not been decertified as an ALS base hospital by the Department within five years before submitting the application;
 4. Submits an application that is complete and compliant with the requirements in this Article; and
 5. Has not knowingly provided false information on or with an application required by this Article.
- C.** The Department may certify as an ALS base hospital a special hospital, which is licensed under 9 A.A.C. 10, Article 2 and provides surgical services and emergency services only to children, if the applicant:
1. Meets the requirements in subsection (B)(2) through (5);

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2. Provides administrative medical direction or on-line medical direction only for patients who are children; and
3. Ensures that:
 - a. Administrative medical direction is provided by a physician who meets the requirements in R9-25-201(A)(1); and
 - b. On-line medical direction is provided by a physician who meets one of the following:
 - i. Meets the requirements in R9-25-202(B)(1),
 - ii. Has board certification in pediatric emergency medicine from either the American Board of Pediatrics or the American Board of Emergency Medicine, or
 - iii. Is board eligible in pediatric emergency medicine.
- D. An ALS base hospital certificate is valid only for the name and address listed by the Department on the certificate.
- E. At least every 36 months after certification, the Department shall assess an ALS base hospital to determine ongoing compliance with the requirements of this Article.
- F. The Department may inspect an ALS base hospital according to A.R.S. § 41-1009:
 1. As part of the substantive review time-frame required in A.R.S. §§ 41-1072 through 41-1079; or
 2. As necessary to determine compliance with the requirements of this Article.
- G. If the Department determines that an ALS base hospital is not in compliance with the requirements in this Article, the Department may:
 1. Take an enforcement action as described in R9-25-207; or
 2. Require that an ALS base hospital submit to the Department, within 15 days after written notice from the Department, a corrective action plan to address issues of compliance that do not directly affect the health or safety of a patient that:
 - a. Describes how each identified instance of non-compliance will be corrected and reoccurrence prevented, and
 - b. Includes a date for correcting each instance of non-compliance that is appropriate to the actions necessary to correct the instance of non-compliance.
- c. The name, email address, and telephone number of the applicant's chief administrative officer's designee if the chief administrative officer will not be the liaison between the ALS base hospital and the Department;
- d. Whether the applicant is applying for certification of a:
 - i. General hospital licensed under 9 A.A.C. 10, Article 2;
 - ii. Special hospital licensed under 9 A.A.C. 10, Article 2, that provides surgical services and emergency services only to children; or
 - iii. Facility operating as a federal or tribal hospital;
- e. The name of each emergency medical services provider or ambulance service for which the applicant has a proposed written agreement described in A.R.S. § 36-2201(4) to provide administrative medical direction or on-line medical direction;
- f. The name, address, email address, and telephone number of each administrative medical director;
- g. The name of each physician providing on-line medical direction;
- h. Attestation that the applicant meets the requirements in R9-25-202(D);
- i. Attestation that the applicant will comply with all requirements in A.R.S. Title 36, Chapter 21.1 and this Chapter;
- j. Attestation that all information required as part of the application has been submitted and is true and accurate; and
- k. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature;
2. A copy of the applicant's current hospital license issued under 9 A.A.C. 10, Article 2, if applicable; and
3. A copy of each executed written agreement described in A.R.S. § 36-2201(4), including all attachments and exhibits.
- B. The Department shall approve or deny an application under this Section according to Article 12 of this Chapter.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-203 renumbered to Section R9-25-202; new Section R9-25-203 renumbered from R9-25-207 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 953, effective July 1, 2019 (Supp. 19-2).

R9-25-204. Application Requirements for ALS Base Hospital Certification (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(5))

- A. An applicant for ALS base hospital certification shall submit to the Department an application, including:
 1. The following information in a Department-provided format:
 - a. The applicant's name, address, and telephone number;
 - b. The name, email address, and telephone number of the applicant's chief administrative officer;

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-204 renumbered to R9-25-209; new R9-25-204 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section R9-25-204 repealed; new Section R9-25-204 renumbered from R9-25-208 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 953, effective July 1, 2019 (Supp. 19-2).

R9-25-205. Changes Affecting an ALS Base Hospital Certificate (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(5) and (6))

- A. No later than 30 days after the date of a change in the name listed on the ALS base hospital certificate, an ALS base hospital certificate holder shall notify the Department of the change, in a Department-provided format, including:
 1. The current name of the ALS base hospital;
 2. The ALS base hospital's certificate number;
 3. The new name and the effective date of the name change;
 4. Documentation supporting the name change;

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5. Documentation of compliance with the requirements in A.A.C. R9-10-109(A), if applicable;
 6. Attestation that all information submitted to the Department is true and correct; and
 7. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- B.** No later than 48 hours after changing the information provided according to R9-25-204(A)(1)(e) by terminating, adding, or amending a written agreement required in R9-25-203(B)(2), an ALS base hospital certificate holder shall notify the Department of the change, including:
1. The following information in a Department-provided format:
 - a. The name of the ALS base hospital;
 - b. The ALS base hospital's certificate number; and
 - c. As applicable, the name of the emergency medical services provider or ambulance service for which the ALS base hospital:
 - i. Has a newly executed or amended written agreement described in A.R.S. § 36-2201(4), or
 - ii. Is no longer providing administrative medical direction or on-line medical direction under a written agreement described in A.R.S. § 36-2201(4); and
 2. If applicable, a copy of the newly executed or amended written agreement described in A.R.S. § 36-2201(4), including all attachments and exhibits.
- C.** No later than 10 days after the date of a change in an administrative medical director provided according to R9-25-204(A)(1)(f), an ALS base hospital certificate holder shall notify the Department of the change, in a Department-provided format, including:
1. The name of the ALS base hospital,
 2. The ALS base hospital's certificate number,
 3. The name of the new administrative medical director and the effective date of the change,
 4. Attestation that the new administrative medical director meets the requirements in R9-25-201(A)(1),
 5. Attestation that all information submitted to the Department is true and correct, and
 6. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- D.** No later than 30 days after the date of a change in the address listed on an ALS base hospital certificate or a change in ownership, as defined in A.A.C. R9-10-101, an ALS base hospital certificate holder shall submit to the Department an application required in R9-25-204(A).

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). Section R9-25-205 repealed; new Section R9-25-205 renumbered from R9-25-209 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 953, effective July 1, 2019 (Supp. 19-2).

R9-25-206. ALS Base Hospital Authority and Responsi-

bilities (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), 36-2204(5) and (6), 36-2208(A), and 36-2209(A)(2))

- A.** An ALS base hospital certificate holder shall:
1. Have the capability of providing both administrative medical direction and on-line medical direction;
 2. Provide administrative medical direction and on-line medical direction to an EMCT according to:
 - a. A written agreement described in A.R.S. § 36-2201(4);
 - b. The requirements in R9-25-201 for administrative medical direction; and
 - c. The requirements in R9-25-202 for on-line medical direction;
 3. Ensure that personnel are available to provide administrative medical direction and on-line medical direction; and
 4. Establish, document, and implement policies and procedures, consistent with A.R.S. Title 36, Chapter 21.1 and this Chapter, that include a quality assurance process to evaluate the effectiveness of the on-line medical direction provided to EMCTs.
- B.** An ALS base hospital certificate holder shall notify in writing:
1. The Department no later than 24 hours after:
 - a. Ceasing to meet a requirement in R9-25-203(B)(1) or (2); or
 - b. For a special hospital, ceasing to be licensed under 9 A.A.C. 10, Article 2, as a special hospital or to meet the requirement in R9-25-203(B)(2); and
 2. Each emergency medical services provider or ambulance service with which the ALS base hospital has a current written agreement to provide administrative medical direction or on-line medical direction no later than seven days before ceasing to provide administrative medical direction or on-line medical direction or as specified in the written agreement, whichever is earlier.
- C.** An ALS base hospital may act as a training program without training program certification from the Department, if the ALS base hospital:
1. Is eligible for training program certification as provided in R9-25-301(C); and
 2. Complies with the requirements in R9-25-301(D), R9-25-302, R9-25-303(B), (C), and (F), and R9-25-304 through R9-25-306.
- D.** If an ALS base hospital's pharmacy provides all of the agents for an emergency medical services provider or ambulance service, and the ALS base hospital owns the agents provided, the ALS base hospital's certificate holder shall ensure that:
1. Except as stated in subsections (D)(2) and (3), the policies and procedures for agents to which an EMCT has access that are established by the administrative medical director for the emergency medical services provider or ambulance service comply with requirements in R9-25-201(F)(2);
 2. The emergency medical services provider or ambulance service requires an EMCT for the emergency medical services provider or ambulance service to notify the pharmacist in charge of the hospital pharmacy of a missing, visibly adulterated, or depleted controlled substance; and
 3. The pharmacist in charge of the hospital pharmacy notifies the Department, as specified in R9-25-201(F)(3), of a missing, visibly adulterated, or depleted controlled substance.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Amended effective November 30, 1998; filed in the

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Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4). Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Former R9-25-206 renumbered to R9-25-210; new R9-25-206 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-206 repealed; new Section R9-25-206 renumbered from R9-25-210 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 953, effective July 1, 2019 (Supp. 19-2).

The following Exhibit was repealed under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to A.R.S. § 36-2205(C). Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit this change to the Secretary of State's Office for publication in the Arizona Administrative Register as proposed rules; the Department did not submit the change to the Governor's Regulatory Review Council for review; and the Department was not required to hold public hearings on the repealing of this Exhibit (Supp. 98-4).

Exhibit B. Repealed**Historical Note**

Exhibit B adopted effective October 15, 1996 (Supp. 96-4). Repealed effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4).

R9-25-207. ALS Base Hospital Enforcement Actions (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(7))

A. Except as provided in subsection (C), the Department may take an action listed in subsection (B) against an ALS base hospital certificate holder who:

1. Does not meet the certification requirements:
 - a. In R9-25-203(B)(1) or (2); or
 - b. For a special hospital, in R9-25-203(B)(2) and being licensed under 9 A.A.C. 10, Article 2, as a special hospital;
2. Violates the requirements in A.R.S. Title 36, Chapter 21.1 or 9 A.A.C. 25;
3. Does not submit a corrective action plan, as provided in R9-25-203(G)(2), that is acceptable to the Department;
4. Does not complete a corrective action plan submitted according to R9-25-203(G)(2); or
5. Knowingly or negligently provides false documentation or information to the Department.

B. The Department may take the following action against an ALS base hospital certificate holder:

1. After notice is provided according to A.R.S. Title 41, Chapter 6, Article 10, issue a letter of censure,
2. After notice is provided according to A.R.S. Title 41, Chapter 6, Article 10, issue an order of probation,
3. After notice and an opportunity to be heard is provided according to A.R.S. Title 41, Chapter 6, Article 10, suspend the ALS base hospital certificate, or
4. After notice and an opportunity to be heard is provided according to A.R.S. Title 41, Chapter 6, Article 10, decertify the ALS base hospital.

C. An ALS base hospital operated as a hospital in this state by the United States federal government or by a sovereign tribal nation is under federal or tribal government jurisdiction.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-207 repealed; new R9-25-207 renumbered from R9-25-201 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-207 renumbered to Section R9-25-203; new Section R9-25-207 renumbered from Section R9-25-211 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 953, effective July 1, 2019 (Supp. 19-2).

R9-25-208. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-208 repealed; new R9-25-208 renumbered from R9-25-202 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-208 renumbered to Section R9-25-204 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-209. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-209 repealed; new R9-25-209 renumbered from R9-25-204 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-209 renumbered to Section R9-25-205 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-210. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-210 repealed; new R9-25-210 renumbered from R9-25-206 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section R9-25-210 renumbered to Section R9-25-206 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-211. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-211 repealed; new R9-25-211 renumbered from R9-25-213 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-211 renumbered to Section R9-25-207 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-212. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-213. Renumbered

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Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section renumbered to R9-25-211 by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

ARTICLE 3. TRAINING PROGRAMS**R9-25-301. Application for Certification (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))**

- A.** To apply for certification as a training program, an applicant shall submit an application to the Department, in a Department-provided format, including:
1. The applicant's name, address, and telephone number;
 2. The name, telephone number, and email address of the applicant's chief administrative officer;
 3. The name of each course the applicant plans to provide;
 4. Attestation that the applicant has the equipment and facilities that meet the requirements established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references for the courses specified in subsection (A)(3);
 5. The name, telephone number, and email address of the training program medical director;
 6. The name, telephone number, and email address of the training program director;
 7. Attestation that the applicant will comply with all requirements in A.R.S. Title 36, Chapter 21.1 and 9 A.A.C. 25;
 8. Attestation that all information required as part of the application has been submitted and is true and accurate; and
 9. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- B.** An applicant may submit to the Department a copy of an accreditation report if the applicant is currently accredited by a national accrediting organization.
- C.** The Department shall certify a training program if the applicant:
1. Has not operated a training program that has been decertified by the Department within five years before submitting the application,
 2. Submits an application that is complete and compliant with requirements in this Article, and
 3. Has not knowingly provided false information on or with an application required by this Article.
- D.** The Department:
1. Shall assess a training program at least once every 24 months after certification to determine ongoing compliance with the requirements of this Article; and
 2. May inspect a training program according to A.R.S. § 41-1009:
 - a. As part of the substantive review time-frame required in A.R.S. §§ 41-1072 through 41-1079, or
 - b. As necessary to determine compliance with the requirements of this Article.
- E.** The Department shall approve or deny an application under this Article according to Article 12 of this Chapter.
- F.** A training program certificate is valid only for the name of the training program certificate holder and the courses listed by the Department on the certificate and may not be transferred to another person.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 3487, with an immediate effective date of December 4, 2018 (Supp. 18-4).

R9-25-302. Administration (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

- A.** A training program certificate holder shall ensure that a training program medical director:
1. Is a physician or exempt from physician licensing requirements under A.R.S. §§ 32-1421(A)(7) or 32-1821(3);
 2. Meets one of the following:
 - a. Has emergency medicine certification issued by a member board of the American Board of Medical Specialties,
 - b. Has emergency medical services certification issued by the American Board of Emergency Medicine,
 - c. Has completed an emergency medicine residency training program accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association, or
 - d. Is an emergency medicine physician in an emergency department located in Arizona and has current certification that meets the requirements in R9-25-201(A)(1)(d)(i) through (iii); and
 3. Before the start date of a course session, reviews the course content outline and final examinations to ensure consistency with the national educational standards for the applicable EMCT classification level.
- B.** A training program certificate holder shall ensure that a training program director:
1. Is one of the following:
 - a. A physician with at least two years of experience providing emergency medical services as a physician;
 - b. A doctor of allopathic medicine or osteopathic medicine licensed in another state or jurisdiction with at least two years of experience providing emergency medical services as a doctor of allopathic medicine or osteopathic medicine;
 - c. An individual who meets the definition of registered nurse in A.R.S. § 32-1601 with at least two years of experience providing emergency medical services as a registered nurse;
 - d. A physician assistant with at least two years of experience providing emergency medical services as a physician assistant; or
 - e. An EMCT with at least two years of experience at that classification of EMCT, only for courses to prepare an individual for certification or recertification at the same or lower level of EMCT;
 2. Has completed 24 hours of training related to instructional methodology including:

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- a. Organizing and preparing materials for didactic instruction, clinical training, field training, and skills practice;
- b. Preparing and administering tests and practical examinations;
- c. Using equipment and supplies;
- d. Measuring student performance;
- e. Evaluating student performance;
- f. Providing corrective feedback; and
- g. Evaluating course effectiveness;
- 3. Supervises the day-to-day operation of the courses offered by the training program;
- 4. Supervises and evaluates the lead instructor for a course session;
- 5. Monitors the training provided by all preceptors providing clinical training or field training; and
- 6. Does not participate as a student in a course session, take a refresher challenge examination, or receive a certificate of completion for a course given by the training program.
- C. A training program certificate holder shall:
 - 1. Maintain with an insurance company authorized to transact business in this state:
 - a. A minimum single claim professional liability insurance coverage of \$500,000, and
 - b. A minimum single claim general liability insurance coverage of \$500,000 for the operation of the training program; or
 - 2. Be self-insured for the amounts in subsection (C)(1).
- D. A training program certificate holder shall ensure that policies and procedures are:
 - 1. Established, documented, and implemented covering:
 - a. Student enrollment, including verification that a student has proficiency in reading at the 9th grade level and meets all course admission requirements;
 - b. Maintenance of student records and medical records, including compliance with all applicable state and federal laws governing confidentiality, privacy, and security; and
 - c. For each course offered:
 - i. Student attendance requirements, including leave, absences, make-up work, tardiness, and causes for suspending or expelling a student for unsatisfactory attendance;
 - ii. Grading criteria, including the minimum grade average considered satisfactory for continued enrollment and standards for suspending or expelling a student for unsatisfactory grades;
 - iii. Administration of final examinations; and
 - iv. Student conduct, including causes for suspending or expelling a student for unsatisfactory conduct;
 - 2. Reviewed annually and updated as necessary; and
 - 3. Maintained on the premises and provided to the Department at the Department's request.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19

A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-303. Changes Affecting a Training Program Certificate (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

- A. No later than 10 days after a change in the name, address, or email address of the training program certificate holder listed on a training program certificate, the training program certificate holder shall notify the Department of the change, in a Department-provided format, including:
 - 1. The current name, address, and email address of the training program certificate holder;
 - 2. The certificate number for the training program;
 - 3. The new name, new address, or new email address and the date of the name, address, or email address change;
 - 4. If applicable, attestation that the training program certificate holder has insurance required in R9-25-302(C) that is valid for the new name or new address;
 - 5. Attestation that all information submitted to the Department is true and correct; and
 - 6. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- B. No later than 10 days after a change in the training program medical director or training program director, a training program certificate holder shall notify the Department, in a Department-provided format, including:
 - 1. The name and address of the training program certificate holder;
 - 2. The certificate number for the training program;
 - 3. The name, telephone number, and email address of the new training program medical director or training program director and the date of the change; and
 - 4. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- C. A training program certificate holder that intends to add a course shall submit to the Department a request for approval, in a Department-provided format, including:
 - 1. The name and address of the training program certificate holder;
 - 2. The certificate number for the training program;
 - 3. The name, telephone number, and email address of the applicant's chief administrative officer;
 - 4. The name of each course the training program certificate holder plans to add;
 - 5. Attestation that the training program certificate holder has the equipment and facilities that meet the requirements established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references for the courses specified in subsection (C)(4);
 - 6. Attestation that all information required as part of the request is true and accurate; and
 - 7. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- D. For notification made under subsection (A) of a change in the name or address of a certificate holder, the Department shall issue an amended certificate to the training program certificate holder that incorporates the new name or address but retains the date on the current certificate.

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- E. The Department shall approve or deny a request for the addition of a course in subsection (C) according to Article 12 of this Chapter.
- F. A training program certificate holder shall not conduct a course until an amended certificate is issued by the Department.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 3487, with an immediate effective date of December 4, 2018 (Supp. 18-4).

R9-25-304. Course and Examination Requirements (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1), (2), and (3))

- A. For each course provided, a training program director shall ensure that:
 - 1. The required equipment and facilities established for the course are available for use;
 - 2. The following are prepared and provided to course applicants before the start date of a course session:
 - a. A description of requirements for admission, course content, course hours, course fees, and course completion, including whether the course prepares a student for:
 - i. A national certification organization examination for the specific EMCT classification level,
 - ii. A statewide standardized certification test under the state certification process, or
 - iii. Recertification at a specific EMCT classification level;
 - b. A list of books, equipment, and supplies that a student is required to purchase for the course;
 - c. Notification of eligibility for the course as specified in R9-25-305(B), (D)(1) and (2), or (F)(1) and (2), as applicable;
 - d. Notification of any specific requirements for a student to begin any component of the course, including, as applicable:
 - i. Prerequisite knowledge, skill, and abilities;
 - ii. Physical examinations;
 - iii. Immunizations;
 - iv. Documentation of freedom from infectious tuberculosis;
 - v. Drug screening; and
 - vi. The ability to perform certain physical activities; and
 - e. The policies for the course on student attendance, grading, student conduct, and administration of final examinations, required in R9-25-302(D)(1)(c)(i) through (iv);
 - 3. Information is provided to assist a student to:
 - a. Register for and take an applicable national certification organization examination;
 - b. Complete application forms for registration in a national certification organization; and
 - c. Complete application forms for certification under 9 A.A.C. 25, Article 4;
 - 4. A lead instructor is assigned to each course session who:
 - a. Is one of the following:
 - i. A physician with at least two years of experience providing emergency medical services;
 - ii. A doctor of allopathic medicine or osteopathic medicine licensed in another state or jurisdiction with at least two years of experience providing emergency medical services;
 - iii. An individual who meets the definition of registered nurse in A.R.S. § 32-1601 with at least two years of experience providing emergency medical services;
 - iv. A physician assistant with at least two years of experience providing emergency medical services; or
 - v. An EMCT with at least two years of experience at that classification of EMCT, only for courses to prepare an individual for certification or recertification at the same or lower EMCT classification level;
 - b. Has completed training related to instructional methodology specified in R9-25-302(B)(2);
 - c. Except as provided in subsection (A)(4)(d), is available for student-instructor interaction during all course hours established for the course session; and
 - d. Designates an individual who meets the requirements in subsections (A)(4)(a) and (b) to be present and act as the lead instructor when the lead instructor is not present; and
 - 5. Clinical training and field training are provided:
 - a. Under the supervision of a preceptor who has at least two years of experience providing emergency medical services and is one of the following:
 - i. An individual licensed in this or another state or jurisdiction as a doctor of allopathic medicine or osteopathic medicine;
 - ii. An individual licensed in this or another state or jurisdiction as a registered nurse;
 - iii. An individual licensed in this or another state or jurisdiction as a physician assistant; or
 - iv. An EMCT, only for courses to prepare an individual for certification or recertification at the same or lower EMCT classification level;
 - b. Consistent with the clinical training and field training requirements established for the course; and
 - c. If clinical training or field training are provided by a person other than the training program certificate holder, under a written agreement with the person providing the clinical training or field training that includes a termination clause that provides sufficient time for a student to complete the training upon termination of the written agreement.
- B. A training program director may combine the students from more than one course session for didactic instruction.
- C. For a final examination or refresher challenge examination for each course offered, a training program director shall ensure that:
 - 1. The final examination or refresher challenge examination for the course is completed onsite at the training program or at a facility used for course instruction;
 - 2. Except as provided in subsection (D), the final examination or refresher challenge examination for a course includes a:
 - a. Written test:

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- i. With one absolutely correct answer, two incorrect answers, and one distractor, none of which is "all of the above" or "none of the above";
- ii. With 150 multiple-choice questions for the:
 - (1) Final examination for a refresher course, or
 - (2) Refresher challenge examination for a course;
- iii. That covers the learning objectives of the course with representation from all topics covered by the course; and
- iv. That requires a passing score of 75% or higher in no more than three attempts for a final examination and no more than one attempt for a refresher challenge examination; and
- b. Comprehensive practical skills test:
 - i. Evaluating the student's technical proficiency in skills consistent with the national education standards for the applicable EMCT classification level, and
 - ii. Reflecting the skills necessary to pass a national certification organization examination at the applicable EMCT classification level;
3. The identity of each student taking the final examination or refresher challenge examination is verified;
4. A student does not receive verbal or written assistance from any other individual or use notes, books, or documents of any kind as an aid in taking the examination;
5. A student who violates subsection (C)(4) is not permitted to complete the examination or to receive a certificate of completion for the course or refresher challenge examination; and
6. An instructor who allows a student to violate subsection (C)(4) or assists a student in violating subsection (C)(4) is no longer permitted to serve as an instructor.
- D.** A training program director shall ensure that a standardized certification test for a student under the state certification process includes:
 1. A written test that meets the requirements in subsection (C)(2)(a); and
 2. Either:
 - a. A comprehensive practical skills test that meets the requirements in subsection (C)(2)(b), or
 - b. An attestation of practical skills proficiency on a Department-provided form.
- E.** A training program director shall ensure that:
 1. A student is allowed no longer than six months after the date of the last day of classroom instruction for a course session to complete all course requirements,
 2. There is a maximum ratio of four students to one preceptor for the clinical training portion of a course, and
 3. There is a maximum ratio of one student to one preceptor for the field training portion of a course.
- F.** A training program director shall:
 1. For a student who completes a course, issue a certificate of completion containing:
 - a. Identification of the training program,
 - b. Identification of the course completed,
 - c. The name of the student who completed the course,
 - d. The date the student completed all course requirements,
 - e. Attestation that the student has met all course requirements, and
 - f. The signature or electronic signature of the training program director and the date of signature or electronic signature; and
2. For an individual who passes a refresher challenge examination, issue a certificate of completion containing:
 - a. Identification of the training program,
 - b. Identification of the refresher challenge examination administered,
 - c. The name of the individual who passed the refresher challenge examination,
 - d. The date or dates the individual took the refresher challenge examination,
 - e. Attestation that the individual has passed the refresher challenge examination, and
 - f. The signature or electronic signature of the training program director and the date of signature or electronic signature.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-305. Supplemental Requirements for Specific Courses (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

- A.** Except as specified in subsection (B), a training program certificate holder shall ensure that a certification course offered by the training program:
 1. Covers knowledge, skills, and competencies comparable to the national education standards established for a specific EMCT classification level;
 2. Prepares a student for:
 - a. A national certification organization examination for the specific EMCT classification level, or
 - b. A standardized certification test under the state certification process;
 3. Has no more than 24 students enrolled in each session of the course; and
 4. Has a minimum course length of:
 - a. For an EMT certification course, 130 hours;
 - b. For an AEMT certification course, 244 hours, including:
 - i. A minimum of 100 contact hours of didactic instruction and practical skills training, and
 - ii. A minimum of 144 contact hours of clinical training and field training; and
 - c. For a Paramedic certification course, 1000 hours, including:
 - i. A minimum of 500 contact hours of didactic instruction and practical skills training, and
 - ii. A minimum of 500 contact hours of clinical training and field training.
- B.** A training program director shall ensure that, for an AEMT certification course or a Paramedic certification course, a student has one of the following:
 1. Current certification from the Department as an EMT or higher EMCT classification level,
 2. Documentation of completion of prior training in an EMT course or a course for a higher EMCT classification level

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- provided by a training program certified by the Department or an equivalent training program, or
3. Documentation of current registration in a national certification organization at the EMT classification level or higher EMCT classification level.
- C. A training program director shall ensure that for a course to prepare an EMT-I(99) for Paramedic certification:
1. A student has current certification from the Department as an EMT-I(99);
 2. The course covers the knowledge, skills, and competencies established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references;
 3. The minimum course length is 600 hours, including:
 - a. A minimum of 220 contact hours of didactic instruction and practical skills training, and
 - b. A minimum of 380 contact hours of clinical training and field training; and
 4. A minimum of 60 contact hours of training in anatomy and physiology are completed by the student:
 - a. As a prerequisite to the course,
 - b. As preliminary instruction completed at the beginning of the course session before the didactic instruction required in subsection (C)(3)(a) begins, or
 - c. Through integration of the anatomy and physiology material with the units of instruction required in subsection (C)(3).
- D. A training program director shall ensure that for an EMT refresher course:
1. A student has one of the following:
 - a. Current certification from the Department as an EMT or higher EMCT classification level,
 - b. Documentation of completion of prior training in an EMT course or a course for a higher EMCT classification level provided by a training program certified by the Department or an equivalent training program,
 - c. Documentation of current registration in a national certification organization at the EMT classification level or higher EMCT classification level, or
 - d. Documentation from a national certification organization requiring the student to complete the EMT refresher course to be eligible to apply for registration in the national certification organization;
 2. A student has documentation of current certification in adult, pediatric, and infant cardiopulmonary resuscitation through instruction consistent with American Heart Association recommendations for emergency cardiovascular care by EMCTs;
 3. The EMT refresher course cover the knowledge, skills, and competencies in the national education standards established at the EMT classification level;
 4. No more than 32 students are enrolled in each session of the course; and
 5. The minimum course length is 24 contact hours.
- E. A training program authorized to provide an EMT refresher course may administer a refresher challenge examination covering materials included in the EMT refresher course to an individual eligible for admission into the EMT refresher course.
- F. A training program director shall ensure that for an ALS refresher course:
1. A student has one of the following:
 - a. Current certification from the Department as an AEMT, EMT-I(99), or Paramedic;
 - b. Documentation of completion of a prior training course, at the AEMT classification level or higher, provided by a training program certified by the Department or an equivalent training program;
 - c. Documentation of current registration in a national certification organization at the AEMT or Paramedic classification level; or
 - d. Documentation from a national certification organization requiring the student to complete the ALS refresher course to be eligible to apply for registration in the national certification organization;
 2. A student has documentation of current certification in:
 - a. Adult, pediatric, and infant cardiopulmonary resuscitation through instruction consistent with American Heart Association recommendations for emergency cardiovascular care by EMCTs, and
 - b. For a student who has current certification as an EMT-I(99) or higher level of EMCT classification, advanced emergency cardiac life support;
 3. The ALS refresher course covers:
 - a. For a student who has current certification as an AEMT or documentation of completion of prior training at an AEMT classification level, the knowledge, skills, and competencies in the national education standards established for an AEMT;
 - b. For a student who has current certification as an EMT-I(99), the knowledge, skills, and competencies established according to A.R.S. § 36-2204 for an EMT-I(99) as of the effective date of this Section and available through the Department at www.azdhs.gov/ems-regulatory-references; and
 - c. For a student who has current certification as a Paramedic or documentation of completion of prior training at a Paramedic classification level, the knowledge, skills, and competencies in the national education standards established for a Paramedic;
 4. No more than 32 students are enrolled in each session of the course; and
 5. The minimum course length is 48 contact hours.
- G. A training program authorized to provide an ALS refresher course may administer a refresher challenge examination covering materials included in the ALS refresher course to an individual eligible for admission into the ALS refresher course.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 3487, with an immediate effective date of December 4, 2018 (Supp. 18-4).

Exhibit F.**Repealed**

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Historical Note

Exhibit F adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-306. Training Program Notification and Record-keeping (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

- A.** At least 10 days before the start date of a course session, a training program certificate holder shall submit to the Department the following information in a Department-provided format:
1. Identification of the training program;
 2. Identification of the course;
 3. The name of the training program medical director;
 4. The name of the training program director;
 5. The name of the course session's lead instructor;
 6. The course session start date and end date;
 7. The physical location at which didactic training and practical skills training will be provided;
 8. The days of the week and times of each day during which didactic training and practical skills training will be provided;
 9. The number of clock hours of didactic training and practical skills training;
 10. If applicable, the number of hours of clinical training and field training included in the course session;
 11. The date, start time, and location of the final examination for the course;
 12. Attestation that the lead instructor is qualified under R9-25-304(A)(4)(a); and
 13. The name and signature of the chief administrative officer or program director and the date signed.
- B.** The Department shall review the information submitted according to subsection (A) and, within five days after receiving the information:
1. Approve a course session, issue an identifying number to the course session, and notify the training program certificate holder of the approval and identifying number; or
 2. Disapprove a course session that does not comply with requirements in this Article and notify the training program certificate holder of the disapproval.
- C.** A training program certificate holder shall ensure that:
1. No later than 10 days after the date a student completes all course requirements, the training program director submits to the Department the following information in a Department-provided format:
 - a. Identification of the training program;
 - b. The name of the training program director;
 - c. Identification of the course and the start date and end date of the course session completed by the student;
 - d. The name, date of birth, and mailing address of the student who completed the course;
 - e. The date the student completed all course requirements;
 - f. The score the student received on the final examination;
 - g. Attestation that the student has met all course requirements;
 - h. Attestation that all information submitted is true and accurate; and
 - i. The signature of the training program director and the date signed; and
 2. No later than 10 days after the date an individual passes a refresher challenge examination administered by the training program, the training program director submits to the Department the following information in a Department-provided format:
 - a. Identification of the training program;
 - b. Identification of the:
 - i. Refresher challenge examination administered, and
 - ii. Course for which the refresher challenge examination substitutes;
 - c. The name of the training program medical director;
 - d. The name of the training program director;
 - e. The name, date of birth, and mailing address of the individual who passed the refresher challenge examination;
 - f. The date and location at which the refresher challenge examination was administered;
 - g. The score the individual received on the refresher challenge examination;
 - h. Attestation that the individual:
 - i. Met the requirements for taking the refresher challenge examination, and
 - ii. Passed the refresher challenge examination;
 - i. Attestation that all information submitted is true and accurate; and
 - j. The name and signature of the training program director and the date signed.
- D.** A training program certificate holder shall ensure that:
1. A record is established for each student enrolled in a course session, including:
 - a. The student's name and date of birth;
 - b. A copy of the student's enrollment agreement or contract;
 - c. Identification of the course in which the student is enrolled;
 - d. The start date and end date for the course session;
 - e. Documentation supporting the student's eligibility to enroll in the course;
 - f. Documentation that the student meets prerequisites for the course, established as specified in R9-25-304(A)(2)(d)(i);
 - g. The student's attendance records;
 - h. The student's clinical training records, if applicable;
 - i. The student's field training records, if applicable;
 - j. The student's grades;
 - k. Documentation of the final examination for the course, including:
 - i. A copy of each scored written test attempted or completed by the student, and
 - ii. All forms used as part of the comprehensive practical skills test attempted or completed by the student; and
 - l. A copy of the student's certificate of completion required in R9-25-304(F)(1);
 2. A student record required in subsection (D)(1) is maintained for at least three years after the end date of a student's course session and provided to the Department at the Department's request;
 3. A record is established for each individual to whom a refresher challenge examination is administered, including:
 - a. The individual's name and date of birth;
 - b. Identification of the refresher challenge examination administered to the individual;

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- c. Documentation supporting the individual's eligibility for a refresher challenge examination;
 - d. The date the refresher challenge examination was administered;
 - e. Documentation of the refresher challenge examination, including:
 - i. A copy of the scored written test attempted or completed by the individual, and
 - ii. All forms used as part of the comprehensive practical skills test attempted or completed by the individual; and
 - f. A copy of the individual's certificate of completion required in R9-25-304(F)(2); and
4. A record required in subsection (D)(3) is maintained for at least three years after the date the refresher challenge examination was administered and provided to the Department at the Department's request.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 11 A.A.R. 553, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). R9-25-306 repealed; new Section R9-25-306 renumbered from R9-25-316 and amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1).

R9-25-307. Training Program Enforcement Actions (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

- A. The Department may take an action listed in subsection (B) against a training program certificate holder who:
 - 1. Violates the requirements in A.R.S. Title 36, Chapter 21.1 or 9 A.A.C. 25; or
 - 2. Knowingly or negligently provides false documentation or information to the Department.
- B. The Department may take the following action against a training program certificate holder:
 - 1. After notice is provided according to A.R.S. Title 41, Chapter 6, Article 10, issue:
 - a. A letter of censure, or
 - b. An order of probation; or
 - 2. After notice and opportunity to be heard is provided according to A.R.S. Title 41, Chapter 6, Article 10:
 - a. Suspend the training program certificate, or
 - b. Decertify the training program.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (Supp. 12-3). New Section R9-25-307 renumbered from R9-25-317 and amended by exempt rulemaking at 19 A.A.R. 282,

effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit H. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-308. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-309. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 11 A.A.R. 553, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-310. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-311. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

Exhibit D. Repealed**Historical Note**

Exhibit D adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit C. Repealed**Historical Note**

Exhibit C adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R.

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5372, effective January 3, 2004 (Supp. 03-4).

Exhibit E. Repealed**Historical Note**

Exhibit E adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-312. Repealed**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-313. Repealed**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-314. Repealed**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-315. Repealed**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-316. Renumbered**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). R9-25-316 renumbered to R9-25-306 by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-317. Renumbered**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). R9-25-317 renumbered to R9-25-307 by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-318. Repealed**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

tive January 28, 2013 (Supp. 13-1).

Exhibit A. Repealed**Historical Note**

New Exhibit made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Exhibit A repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

Exhibit B. Expired**Historical Note**

New Exhibit made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Exhibit B expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (Supp. 12-3).

Exhibit C. Repealed**Historical Note**

New Exhibit made by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). Exhibit C repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

ARTICLE 4. EMCT CERTIFICATION

Article 4 repealed; new Article 4 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-401. EMCT General Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (H) and 36-2204(1), (6), and (7))

- A.** Except as provided in R9-25-404(E) and R9-25-405, an individual shall not act as an EMCT unless the individual has current certification or recertification from the Department.
- B.** An EMCT shall act as an EMCT only:
 1. As authorized under the EMCT's scope of practice as specified in Article 5 of this Chapter; and
 2. For an EMCT required to have medical direction according to A.R.S. Title 36, Chapter 21.1 and R9-25-502, as authorized by the EMCT's administrative medical director under:
 - a. Treatment protocols, triage protocols, and communication protocols approved by the EMCT's administrative medical director as specified in R9-25-201(E)(2); and
 - b. Medical recordkeeping, medical reporting, and pre-hospital incident history report requirements approved by the EMCT's administrative medical director as specified in R9-25-201(E)(3)(b).
- C.** Except as provided in A.R.S. § 36-2211, the Department shall certify or re-certify an individual as an EMCT for a period of two years.
- D.** An individual whose EMCT certificate is expired shall not apply for recertification, except as provided in R9-25-404(A).
- E.** The Department shall comply with the confidentiality requirements in A.R.S. §§ 36-2220(E) and 36-2245(M).

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

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Amended by final rulemaking at 13 A.A.R. 1713, effective June 30, 2007 (Supp. 07-2). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1).

R9-25-402. EMCT Certification and Recertification Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (H) and 36-2204(1), (6), and (7))

A. The Department shall not certify an EMCT if the applicant:

1. Is currently:
 - a. Incarcerated for a criminal conviction,
 - b. On parole for a criminal conviction,
 - c. On supervised release for a criminal conviction, or
 - d. On probation for a criminal conviction;
2. Within 10 years before the date of filing an application for certification required by this Article, has been convicted of any of the following crimes, or any similarly defined crimes in this state or in any other state or jurisdiction, unless the conviction has been absolutely discharged, expunged, or vacated:
 - a. 1st or 2nd degree murder;
 - b. Attempted 1st or 2nd degree murder;
 - c. Sexual assault;
 - d. Attempted sexual assault;
 - e. Sexual abuse of a minor;
 - f. Attempted sexual abuse of a minor;
 - g. Sexual exploitation of a minor;
 - h. Attempted sexual exploitation of a minor;
 - i. Commercial sexual exploitation of a minor;
 - j. Attempted commercial sexual exploitation of a minor;
 - k. Molestation of a child;
 - l. Attempted molestation of a child; or
 - m. A dangerous crime against children as defined in A.R.S. § 13-705;
3. Within five years before the date of filing an application for certification required by this Article, has been convicted of a misdemeanor involving moral turpitude or a felony in this state or any other state or jurisdiction, other than a misdemeanor involving moral turpitude or a felony listed in subsection (A)(2), unless the conviction has been absolutely discharged, expunged, or vacated;
4. Within five years before the date of filing an application for certification required by this Article, has had EMCT certification or recertification revoked in this state or certification, recertification, or licensure at an EMCT classification level revoked in any other state or jurisdiction; or
5. Knowingly provides false information in connection with an application required by this Article.

B. The Department shall not re-certify an EMCT, if:

1. While certified, the applicant has been convicted of a crime listed in subsection (A)(2), or any similarly defined crimes in this state or in any other state or jurisdiction, unless the conviction has been absolutely discharged, expunged, or vacated; or
2. The applicant knowingly provides false information in connection with an application required by this Article.

C. The Department shall make probation a condition of EMCT certification if, within two years before the date of filing an application under R9-25-403, an applicant has been convicted of a misdemeanor in this state or in any other state or jurisdiction, involving:

1. Possession, use, administration, acquisition, sale, manufacture, or transportation of an intoxicating liquor, dangerous drug, or narcotic drug, as defined in A.R.S. § 13-3401, unless the conviction has been absolutely discharged, expunged, or vacated; or
2. Driving or being in physical control of a vehicle while under the influence of an intoxicating liquor, a dangerous drug, or a narcotic drug, as defined in A.R.S. § 13-3401, unless the conviction has been absolutely discharged, expunged, or vacated.

D. Except as provided in subsection (E), the Department shall make probation a condition of EMCT recertification if an applicant:

1. Is currently:
 - a. Incarcerated for a criminal conviction,
 - b. On parole for a criminal conviction,
 - c. On supervised release for a criminal conviction, or
 - d. On probation for a criminal conviction; or
2. Within five years before the date of filing an application under R9-25-404, has been convicted of a misdemeanor involving moral turpitude or a felony in this state or any other state or jurisdiction, other than those listed in subsection (A)(2), unless the conviction has been absolutely discharged, expunged, or vacated.

E. As specified in R9-25-409, the Department may make probation a condition of EMCT recertification if an applicant, within two years before the date of filing an application under R9-25-404, has been convicted of a misdemeanor in this state or in any other state or jurisdiction, involving:

1. Possession, use, administration, acquisition, sale, manufacture, or transportation of an intoxicating liquor, dangerous drug, or narcotic drug, as defined in A.R.S. § 13-3401, unless the conviction has been absolutely discharged, expunged, or vacated; or
2. Driving or being in physical control of a vehicle while under the influence of an intoxicating liquor, a dangerous drug, or a narcotic drug, as defined in A.R.S. § 13-3401, unless the conviction has been absolutely discharged, expunged, or vacated.

F. If the Department makes probation a condition of EMCT certification or recertification, the Department shall fix the period and terms of probation that will:

1. Protect the public health and safety, and
2. Rehabilitate and educate the applicant.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1).

R9-25-403. Application Requirements for EMCT Certification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and (H) and 36-2204(1) and (6))

A. An individual may apply for initial EMCT certification if:

1. The individual is at least 18 years of age;
2. The individual complies with the requirements in A.R.S. § 41-1080;
3. The individual is not ineligible under R9-25-402; and
4. One of the following applies to the individual:

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- a. The individual has not previously applied for certification from the Department or has withdrawn an application for certification;
 - b. An application for certification submitted by the individual was denied by the Department two or more years before the present date;
 - c. Except as provided in R9-25-404(A)(2) or (3), the individual's certification as an EMCT is expired;
 - d. The individual's certification as an EMCT was revoked by the Department five or more years before the present date; or
 - e. The individual has current certification as an EMCT and is applying for certification at a different classification level of EMCT.
- B.** An applicant for initial EMCT certification shall submit to the Department an application in a Department-provided format, including:
- 1. A form containing:
 - a. The applicant's name, address, telephone number, email address, date of birth, gender, and Social Security number;
 - b. The level of EMCT certification being requested;
 - c. Responses to questions addressing the applicant's criminal history according to R9-25-402(A)(1) through (3) and (C);
 - d. Whether the applicant has within the five years before the date of the application had:
 - i. EMCT certification or recertification revoked in Arizona; or
 - ii. Certification, recertification, or licensure at an EMCT classification level revoked in another state or jurisdiction;
 - e. Attestation that all information required as part of the application has been submitted and is true and accurate; and
 - f. The applicant's signature or electronic signature and date of signature;
 - 2. For each affirmative response to a question addressing the applicant's criminal history required in subsection (B)(1)(c), a detailed explanation on a Department-provided form and supporting documentation;
 - 3. For each affirmative response to subsection (B)(1)(d), a detailed explanation on a Department-provided form and supporting documentation;
 - 4. If applicable, a copy of certification, recertification, or licensure at an EMCT classification level issued to the applicant in another state or jurisdiction;
 - 5. A copy of one of the following for the applicant:
 - a. U.S. passport, current or expired;
 - b. Birth certificate;
 - c. Naturalization documents; or
 - d. Documentation of legal resident alien status; and
 - 6. One of the following:
 - a. Either:
 - i. A certificate of completion showing that within two years before the date of the application, the applicant completed statewide standardized training; and
 - ii. A statewide standardized certification test; or
 - b. Documentation of current registration in a national certification organization at the applicable or higher level of EMCT classification.
- B.** The Department shall approve or deny an application for initial EMCT certification according to Article 12 of this Chapter.
- C.** If the Department denies an application for initial EMCT certification, the applicant may request a hearing according to A.R.S. Title 41, Chapter 6, Article 10.
- Historical Note**
- Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-403 repealed; new Section R9-25-403 renumbered from Section R9-25-404 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1).
- R9-25-404. Application Requirements for EMCT Recertification (Authorized by A.R.S. §§ 36-2202(A)(2), (3), (4), and (6), (B), and (H) and 36-2204(1), (4), and (6))**
- A.** An individual may apply for recertification at the same level of EMCT certification held or at a lower level of EMCT certification:
- 1. Within 90 days before the expiration date of the individual's current EMCT certification;
 - 2. Within the 30-day period after the expiration date of the individual's EMCT certification, as provided in subsection (E); or
 - 3. Within the extension time period granted under R9-25-405.
- B.** To apply for recertification, an applicant shall submit to the Department an application, in a Department-provided format, including:
- 1. A form containing:
 - a. The applicant's name, address, telephone number, email address, date of birth, and Social Security number;
 - b. The applicant's current certification number;
 - c. Responses to questions addressing the applicant's criminal history according to R9-25-402(B), (D), and (E);
 - d. Whether the applicant has within the five years before the date of the application had:
 - i. EMCT certification or recertification revoked in Arizona; or
 - ii. Certification, recertification, or licensure at an EMCT classification level revoked in another state or jurisdiction;
 - e. An indication of the level of EMCT certification held currently or within the past 30 days and of the level of EMCT certification for which recertification is requested;
 - f. Attestation that all information required as part of the application has been submitted and is true and accurate; and
 - g. The applicant's signature or electronic signature and date of signature;
 - 2. For each affirmative response to a question addressing the applicant's criminal history required in subsection (B)(1)(c), a detailed explanation on a Department-provided form and supporting documentation;
 - 3. For an affirmative response to subsection (B)(1)(d), a detailed explanation on a Department-provided form; and

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4. For an application submitted within 30 days after the expiration date of EMCT certification, a nonrefundable certification extension fee of \$150.
- C. In addition to the application in subsection (B), an applicant for EMCT recertification shall submit one of the following to the Department:
 1. A certificate of course completion issued by the training program director under R9-25-304(F) showing that within two years before the date of the application, the applicant completed either the applicable refresher course or applicable refresher challenge examination;
 2. Documentation of current registration in a national certification organization at the applicable or higher level of EMCT classification; or
 3. Attestation on a Department-provided form that the applicant:
 - a. Has documentation of current certification in adult, pediatric, and infant cardiopulmonary resuscitation through instruction consistent with American Heart Association recommendations for emergency cardiovascular care by EMCTs;
 - b. For EMT-I(99) recertification or Paramedic recertification, has documentation of current certification in advanced emergency cardiac life support;
 - c. Has documentation of having completed within the previous two years the following number of hours of continuing education in topics that are consistent with the content of the applicable refresher course:
 - i. For EMT recertification, a minimum of 24 hours;
 - ii. For AEMT recertification, EMT-I(99) recertification, or Paramedic recertification, a minimum of 48 hours; and
 - iii. Included in the hours required in subsections (C)(3)(c)(i) or (ii), as applicable, a minimum of 5 hours in pediatric emergency care; and
 - d. For EMT recertification, has functioned in the capacity of an EMT for at least 240 hours during the previous two years.
- D. An applicant who submits an attestation under subsection (C)(3) shall maintain the applicable documentation for at least three years after the date of the application.
- E. If an individual submits an application for recertification, with a certification extension fee, within 30 days after the expiration date of the individual's EMCT certification, the individual:
 1. Was authorized to act as an EMCT during the period between the expiration date of the individual's EMCT certification and the date the application was submitted, and
 2. Is authorized to act as an EMCT until the Department makes a final determination on the individual's application for recertification.
- F. If an individual does not submit an application for recertification before the expiration date of the individual's EMCT certification or, with a certification extension fee, within 30 days after the expiration date of the individual's EMCT certification, the individual:
 1. Is not an EMCT,
 2. Was not authorized to act as an EMCT during the 30-day period after the expiration date of the individual's EMCT certification, and
 3. May submit an application to the Department for initial EMCT certification according to R9-25-403.
- G. The Department shall approve or deny an application for recertification according to Article 12 of this Chapter.
- H. If the Department denies an application for recertification, the applicant may request a hearing according to A.R.S. Title 41, Chapter 6, Article 10.
- I. The Department may deny, based on failure to meet the standards for recertification in A.R.S. Title 36, Chapter 21.1 and this Article, an application submitted with a certification extension fee.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section R9-25-404 renumbered to R9-25-403; new Section R9-25-404 renumbered from Section R9-25-406 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-405. Extension to File an Application for EMCT Recertification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (H) and 36-2204(1), (4), (5), and (7))

- A. Before the expiration of a current certificate, an EMCT who is unable to meet the recertification requirements in R9-25-404 because of personal or family illness, military service, or authorized federal or state emergency response deployment may apply to the Department in writing for an extension of time to file for recertification by submitting:
 1. The following information in a Department-provided format:
 - a. The EMCT's name, address, telephone number, and email address;
 - b. The EMCT's current certification number;
 - c. The reason for requesting the extension; and
 - d. The EMCT's signature or electronic signature and date of signature; and
 2. For an exemption based on military service or authorized federal or state emergency response deployment, a copy of the EMCT's military orders or documentation of authorized federal or state emergency response deployment.
- B. The Department may grant an extension of time to file for recertification:
 1. For personal or family illness, for no more than 180 days; or
 2. For each military service or authorized federal or state emergency response deployment, for the term of service or deployment plus 180 days.
- C. An individual applying for or granted an extension of time to file for recertification:
 1. Remains certified according to A.R.S. § 41-1092.11 during the extension period, and
 2. Shall submit an application for recertification according to R9-25-404.
- D. An individual who does not meet the recertification requirements in R9-25-404 within the extension period or has the application for recertification denied by the Department:
 1. Is not an EMCT, and
 2. May submit an application to the Department for initial EMCT certification according to R9-25-403.
- E. The Department shall approve or deny a request for an extension to file for EMCT recertification according to Article 12 of this Chapter.

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- F. If the Department denies a request for an extension to file for EMCT recertification, the applicant may request a hearing according to A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-405 repealed; new Section R9-25-405 renumbered from Section R9-25-407 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1).

R9-25-406. Requirements for Downgrading of Certification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and (H) and 36-2204(1) and (6))

An individual who holds current EMCT certification at a classification level higher than EMT and who is not under investigation according to A.R.S. § 36-2211 may apply for:

1. Continued certification at a lower EMCT classification level for the remainder of the certification period by submitting to the Department:
 - a. A written request containing:
 - i. The EMCT's name, address, email address, telephone number, date of birth, and Social Security number;
 - ii. The lower EMCT classification level requested;
 - iii. Attestation that the applicant has not committed an act or engaged in conduct that would warrant revocation of a certificate under A.R.S. § 36-2211;
 - iv. Attestation that all information submitted is true and accurate; and
 - v. The applicant's signature or electronic signature and date of signature; and
 - b. Either:
 - i. A written statement from the EMCT's administrative medical director attesting that the EMCT is able to perform at the lower EMCT classification level requested; or
 - ii. If applying for continued certification as an EMT, an Arizona EMT refresher certificate of completion or an Arizona EMT refresher challenge examination certificate of completion signed by the training program director designated for the Arizona EMT refresher course; or
2. Recertification at a lower EMCT classification level according to R9-25-404.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 1713, effective June 30, 2007 (Supp. 07-2). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Section R9-25-406 renumbered to Section R9-25-404; new Section R9-25-406 renumbered from Section R9-25-408 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R.

268, with an immediate effective date of January 9, 2018 (Supp. 18-1).

R9-25-407. Notification Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), and (A)(4), 36-2204(1) and (6), and 36-2211)

- A. No later than 30 days after the date an EMCT's name legally changes, the EMCT shall submit to the Department:
 1. A completed form provided by the Department containing:
 - a. The name under which the EMCT is currently certified by the Department;
 - b. The EMCT's address, telephone number, and Social Security number; and
 - c. The EMCT's new name; and
 2. Documentation showing that the name has been legally changed.
- B. No later than 30 days after the date an EMCT's address or email address changes, the EMCT shall submit to the Department a completed form provided by the Department containing:
 1. The EMCT's name, telephone number, and Social Security number; and
 2. The EMCT's new address or email address.
- C. An EMCT shall notify the Department in writing no later than 10 days after the date the EMCT:
 1. Is incarcerated or is placed on parole, supervised release, or probation for any criminal conviction;
 2. Is convicted of:
 - a. A crime specified in R9-25-402(A)(2),
 - b. A misdemeanor involving moral turpitude,
 - c. A felony in this state or any other state or jurisdiction, or
 - d. A misdemeanor specified in R9-25-402(E);
 3. Has registration revoked or suspended by a national certification organization; or
 4. Has certification, recertification, or licensure at an EMCT classification level revoked or suspended in another state or jurisdiction.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-407 renumbered to Section R9-25-405; new Section R9-25-407 renumbered from Section R9-25-409 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1).

R9-25-408. Unprofessional Conduct; Physical or Mental Incompetence; Gross Incompetence; Gross Negligence (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (H), 36-2204(1), (6), and (7), and 36-2211)

- A. For purposes of A.R.S. § 36-2211(A)(1), unprofessional conduct is an act or omission made by an EMCT that is contrary to the recognized standards or ethics of the Emergency Medical Technician profession or that may constitute a danger to the health, welfare, or safety of a patient or the public, including:
 1. Impersonating an EMCT of a higher level of certification or impersonating a health professional as defined in A.R.S. § 32-3201;
 2. Permitting or allowing another individual to use the EMCT's certification for any purpose;

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3. Aiding or abetting an individual who is not certified according to this Chapter in acting as an EMCT or in representing that the individual is certified as an EMCT;
 4. Engaging in or soliciting sexual relationships, whether consensual or non-consensual, with a patient while acting as an EMCT;
 5. Physically or verbally harassing, abusing, threatening, or intimidating a patient or another individual while acting as an EMCT;
 6. Making false or materially incorrect entries in a medical record or willful destruction of a medical record;
 7. Failing or refusing to maintain adequate records on a patient;
 8. Soliciting or obtaining monies or goods from a patient by fraud, deceit, or misrepresentation;
 9. Aiding or abetting an individual in fraud, deceit, or misrepresentation in meeting or attempting to meet the application requirements for EMCT certification or EMCT recertification contained in this Article, including the requirements established for:
 - a. Completing and passing a course provided by a training program; and
 - b. The national certification organization examination process and national certification organization registration process;
 10. Providing false information or making fraudulent or untrue statements to the Department or about the Department during an investigation conducted by the Department;
 11. Being incarcerated or being placed on parole, supervised release, or probation for any criminal conviction;
 12. Being convicted of a misdemeanor identified in R9-25-402(E), which has not been absolutely discharged, expunged, or vacated;
 13. Having national certification organization registration revoked or suspended by the national certification organization for material noncompliance with national certification organization rules or standards; and
 14. Having certification, recertification, or licensure at an EMCT classification level revoked or suspended in another state or jurisdiction.
- B.** Under A.R.S. § 36-2211, physical or mental incompetence of an EMCT is the EMCT's lack of physical or mental ability to provide emergency medical services as required under this Chapter.
- C.** Under A.R.S. § 36-2211 gross incompetence or gross negligence is an EMCT's willful act or willful omission of an act that is made in disregard of an individual's life, health, or safety and that may cause death or injury.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section R9-25-408 renumbered to Section R9-25-406; new Section R9-25-408 renumbered from Section R9-25-410 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1).

R9-25-409. Enforcement Actions (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (H), 36-2204(1), (6),

and (7), and 36-2211)

- A.** If the Department determines that an applicant or EMCT is not in substantial compliance with applicable laws and rules, under A.R.S. §§ 36-2204 or 36-2211, the Department may:
1. Take the following action against an applicant or EMCT:
 - a. After notice is provided according to A.R.S. § 36-2211 and, if applicable, A.R.S. Title 41, Chapter 6, Article 10, issue:
 - i. A decree of censure to the EMCT, or
 - ii. An order of probation to the EMCT; or
 - b. After notice and opportunity to be heard is provided according to A.R.S. Title 41, Chapter 6, Article 10:
 - i. Deny an application,
 - ii. Suspend the EMCT's certificate, or
 - iii. Revoke the EMCT's certificate; and
 2. Assess civil penalties against the EMCT.
- B.** In determining which action in subsection (A) is appropriate, the Department shall consider:
1. Prior disciplinary actions;
 2. The time interval since a prior disciplinary action, if applicable;
 3. The applicant's or EMCT's motive;
 4. The applicant's or EMCT's pattern of conduct;
 5. The number of offenses;
 6. Whether the applicant or EMCT failed to comply with instructions from the Department;
 7. Whether interim rehabilitation efforts were made by the applicant or EMCT;
 8. Whether the applicant or EMCT refused to acknowledge the wrongful nature of the misconduct;
 9. Whether the applicant or EMCT made timely and good-faith efforts to rectify the consequences of the misconduct;
 10. The submission of false evidence, false statements, or other deceptive practices during an investigation or disciplinary process;
 11. The vulnerability of a patient or other victim of the applicant's or EMCT's conduct, if applicable; and
 12. How much control the applicant or EMCT had over the processes or situation leading to the misconduct.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-409 renumbered to Section R9-25-407; new Section R9-25-409 renumbered from Section R9-25-411 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1).

R9-25-410. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-410 renumbered to Section R9-25-408 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-411. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section

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repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-411 renumbered to Section R9-25-409 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit I. Repealed**Historical Note**

Exhibit I adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit J. Repealed**Historical Note**

Exhibit J adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit K. Repealed**Historical Note**

Exhibit K adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-412. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (Supp. 12-3).

ARTICLE 5. MEDICAL DIRECTION PROTOCOLS FOR EMERGENCY MEDICAL CARE TECHNICIANS

Article 5, consisting of R9-25-501 through R9-25-508, recodified from Article 8 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Article 5 repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-501. Definitions

In addition to the definitions in A.R.S. § 36-2201 and R9-25-101, the following definitions apply in this Article, unless otherwise specified:

1. "ALS skill" means a medical treatment, procedure, or technique or administration of a medication that is indicated by a check mark in Table 5.1 under AEMT, EMT-I(99), or Paramedic, but not under EMT.
2. "Immunizing agent" means an immunobiologic recommended by the Advisory Committee on Immunization Practices of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-501 recodified from R9-25-801 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking 14 A.A.R. 3491, effective August 14, 2008 (Supp. 08-3).

Section R9-25-501 repealed; new Section R9-25-501 made by exempt rulemaking at 19 A.A.R. 4032, effective

December 1, 2013 (Supp. 13-4).

R9-25-502. Scope of Practice for EMCTs

A. An EMCT shall perform a medical treatment, procedure, or technique or administer a medication only:

1. If the skill is within the EMCT's scope of practice skills, as specified in Table 5.1;
2. For an ALS skill:
 - a. If authorized for the EMCT by the EMCT's administrative medical director; and
 - b. If the EMCT is able to receive on-line medical direction;
3. For a STR skill:
 - a. If the EMCT has documentation of having completed training specific to the skill that is consistent with the knowledge, skills, and competencies established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references;
 - b. If authorized for the EMCT by the EMCT's administrative medical director; and
 - c. If the EMCT is able to receive on-line medical direction;
4. If the medication is listed as an agent in a table of agents, established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references, that the EMCT's administrative medical director may authorize the EMCT to administer, monitor, or assist a patient in self-administration based on the classification for which the EMCT is certified;
5. If the EMCT is authorized to administer the medication by the:
 - a. EMCT's administrative medical director, if applicable; or
 - b. If the EMCT is an EMT with no administrative medical director, emergency medical services provider or ambulance service by which the EMCT is employed or for which the EMCT volunteers; and
6. In a manner consistent with standards described in R9-25-408 and, if applicable, with the training in 9 A.A.C. 25, Article 3.

B. An administrative medical director:

1. Shall:
 - a. Ensure that an EMCT has completed training in administration or monitoring of an agent before authorizing the EMCT to administer or monitor the agent;
 - b. Ensure that an EMCT has competency in an ALS skill before authorizing the EMCT to perform the ALS skill;
 - c. Before authorizing an EMCT to perform a STR skill, ensure that the EMCT has:
 - i. Completed training specific to the skill, consistent with the knowledge, skills, and competencies established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references; and
 - ii. Demonstrated competency in the skill;
 - d. Periodically thereafter assess an EMCT's competency in an authorized ALS skill and STR skill, according to policies and procedures required in R9-25-201(E)(3)(b)(ix), to ensure continued competency;
 - e. Document the EMCT's:

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- i. Completion of training in administration or monitoring of an agent required in subsection (B)(1)(a),
 - ii. Competency in performing an ALS skill required in subsection (B)(1)(b),
 - iii. Specific training required in subsection (B)(1)(c)(i) and competency required in subsection (B)(1)(c)(ii); and
 - iv. Periodic reassessment required in subsection (B)(1)(d); and
 - f. Maintain documentation of an EMCT's completion of training in administration or monitoring of an agent and competency in performing an authorized ALS skill or STR skill; and
2. May authorize an EMCT to perform all of the ALS skills in Table 5.1 for the applicable level of EMCT or restrict the EMCT to a subset of the ALS skills in Table 5.1 for the applicable level of EMCT.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-502 recodified from R9-25-802 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking

at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 24 A.A.R. 2955, effective September 27, 2018 (Supp. 18-3).

Table 1. Repealed**Historical Note**

Table 1 adopted by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 13 A.A.R. 578, effective January 31, 2007 (Supp. 07-1). Historical note added to Table 1; amended by exempt rulemaking 14 A.A.R. 3491, effective August 14, 2008 (Supp. 08-3). Amended by exempt rulemaking at 15 A.A.R. 234, effective January 2, 2009 (Supp. 09-1). Amended by exempt rulemaking at 14 A.A.R. 3491, effective August 14, 2008 (Supp. 08-3). Amended by exempt rulemaking at 15 A.A.R. 234, effective January 2, 2009 (Supp. 09-1). Amended by exempt rulemaking at 16 A.A.R. 2116, effective October 15, 2010 (Supp. 10-4). Amended by exempt rulemaking at 18 A.A.R. 102, effective January 1, 2012 (Supp. 11-4). Table 1 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

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Table 5.1. Arizona Scope of Practice Skills**KEY:**

✓ = Arizona Scope of Practice skill

STR = STR skill

* = With training in R9-25-505

| A. Airway/Ventilation/Oxygenation | | EMT | AEMT | EMT-I(99) | Paramedic |
|-------------------------------------------------------------------------------------------|--|------------|-------------|-------------------|------------------|
| 1. Airway - nasal | | ✓ | ✓ | ✓ | ✓ |
| 2. Airway - oral | | ✓ | ✓ | ✓ | ✓ |
| 3. Airway - supraglottic | | STR | ✓ | ✓ | ✓ |
| 4. Airway obstruction - dislodgement by direct laryngoscopy | | - | - | ✓ | ✓ |
| 5. Airway obstruction - manual dislodgement techniques | | ✓ | ✓ | ✓ | ✓ |
| 6. Automated transport ventilator | | - | STR | ✓ | ✓ |
| 7. Bag-valve-mask (BVM) | | ✓ | ✓ | ✓ | ✓ |
| 8. BiPAP | | - | - | - | ✓ |
| 9. CPAP | | STR | ✓ | ✓ | ✓ |
| 10. Chest decompression - needle | | - | - | ✓ | ✓ |
| 11. Chest tube placement - assist only | | - | - | - | ✓ |
| 12. Chest tube monitoring and management | | - | - | - | ✓ |
| 13. Cricothyrotomy | | - | - | - | ✓ |
| 14. End tidal CO ₂ monitoring and interpretation of waveform capnography | | STR | ✓ | ✓ | ✓ |
| 15. Gastric decompression - NG tube | | - | - | ✓ | ✓ |
| 16. Gastric decompression - OG tube | | - | - | ✓ | ✓ |
| 17. Head-tilt chin lift | | ✓ | ✓ | ✓ | ✓ |
| 18. Intubation - endotracheal | | - | - | ✓ | ✓ |
| 19. Intubation - nasotracheal | | - | - | - | ✓ |
| 20. Jaw-thrust | | ✓ | ✓ | ✓ | ✓ |
| 21. Medication Assisted Intubation (paralytics) | | - | - | - | STR |
| 22. Mouth-to-barrier | | ✓ | ✓ | ✓ | ✓ |
| 23. Mouth-to-mask | | ✓ | ✓ | ✓ | ✓ |
| 24. Mouth-to-mouth | | ✓ | ✓ | ✓ | ✓ |
| 25. Mouth-to-nose | | ✓ | ✓ | ✓ | ✓ |
| 26. Mouth-to-stoma | | ✓ | ✓ | ✓ | ✓ |
| 27. Oxygen therapy - high flow nasal cannula | | - | - | - | ✓ |
| 28. Oxygen therapy - humidifiers | | ✓ | ✓ | ✓ | ✓ |
| 29. Oxygen therapy - nasal cannula | | ✓ | ✓ | ✓ | ✓ |
| 30. Oxygen therapy - non-rebreather mask | | ✓ | ✓ | ✓ | ✓ |
| 31. Oxygen therapy - partial rebreather mask | | ✓ | ✓ | ✓ | ✓ |
| 32. Oxygen therapy - simple face mask | | ✓ | ✓ | ✓ | ✓ |
| 33. Oxygen therapy - Venturi mask | | ✓ | ✓ | ✓ | ✓ |
| 34. Pulse oximetry | | ✓ | ✓ | ✓ | ✓ |
| 35. Suctioning - upper airway | | ✓ | ✓ | ✓ | ✓ |
| 36. Suctioning - tracheobronchial of an intubated patient | | - | ✓ | ✓ | ✓ |
| B. Cardiovascular/Circulation | | EMT | AEMT | EMT-I (99) | Paramedic |
| 1. Cardiac monitoring - 12-lead ECG (interpretive) | | - | - | ✓ | ✓ |
| 2. Cardiac monitoring - 12-lead ECG acquisition and transmission | | ✓ | ✓ | ✓ | ✓ |
| 3. Cardiopulmonary resuscitation | | ✓ | ✓ | ✓ | ✓ |
| 4. Cardioversion - electrical | | - | - | ✓ | ✓ |
| 5. Defibrillation - automated/semi-automated | | ✓ | ✓ | ✓ | ✓ |
| 6. Defibrillation - manual | | - | - | ✓ | ✓ |
| 7. Hemorrhage control - direct pressure | | ✓ | ✓ | ✓ | ✓ |
| 8. Hemorrhage control - tourniquet | | ✓ | ✓ | ✓ | ✓ |
| 9. Hemorrhage control - wound packing | | ✓ | ✓ | ✓ | ✓ |
| 10. Mechanical CPR device | | ✓ | ✓ | ✓ | ✓ |
| 11. Telemetric monitoring devices and transmission of clinical data, including video data | | ✓ | ✓ | ✓ | ✓ |
| 12. Transcutaneous pacing | | - | - | ✓ | ✓ |
| 13. Transvenous cardiac pacing - monitoring and maintenance | | - | - | ✓ | ✓ |
| C. Splinting/Spinal Motion Restriction/Patient Restraint | | EMT | AEMT | EMT-I (99) | Paramedic |
| 1. Cervical collar | | ✓ | ✓ | ✓ | ✓ |

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| | | | | | |
|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-------------|-------------------|------------------|
| 2. | Long spine board | ✓ | ✓ | ✓ | ✓ |
| 3. | Manual cervical stabilization | ✓ | ✓ | ✓ | ✓ |
| 4. | Seated spinal motion restriction (KED, etc.) | ✓ | ✓ | ✓ | ✓ |
| 5. | Extremity stabilization - manual | ✓ | ✓ | ✓ | ✓ |
| 6. | Extremity splinting | ✓ | ✓ | ✓ | ✓ |
| 7. | Splint-traction | ✓ | ✓ | ✓ | ✓ |
| 8. | Mechanical patient restraint | ✓ | ✓ | ✓ | ✓ |
| 9. | Emergency moves for endangered patients | ✓ | ✓ | ✓ | ✓ |
| D. | Medication Administration - routes/agent types | EMT | AEMT | EMT-I (99) | Paramedic |
| 1. | Aerosolized/nebulized | ✓ | ✓ | ✓ | ✓ |
| 2. | Endotracheal tube | - | - | ✓ | ✓ |
| 3. | Inhaled | ✓ | ✓ | ✓ | ✓ |
| 4. | Intradermal | - | - | - | ✓ |
| 5. | Intramuscular | STR | ✓ | ✓ | ✓ |
| 6. | Intramuscular - autoinjector | ✓ | ✓ | ✓ | ✓ |
| 7. | Intranasal | ✓ | ✓ | ✓ | ✓ |
| 8. | Intraosseous - initiation, pediatric or adult | - | ✓ | ✓ | ✓ |
| 9. | Intravenous | - | ✓ | ✓ | ✓ |
| 10. | Mucosal/Sublingual | ✓ | ✓ | ✓ | ✓ |
| 11. | Nasogastric | - | - | - | ✓ |
| 12. | Oral | ✓ | ✓ | ✓ | ✓ |
| 13. | Rectal | - | - | - | ✓ |
| 14. | Subcutaneous | - | ✓ | ✓ | ✓ |
| 15. | Topical | - | - | - | ✓ |
| 16. | Transdermal | - | - | - | ✓ |
| 17. | Use/monitoring of infusion pump for agent administration during interfacility transports | - | - | STR | STR |
| 18. | Use/monitoring of agents specified in <i>Table 3 - Special Agents Eligible for Administration and Monitoring</i> , established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references | - | - | STR | STR |
| 19. | Epinephrine anaphylaxis-prepared kit; only for anaphylaxis when no auto-injector is available | STR | ✓ | ✓ | ✓ |
| 20. | Immunizations | - | - | ✓* | ✓* |
| 21. | Thrombolytics | - | - | - | STR |
| E. | IV Initiation/Maintenance Fluids | EMT | AEMT | EMT-I (99) | Paramedic |
| 1. | Access indwelling catheters and implanted central IV ports | - | - | - | ✓ |
| 2. | Central line - monitoring | - | - | - | ✓ |
| 3. | Intraosseous - initiation, pediatric or adult | - | ✓ | ✓ | ✓ |
| 4. | Intravenous access | STR | ✓ | ✓ | ✓ |
| 5. | Intravenous initiation - peripheral | STR | ✓ | ✓ | ✓ |
| 6. | Intravenous- maintenance of medicated IV fluids | - | - | ✓ | ✓ |
| 7. | Intravenous- maintenance of nonmedicated IV fluids | STR | ✓ | ✓ | ✓ |
| 8. | Intravenous initiation - ultrasound guided IV in a hospital setting | - | - | - | STR |
| F. | Miscellaneous | EMT | AEMT | EMT-I (99) | Paramedic |
| 1. | Assisted delivery (childbirth) | ✓ | ✓ | ✓ | ✓ |
| 2. | Assisted complicated delivery (childbirth) | ✓ | ✓ | ✓ | ✓ |
| 3. | Blood chemistry analysis | - | - | - | ✓ |
| 4. | Blood glucose monitoring | ✓ | ✓ | ✓ | ✓ |
| 5. | Blood pressure- automated | ✓ | ✓ | ✓ | ✓ |
| 6. | Blood pressure- manual | ✓ | ✓ | ✓ | ✓ |
| 7. | Eye irrigation | ✓ | ✓ | ✓ | ✓ |
| 8. | Eye irrigation hands-free irrigation using sterile eye irrigation device | - | - | - | ✓ |
| 9. | Urinary catheterization | STR | STR | STR | STR |
| 10. | Venous blood sampling | STR | ✓ | ✓ | ✓ |

Historical Note

Table 5.1 made by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final exempt rulemaking, pursuant to Laws 2014, Ch. 233, § 5 at 20 A.A.R. 3554, effective January 1, 2015 (Supp. 14-4). Amended by final exempt rulemaking, pursuant to Laws 2015,

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Ch. 222, § 3, at 21 A.A.R. 3241, effective November 24, 2015 (Supp. 15-4). Amended by final exempt rulemaking at 23 A.A.R. 1161, effective April 19, 2017 (Supp. 17-2). Amended by exempt rulemaking at 24 A.A.R. 2955, effective September 27, 2018 (Supp. 18-3). Amended by exempt rulemaking at 27 A.A.R. 1385, with an immediate effective date of August 9, 2021 (Supp. 21-3). Amended by exempt rulemaking at 28 A.A.R. 3321 (October 14, 2022), with an immediate effective date of September 22, 2022 (Supp. 22-3). Subsection (B)(10) question marks corrected to check marks as published at 28 A.A.R. 3321 (Supp. 24-1).

Table 5.2. Repealed**Historical Note**

Table 5.2 made by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final exempt rulemaking, pursuant to Laws 2014, Ch. 233, § 5 at 20 A.A.R. 3554, effective January 1, 2015 (Supp. 14-4). Amended by final exempt rulemaking, pursuant to Laws 2015, Ch. 222, § 3, at 21 A.A.R. 3241, effective November 24, 2015 (Supp. 15-4). Amended by final exempt rulemaking at 23 A.A.R. 1161, effective April 19, 2017 (Supp. 17-2). Amended by final exempt rulemaking at 23 A.A.R. 1161, effective April 19, 2017 (Supp. 17-2). Repealed by exempt rulemaking at 24 A.A.R. 2955, effective September 27, 2018 (Supp. 18-3).

Table 5.3. Repealed**Historical Note**

Table 5.3 made by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Repealed by exempt rulemaking at 24 A.A.R. 2955, effective September 27, 2018 (Supp. 18-3).

Table 5.4. Repealed**Historical Note**

Table 5.4 made by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Repealed by exempt rulemaking at 24 A.A.R. 2955, effective September 27, 2018 (Supp. 18-3).

R9-25-503. Testing of Medical Treatments, Procedures, Medications, and Techniques that May Be Administered or Performed by an EMCT

- A.** Under A.R.S. § 36-2205, the Department may authorize the testing and evaluation of a medical treatment, procedure, technique, practice, medication, or piece of equipment for possible use by an EMCT or an emergency medical services provider.
- B.** Before authorizing any test and evaluation according to subsection (A), the Department director shall approve the test and evaluation according to subsections (C), (D), (E).
- C.** The Department director shall consider approval of a test and evaluation conducted according to subsection (A), only if a written request for testing and evaluation:
 1. Is submitted to the Department director from:
 - a. The Department,
 - b. A state agency other than the Department,
 - c. A political subdivision of this state,
 - d. An EMCT,
 - e. An emergency medical services provider,
 - f. An ambulance service, or
 - g. A member of the public; and
 2. Includes:
 - a. A cover letter, signed and dated by the individual making the request;
 - b. An identification of the person conducting the test and evaluation;
 - c. An identification of the medical treatment, procedure, technique, practice, medication, or piece of equipment to be tested and evaluated;

- d. An explanation of the reasons for and the benefits of the test and evaluation;
- e. The scope of the test and evaluation, including the:
 - i. Projected number of individuals, EMCTs, emergency medical services providers, or ambulance services involved; and
 - ii. Proposed length of time required to complete the test and evaluation; and
- f. The methodology to be used to evaluate the test's and evaluation's findings.

- D.** The Department director shall approve a test and evaluation if:
 1. The test and evaluation does not pose a threat to the public health, safety, or welfare;
 2. The test is necessary to evaluate the safest and most current advances in medical treatments, procedures, techniques, practices, medications, or equipment; and
 3. The medical treatment, procedure, technique, practice, medication, or piece of equipment being tested and evaluated may:
 - a. Reduce or eliminate the use of outdated or obsolete medical treatments, procedures, techniques, practices, medications, or equipment;
 - b. Improve patient care; or
 - c. Benefit the public's health, safety, or welfare.
- E.** Within 180 days after receiving a written request for testing and evaluation that contains all of the information in subsection (C), the Department director shall send written notification of approval or denial of the test and evaluation to the individual making the request.
- F.** Upon completion of a test and evaluation authorized by the Department director, the person conducting the test and evaluation shall submit a written report to the Department director that includes:
 1. An identification of the test and evaluation;
 2. A detailed evaluation of the test; and
 3. A recommendation regarding future use of the medical treatment, procedure, technique, practice, medication, or piece of equipment tested and evaluated.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-503 recodified from R9-25-803 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 13 A.A.R. 578, effective January 31, 2007 (Supp. 07-1). Amended by exempt rulemaking at 14 A.A.R. 3491, effective August 14, 2008 (Supp. 08-3). Section R9-25-503 renumbered to R9-25-505; new Section R9-25-503 renumbered from R9-25-506 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit 1. Repealed**Historical Note**

New Exhibit 1 recodified from Article 8, Exhibit 1 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking at 11 A.A.R. 1438,

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effective March 25, 2005 (Supp. 05-1). Amended by exempt rulemaking at 11 A.A.R. 2379, effective June 8, 2005 (Supp. 05-2). Amended by exempt rulemaking at 11 A.A.R. 3177, effective September 1, 2005 (Supp. 05-3). Exhibit 1 repealed by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4).

Exhibit 2. Repealed**Historical Note**

New Exhibit 2 recodified from Article 8, Exhibit 2 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Amended by exempt rulemaking at 11 A.A.R. 1438, effective March 25, 2005 (Supp. 05-1). Exhibit 2 repealed by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4).

Exhibit 3. Repealed**Historical Note**

Exhibit made by exempt rulemaking at 11 A.A.R. 1438, effective March 25, 2005 (Supp. 05-1). Exhibit 3 repealed by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4).

R9-25-504. Protocol for Selection of a Health Care Institution for Transport

- A. Except as provided in subsection (B), an EMCT shall transport a patient accessing emergency medical services through a call to 9-1-1 or a similar public emergency dispatch number to:
 1. An emergency receiving facility, or
 2. A special hospital that is physically connected to an emergency receiving facility.
- B. Under A.R.S. §§ 36-2205(D) and 36-2232(F), an EMCT who responds to a call made to 9-1-1 or a similar public emergency dispatch number may refer, advise, or transport the patient at the scene to a health care institution other than a health care institution specified in subsection (A), if the EMCT determines that:
 1. The patient's condition does not pose an immediate threat to life or limb, based on medical direction; and
 2. The health care institution is the most appropriate for the patient, based on the following:
 - a. The patient's:
 - i. Medical condition,
 - ii. Choice of health care institution, and
 - iii. Health care provider;
 - b. The location of the health care institution and the emergency medical resources available at the health care institution; and
 - c. A determination by the administrative medical director that the health care institution is able to accept and capable of treating the patient.
- C. Before initiating transport of a patient accessing emergency medical services through a call to 9-1-1 or a similar public emergency dispatch number, an EMCT, emergency medical services provider, or ambulance service shall:
 1. Notify, by radio or telephone communication, a health care institution that is not an emergency receiving facility of the EMCT's intent to transport the patient to the health care institution; and
 2. Receive confirmation of the willingness of the health care institution to accept the patient.
- D. An EMCT transporting a patient accessing emergency medical services through a call to 9-1-1 or a similar public emergency dispatch number to a health care institution that is not an emer-

gency receiving facility shall transfer care of the patient to a designee authorized by:

1. A physician,
 2. A registered nurse practitioner,
 3. A physician assistant, or
 4. A registered nurse.
- E. An emergency medical services provider or an ambulance service that implements this rule shall make available for Department review and inspection written records relating to the transport of a patient under subsections (B), (C), and (D).

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-504 recodified from R9-25-804 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking at 14 A.A.R. 3124, effective July 9, 2008 (Supp. 08-3).

Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final exempt rulemaking, pursuant to Laws 2014, Ch. 233, § 5 at 20 A.A.R. 3554, effective January 1, 2015 (Supp. 14-4).

R9-25-505. Protocol for an EMT-I(99) or a Paramedic to Become Eligible to Administer an Immunizing Agent

- A. An EMT-I(99) or a Paramedic may be authorized by the EMT-I(99)'s or Paramedic's administrative medical director to administer an immunizing agent if the EMT-I(99) or Paramedic completes training that:
 1. Includes:
 - a. Basic immunology and the human immune response;
 - b. Mechanics of immunity, adverse effects, dose, and administration schedule of available immunizing agents;
 - c. Response to an emergency situation, such as an allergic reaction, resulting from the administration of an immunization;
 - d. Routes of administration for available immunizing agents;
 - e. A description of the individuals to whom an EMCT may administer an immunizing agent; and
 - f. The requirements in 9 A.A.C. 6, Article 7 related to:
 - i. Obtaining written consent for administration of an immunizing agent,
 - ii. Providing immunization information and written immunization records, and
 - iii. Recordkeeping and reporting;
 2. Requires the EMT-I(99) or Paramedic to demonstrate competency in the subject matter listed in subsection (A)(1); and
 3. Is approved by the EMT-I(99)'s or Paramedic's administrative medical director based upon a determination that the training meets the requirements in subsections (A)(1) and (A)(2).
- B. An administrative medical director of an EMT-I(99) or a Paramedic who completes the training required in subsection (A) shall maintain for Department review and inspection written evidence that the EMT-I(99) or Paramedic has completed the training required in subsection (A), including at least:
 1. The name of the training,
 2. The date the training was completed, and
 3. A signed and dated attestation from the administrative medical director that the training is approved.

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- C. Before administering an immunizing agent to an individual, an EMT-I(99) or a Paramedic shall:
1. Receive written consent consistent with the requirements in 9 A.A.C. 6, Article 7;
 2. Provide immunization information and written immunization records consistent with the requirements in 9 A.A.C. 6, Article 7; and
 3. Provide documentary proof of immunity to the individual consistent with the requirements in 9 A.A.C. 6, Article 7.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-505 recodified from R9-25-805 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Section R9-25-505 repealed; new Section R9-25-505 renumbered from R9-25-503 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit 1. Repealed**Historical Note**

New Exhibit 1 recodified from Article 8, Exhibit 1 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Exhibit 1 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit 2. Repealed**Historical Note**

New Exhibit 2 recodified from Article 8, Exhibit 2 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Exhibit 2 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-506. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-506 recodified from R9-25-806 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Section R9-25-506 renumbered to R9-25-503 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-507. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-507 recodified from R9-25-807 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Section R9-25-507 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-508. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Subsection (A)(2) corrected to reflect adopted rules on file with the Office of the Secretary of State, effective October 15, 1996 (Supp. 97-1). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-508 recodified from R9-25-808 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Section R9-25-508 repealed by exempt rulemaking

at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-509. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 11 A.A.R. 2379, effective June 8, 2005 (Supp. 05-2). Section repealed by exempt rulemaking at 13 A.A.R. 3038, effective October 6, 2007 (Supp. 07-3).

R9-25-510. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 11 A.A.R. 1502, effective April 1, 2005 (Supp. 05-1). Amended by exempt rulemaking at 11 A.A.R. 2379, effective June 8, 2005 (Supp. 05-2). Section R9-25-510 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit P. Repealed**Historical Note**

Exhibit P adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-511. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Subsection (C) corrected to reflect adopted rules on file with the Office of the Secretary of State, effective October 15, 1996 (Supp. 97-3). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 11 A.A.R. 4982, effective November 1, 2005 (Supp. 05-4). Section R9-25-511 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-512. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Subsection (A) corrected to reflect adopted rules on file with the Office of the Secretary of State, effective October 15, 1996 (Supp. 97-1). Subsection (A) corrected again to reflect adopted rules on file with the Office of the Secretary of State, effective October 15, 1996 (Supp. 97-3). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 16 A.A.R. 2116, effective October 15, 2010 (Supp. 10-4).

R9-25-513. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 13 A.A.R. 3038, effective October 6, 2007 (Supp. 07-3). R9-25-513 repealed by exempt

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rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-514. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-515. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

ARTICLE 6. STROKE CARE

Article 6, consisting of new Sections R9-25-601 and R9-25-602, made by exempt rulemaking effective April 5, 2013 (Supp. 13-1).

Article 6 repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-601. Definitions (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

In addition to the definitions in A.R.S. § 36-2201 and R9-25-101, the following definitions apply in this Article, unless otherwise specified:

1. "Acute stroke-ready hospital" means a hospital that is certified by a national stroke center certification organization as meeting national stroke care standards for the initial assessment, diagnosis, stabilization, and either:
 - a. Transfer of a stroke patient to a primary stroke center or comprehensive stroke center, or
 - b. Care of a stroke patient with input from the staff of a primary stroke center or comprehensive stroke center.
2. "Comprehensive stroke center" means a hospital that is certified by a national stroke center certification organization as meeting national stroke care standards for the assessment, diagnosis using advanced imaging devices, and treatment of stroke patients with complex cases of ischemic stroke, caused by the loss of the blood supply to a part of the brain, or hemorrhagic stroke, caused by bleeding into a part of the brain.
3. "Council" means the emergency medical services council established under A.R.S. § 36-2203.
4. "Health care provider" means an individual licensed according to A.R.S. Title 32, Chapter 13, 15, 17, 19, 25, or 34.
5. "Local EMS coordinating system" means the same as in A.R.S. § 36-2210.
6. "National stroke care standards" means criteria for the assessment and treatment of stroke that are consistent with guidelines established by the American Heart Association/American Stroke Association, an organization that focuses on reducing the impact of stroke.
7. "National stroke center certification organization" means an entity:
 - a. Such as:
 - i. The Joint Commission;
 - ii. The Healthcare Facilities Accreditation Program;

- iii. Det Norske Veritas Healthcare, Inc.; or
- iv. The American Heart Association/American Stroke Association;

- b. That assesses the compliance of a hospital with national stroke care standards; and
- c. That documents hospitals that meet national stroke care standards.
8. "Primary stroke center" means a hospital that is certified by a national stroke center certification organization as meeting national stroke care standards for the assessment, diagnosis, and treatment of stroke patients.
9. "Stroke patient" means an individual who has signs or symptoms of a stroke and is receiving assessment or treatment for a stroke.
10. "Transport" means the same as in A.A.C. R9-10-101.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 19 A.A.R. 643, effective April 5, 2013 (Supp. 13-1). Amended by final rulemaking at 23 A.A.R. 1728, effective July 1, 2017 (Supp. 17-2).

R9-25-602. Emergency Stroke Care Protocols (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

- A. The council shall:
 1. Establish emergency stroke care protocols, and
 2. Support the adoption of emergency stroke care protocols by emergency medical services providers through local EMS coordinating systems.
- B. The council shall ensure that emergency stroke care protocols:
 1. Are developed and implemented in coordination with:
 - a. Local EMS coordinating systems,
 - b. National organizations that focus on heart disease and stroke,
 - c. Emergency medical services providers, and
 - d. Health care providers;
 2. Include procedures for the pre-hospital assessment and treatment of stroke patients, which may include education about identifying stroke patients who may have an emergent large vessel occlusion, the blockage of a large blood vessel that causes an individual to have an ischemic stroke;
 3. Provide for transport of stroke patients to the most appropriate emergency receiving facility, consistent with A.R.S. § 36-2205(E), taking into account the:
 - a. Needs of a stroke patient;
 - b. Availability of resources in urban areas, suburban areas, rural areas, and wilderness areas;
 - c. Capability of an emergency receiving facility to practice telemedicine, as defined in A.R.S. § 36-3601, with specialists in stroke care;
 - d. Location of emergency receiving facilities that:
 - i. Are:
 - (1) Acute stroke-ready hospitals,
 - (2) Primary stroke centers, or
 - (3) Comprehensive stroke centers; and
 - ii. Participate in quality improvement activities, including the submission of data on stroke care provided by the emergency receiving facility that may be compiled on a statewide basis;
 - e. Capability of an emergency receiving facility that is not a primary stroke center or comprehensive stroke

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center to stabilize a stroke patient before initiating a transfer to a primary stroke center or comprehensive stroke center;

- f. Capability of an emergency receiving facility that is not a primary stroke center or comprehensive stroke center to stabilize and admit a stroke patient; and
- g. Distance and duration of transport;
- 4. Are consistent with national stroke care standards; and
- 5. Are based on data on stroke care from:
 - a. National organizations that focus on heart disease and stroke;
 - b. U.S. Department of Transportation, National Highway Traffic Safety Administration; and
 - c. Statewide data on stroke care, as available.
- C. The council shall review and update, as necessary, the emergency stroke care protocols in subsection (A) after seeking input from:
 - 1. Local EMS coordinating systems,
 - 2. National organizations that focus on heart disease and stroke,
 - 3. Nonprofit organizations that focus on the development of stroke systems of care,
 - 4. Emergency medical services providers, and
 - 5. Health care providers.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 19 A.A.R. 643, effective April 5, 2013 (Supp. 13-1). Amended by final rulemaking at 23 A.A.R. 1728, effective July 1, 2017 (Supp. 17-2).

R9-25-603. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-604. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-605. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-606. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-607. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-608. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-609. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit R. Repealed**Historical Note**

Exhibit R adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-610. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-611. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-612. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-613. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-614. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-615. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-616. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit S. Repealed**Historical Note**

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Exhibit S adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit G. Repealed**Historical Note**

Exhibit G adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit L. Repealed**Historical Note**

Exhibit L adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit M. Repealed**Historical Note**

Exhibit M adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit N. Repealed**Historical Note**

Exhibit N adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit O. Repealed**Historical Note**

Exhibit O adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit Q. Repealed**Historical Note**

Exhibit Q adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

ARTICLE 7. AIR AMBULANCE SERVICE LICENSING**R9-25-701. Definitions (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2215)**

In addition to the definitions in A.R.S. § 36-2201 and R9-25-101, the following definitions apply in this Article and in Article 8 of this Chapter, unless otherwise specified:

1. "Air ambulance" means an aircraft that is an "ambulance" as defined in A.R.S. § 36-2201.
2. "Air ambulance service" means an ambulance service that uses an air ambulance.
3. "Application packet" means the information, applicable fees, and documents required by the Department when making a decision for:
 - a. Licensing an air ambulance service, or
 - b. Issuing a certificate of registration for an air ambulance.
4. "Base location" means a physical location at which a person houses an air ambulance or equipment and supplies used for the operation of an air ambulance service or provides administrative or other support for the operation of an air ambulance service.
5. "CAMTS" means the Commission on Accreditation of Medical Transport Systems, formerly known as the Commission on Accreditation of Air Medical Services.
6. "Certificate holder" means a person who holds a current and valid certificate of registration for an air ambulance.
7. "Change of ownership" means a transfer of controlling legal or controlling equitable interest and authority in an air ambulance service.
8. "Critical care" means pertaining to a patient who has an illness or injury acutely impairing one or more organ systems, such that the conditions are life-threatening and require constant monitoring to avoid deterioration of the patient's condition.
9. "Estimated time of arrival" means the number of minutes from the time that an air ambulance service agrees to perform a mission to the time that an air ambulance arrives at the scene.
10. "Interfacility" means between two health care institutions.
11. "Interfacility maternal transport" means an interfacility transport of a woman:
 - a. Whose pregnancy is considered by a physician to be high risk,
 - b. Who is in need of critical care services related to the pregnancy, and
 - c. Who is being transferred to a medical facility that has the specialized perinatal and neonatal resources and capabilities necessary to provide an appropriate level of care.
12. "Interfacility neonatal transport" means an interfacility transport of an infant who is 28 days of age or younger and who is in need of critical care services.
13. "Licensed respiratory care practitioner" has the same meaning as in A.R.S. § 32-3501.
14. "Licensee" means a person who holds a current and valid license from the Department to operate an air ambulance service.
15. "Medical team" means personnel whose main function on a mission is the medical care of the patient being transported.
16. "Mission" means a transport event that involves an air ambulance service's sending an air ambulance to a patient's location to provide transport of the patient from one location to another, whether or not transport of the patient is actually provided.
17. "Mission level" means critical care services or ALS services, based on the staffing and the services provided by the air ambulance service.
18. "Mission type" means an emergency medical services transport, interfacility transport, interfacility maternal transport, or interfacility neonatal transport provided by an air ambulance service.
19. "On-line medical guidance" means emergency medical services direction or information provided to a non-EMCT medical team member by a physician through two-way voice communication.
20. "Operate an air ambulance service" means to use an air ambulance:
 - a. To transport a patient from a location in this state to another location in this state,
 - b. From a base location in this state, or
 - c. To transport a patient from a location in this state to a location outside of this state more than once per month.

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21. "Owner" means a person that holds a controlling legal or equitable interest and authority in a business organization.
22. "Personnel" means individuals who work for an air ambulance service, with or without compensation, whether as employees, contractors, or volunteers.
23. "Premises" means each physical location of air ambulance service operations and includes all equipment and records at each location.
24. "Proficiency in neonatal resuscitation" means current and valid certification in neonatal resuscitation obtained through completing a nationally recognized training program such as the American Academy of Pediatrics and American Heart Association NRP: Neonatal Resuscitation Program.
25. "Regularly" means at recurring, fixed, or uniform intervals.
26. "Subspecialization" means:
 - a. For a physician board certified by a specialty board approved by the American Board of Medical Specialties, subspecialty certification;
 - b. For a physician board certified by a specialty board approved by the American Osteopathic Association, attainment of either a certification of special qualifications or a certification of added qualifications; and
 - c. For a physician who has completed an accredited residency program, completion of at least one year of training pertaining to the specified area of medicine.
27. "Two-way voice communication" means that two individuals are able to convey information back and forth to each other orally, either directly or through a third-party relay.
28. "Valid" means that a license, certification, or other form of authorization is in full force and effect and not suspended.
29. "Working day" means the period between 8:00 a.m. and 5:00 p.m. on a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

R9-25-702. Applicability (A.R.S. §§ 36-2202(A)(4) and 36-2217)

This Article and Article 8 of this Chapter do not apply to persons and vehicles exempted from the provisions of A.R.S. Title 36, Chapter 21.1 as provided in A.R.S. § 36-2217(A).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-703. Requirement and Eligibility for a License (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2215)

- A. A person shall not operate an air ambulance service in this state unless the person has a current and valid air ambulance service license and, except as provided in A.R.S. § 36-

2212(C), a current and valid certificate of registration for an air ambulance as required under Article 8 of this Chapter.

- B. To be eligible to obtain an air ambulance service license, an applicant shall:
 1. Have applied for a certificate of registration, issued by the Department under Article 8 of this Chapter, for each aircraft to be used as an air ambulance by the air ambulance service;
 2. Possess a copy of a current and valid registration, issued by the Arizona Department of Transportation under A.R.S. Title 28, Chapter 25, Article 4, for each aircraft to be used as an air ambulance by the air ambulance service;
 3. Have current and valid liability insurance coverage for the air ambulance service that complies with A.R.S. § 36-2215 and that has at least the following liability limits:
 - a. \$1 million for injuries to or death of any one person arising out of any one incident or accident;
 - b. \$3 million for injuries to or death of more than one person in any one incident or accident; and
 - c. \$500,000 for damage to property arising from any one incident or accident;
 4. Have current and valid malpractice insurance coverage for the air ambulance service that complies with A.R.S. § 36-2215 and that has a maximum liability limit of at least \$1 million per occurrence; and
 5. Comply with all applicable requirements of this Article, Articles 2 and 8 of this Chapter, and A.R.S. Title 36, Chapter 21.1.
- C. To maintain eligibility for an air ambulance service license, a licensee shall meet the requirements of subsections (B)(2) through (5) and hold a current and valid certificate of registration, issued by the Department under Article 8 of this Chapter, for each aircraft used as an air ambulance in Arizona by the air ambulance service.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

R9-25-704. Application and Licensing Process (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2213, 36-2214, and 36-2215)

- A. An applicant for an initial license shall submit an application packet to the Department, including:
 1. The following information in a Department-provided format:
 - a. The applicant's name; mailing address; email address; fax number, if any; and telephone number;
 - b. The names of all other business organizations operated by the applicant related to the air ambulance service;
 - c. The physical and mailing addresses to be used for the air ambulance service, if different from the applicant's mailing address;
 - d. The name, title, address, email address, and telephone number of the applicant's statutory agent or the individual designated by the applicant to accept service of process and subpoenas for the air ambulance service;

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- e. The name, title, address, email address, and telephone number of the individual acting on behalf of the applicant according to R9-25-102;
 - f. If the applicant is a business organization:
 - i. The type of business organization; and
 - ii. The name; address; email address; telephone number; and fax number, if any, of the individual who is to serve as the primary contact for information regarding the application;
 - g. The name and Arizona license number for the physician who is to serve as the administrative medical director for the air ambulance service;
 - h. The intended hours of operation for the air ambulance service;
 - i. The intended schedule of rates for the air ambulance service;
 - j. Which of the following mission types is to be provided:
 - i. Emergency medical services transports,
 - ii. Interfacility transports,
 - iii. Interfacility maternal transports, or
 - iv. Interfacility neonatal transports;
 - k. Which of the following mission levels is to be provided:
 - i. Critical care, or
 - ii. Advanced life support;
 - l. Whether the applicant plans to use fixed-wing or rotor-wing aircraft for the air ambulance service;
 - m. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-25-1201(C)(3);
 - n. Attestation that the applicant will comply with all applicable requirements in this Article, Articles 2 and 8 of this Chapter, and A.R.S. Title 36, Chapter 21.1;
 - o. Attestation that the information provided in the application packet, including the information in the accompanying documents, is accurate and complete; and
 - p. The signature of the applicant and the date signed;
2. Documentation for the individual specified according to subsection (A)(1)(e) that complies with A.R.S. § 41-1080;
 3. A copy of the business organization's articles of incorporation, articles of organization, or partnership documents, if applicable;
 4. For each aircraft to be used as an air ambulance by the air ambulance service:
 - a. An application for registration that includes all of the information and documents required under R9-25-801(B); and
 - b. A copy of a current and valid registration, issued by the Arizona Department of Transportation under A.R.S. Title 28, Chapter 25, Article 4;
 5. A certificate of insurance establishing that the applicant has current and valid liability insurance coverage for the air ambulance service as required under R9-25-703(B)(3);
 6. A certificate of insurance establishing that the applicant has current and valid malpractice insurance coverage for the air ambulance service as required under R9-25-703(B)(4);
 7. A list of each entity that or physician who is to provide on-line medical direction to EMCTs of the air ambulance service, including:
 - a. For each entity, such as an ALS base hospital, centralized medical direction communications center, or physician group practice, the name, mailing address, email address, and telephone number of the entity; or
 - b. For each physician who is to provide on-line medical direction, the name, professional license number, mailing address, email address, and telephone number for the physician; and
 8. If the applicant holds current CAMTS accreditation for the air ambulance service, a copy of the current CAMTS accreditation report.
- B.** No more than 30 days before the expiration date of the current license, a licensee shall submit to the Department a renewal application packet including:
1. The information required in subsection (A)(1), in a Department-provided format;
 2. The documents required in subsections (A)(5), (6), (7), and, if applicable, (8); and
 3. For each aircraft used or to be used as an air ambulance by the air ambulance service:
 - a. Either:
 - i. A copy of a current and valid certificate of registration issued by the Department under Article 8 of this Chapter, or
 - ii. An application packet for registration that includes all of the information and documents required under R9-25-801(B); and
 - b. A copy of a current and valid registration, issued by the Arizona Department of Transportation under A.R.S. Title 28, Chapter 25, Article 4.
- C.** Unless an applicant or licensee documents current CAMTS accreditation, as provided in subsection (A)(8), or is applying for an initial license because of a change of ownership as described in R9-25-710(D), the Department shall conduct an inspection, as required under A.R.S. § 36-2214(B) and R9-25-711, during the substantive review period for the application for a license.
- D.** The Department shall review each application packet as described in Article 12 of this Chapter, and:
1. Approve the application;
 2. Approve the application with a corrective action plan, as specified in R9-25-711(G)(2); or
 3. Deny the application.
- E.** The Department may deny an application if an applicant or licensee:
1. Fails to meet the eligibility requirements of R9-25-703(B);
 2. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;
 3. Fails or has failed to comply with any provision in this Article or Article 2 or 8 of this Chapter;
 4. Knowingly or negligently provides false documentation or false or misleading information to the Department; or
 5. Fails to submit to the Department documents or information requested under R9-25-1201(B)(1) or (C)(3) and requests a denial as permitted under R9-25-1201(E).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1,

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2013 (Supp. 13-4). Amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

R9-25-705. Minimum Standards for Operations as an Air Ambulance Service (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

A. A licensee shall ensure that the air ambulance service:

1. Maintains eligibility for licensure as required under R9-25-703(C);
 2. Makes a good faith effort to communicate information about its hours of operation to the general public through print media, broadcast media, the Internet, or other means;
 3. Makes the air ambulance service's schedule of rates available to any individual upon request and, if requested, in writing;
 4. Provides an accurate estimated time of arrival to the person requesting transport at the time that transport is requested and provides an amended estimated time of arrival to the person requesting transport if the estimated time of arrival changes;
 5. Except as provided in subsection (B), only transports patients for whom the air ambulance service has the resources to provide appropriate medical care;
 6. Does not perform interfacility transport of a patient unless:
 - a. The transport is initiated by the sending health care institution, and
 - b. The destination health care institution confirms that a bed is available for the patient;
 7. Ensures that the protocol for the transfer of information to be communicated to emergency receiving facility staff concurrent with the transfer of care, required in R9-25-201(E)(2)(d)(i), includes:
 - a. The date and time the call requesting service was received by the air ambulance service;
 - b. The unique number used by the air ambulance service to identify the mission;
 - c. The name of the air ambulance service;
 - d. The number or other identifier of the air ambulance used for the mission;
 - e. The following information about the patient:
 - i. The patient's name;
 - ii. The patient's date of birth or age, as available;
 - iii. The principal reason for requesting services for the patient;
 - iv. The patient's medical history, including any chronic medical illnesses, known allergies to medications, and medications currently being taken by the patient;
 - v. The patient's level of consciousness at initial contact and when reassessed;
 - vi. The patient's pulse rate, respiratory rate, oxygen saturation, and systolic blood pressure at initial contact and when reassessed;
 - vii. The results of an electrocardiograph, if available;
 - viii. The patient's glucose level at initial contact and when reassessed, if applicable;
 - ix. The patient's level of responsiveness score, as applicable, at initial contact and when reassessed;
 - x. The results of the patient's neurological assessment, if applicable; and
 - xi. The patient's pain level at initial contact and when reassessed; and
8. Creates a prehospital incident history report, in a Department-provided format, for each patient that includes the following information:
- a. The name and identification number of the air ambulance service;
 - b. Information about the software for the storage and submission of the prehospital incident history report;
 - c. The unique number assigned to the mission;
 - d. The unique number assigned to the patient;
 - e. Information about the response to the call requesting service, including:
 - i. The mission level requested;
 - ii. Information obtained by the person providing direction for response to the request;
 - iii. Information about the air ambulance assigned to the mission;
 - iv. Information about the medical team responding to the call requesting service;
 - v. The priority assigned to the response; and
 - vi. Response delays, as applicable;
 - f. Whether patient care was transferred from another EMS provider or ambulance service and, if so, identification of the EMS provider or ambulance service;
 - g. The date and time that:
 - i. The call requesting service was received;
 - ii. The request was received by the person coordinating transport;
 - iii. The air ambulance service received the transport request;
 - iv. The air ambulance left for the patient's location;
 - v. The air ambulance arrived at the patient's location;
 - vi. The medical team in the air ambulance arrived at the patient's side;
 - vii. Transfer of the patient's care occurred at a location other than the destination, if applicable;
 - viii. The air ambulance departed the patient's location;
 - ix. The air ambulance arrived at the destination;
 - x. Transfer of the patient's care occurred at the destination;
 - xi. The air ambulance was available to take another mission;
 - h. Information about the patient, including:
 - i. The patient's first and last name;
 - ii. The address of the patient's residence;
 - iii. The county of the patient's residence;
 - iv. The country of the patient's residence;
 - v. The patient's gender, race, ethnicity, and age;
 - vi. The patient's estimated weight;
 - vii. The patient's date of birth; and
 - viii. If the patient has an alternate residence, the address of the alternate residence;
 - i. The primary method of payment for services and anticipated level of payment;
 - j. Information about the scene, including:

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- i. Specific information about the location of the scene;
 - ii. Whether the air ambulance was first on the scene;
 - iii. The number of patients at the scene;
 - iv. Whether the scene was the location of a mass casualty incident; and
 - v. If the scene was the location of a mass casualty incident, triage information;
 - k. Information about the reason for requesting service for the patient, including:
 - i. The date and time of onset of symptoms and when the patient was last well;
 - ii. Information about the complaint;
 - iii. The patient's symptoms;
 - iv. The results of the medical team's initial assessment of the patient;
 - v. If the patient was injured, information about the injury and the cause of the injury;
 - vi. If the patient experienced a cardiac arrest, information about the etiology of the cardiac arrest and subsequent treatment provided; and
 - vii. For an interfacility transport, the reason for the transport;
 - l. Information about any specific barriers to providing care to the patient;
 - m. Information about the patient's medical history, including:
 - i. Known allergies to medications,
 - ii. Surgical history,
 - iii. Current medications, and
 - iv. Alcohol or drug use;
 - n. Information about the patient's current medical condition, including the information in subsections (A)(7)(e)(v) through (xi) and the time and method of assessment;
 - o. Information about agents administered to the patient, including the dose and route of administration, time of administration, and the patient's response to the agent;
 - p. If not specifically included under subsection (A)(8)(k), (m)(iv), (n), or (o), the information required in A.A.C. R9-4-602(A);
 - q. Information about any procedures performed on the patient and the patient's response to the procedure;
 - r. Whether the patient was transported and, if so, information about the transport;
 - s. Information about the destination of the transport, including the reason for choosing the destination;
 - t. Whether patient care was transferred to another EMS provider or ambulance service and, if so, identification of the EMS provider or ambulance service;
 - u. Unless patient care was transferred to another EMS provider or ambulance service, information about:
 - i. Whether the destination facility was notified that the patient being transported has a time-sensitive condition and the time of notification;
 - ii. The disposition of the patient at the destination; and
 - iii. The disposition of the mission;
 - v. Any other narrative information about the patient, care received by the patient, or transport; and
 - w. The name and certification level of the medical team member providing the information;
- 9. Creates a record for each mission that includes:
 - a. Mission date;
 - b. Mission level;
 - c. Mission type;
 - d. Staffing of the mission;
 - e. Aircraft type—fixed-wing aircraft or rotor-wing aircraft;
 - f. Name of the person requesting the transport;
 - g. Time of receipt of the transport request;
 - h. The estimated time of arrival, as provided according to subsection (A)(4);
 - i. Departure time to the patient's location;
 - j. Address of the patient's location;
 - k. Arrival time at the patient's location;
 - l. Departure time to the destination health care institution;
 - m. Name and address of the destination health care institution;
 - n. Arrival time at the destination health care institution;
 - o. Either the:
 - i. Unique reference number used by the air ambulance service to identify the patient, or
 - ii. Unique call number used by the air ambulance service to identify the specific mission; and
 - p. Aircraft tail number for the air ambulance used on the mission;
 - 10. Establishes, documents, and, if necessary, implements a plan to address and minimize potential issues of patient health and safety due to the air ambulance service terminating operations at a physical address used for the air ambulance service that:
 - a. Is developed in conjunction with hospitals near the physical address used for the air ambulance service and other persons who may be adversely affected by the air ambulance service terminating operations;
 - b. Includes notification by the air ambulance service of the persons in subsection (A)(10)(a) of the intent to terminate operations, at least 30 calendar days before the termination of operations; and
 - c. Includes temporary measures that will be used until alternate methods may be arranged for patient transport that address patient health and safety;
 - 11. Establishes, documents, and implements a quality improvement program, as specified in policies and procedures, through which:
 - a. Data related to initial patient assessment, patient care, transport services provided, and patient status upon arrival at the destination are:
 - i. Collected continuously;
 - ii. For the information required in subsection (A)(8), submitted to the Department, in a Department-provided format and within 48 hours after the date of a mission, for quality improvement purposes; and
 - iii. If the air ambulance service is notified that the submission of information to the Department according to subsection (A)(11)(a)(ii) was unsuccessful, corrected and resubmitted within seven days after notification;
 - b. Continuous quality improvement processes are developed to identify, document, and evaluate issues related to the provision of services, including:
 - i. Care provided to patients with time-sensitive conditions;

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- ii. Transport or documentation, and
 - iii. Patient status upon arrival at the destination;
 - c. A committee consisting of the administrative medical director, the individual managing the air ambulance service or designee, and other employees as appropriate:
 - i. Review the data in subsection (A)(11)(a) and any issues identified in subsection (A)(11)(b) on at least a quarterly basis; and
 - ii. Implement activities to improve performance when deviations in patient care, transport, or documentation are identified; and
 - d. The activities in subsection (A)(11)(c) are documented, consistent with A.R.S. §§ 36-2401, 36-2402, and 36-2403; and
12. Beginning within 12 months after the effective date of this Section, establish and maintain a method to electronically document patient information and treatment that is capable of being transferred.
- B.** An air ambulance service may transport a patient for whom the air ambulance does not have the resources to provide appropriate medical care:
- 1. In a rescue situation in which:
 - a. An individual's life, limb, or health is imminently threatened;
 - b. The threat may be reduced or eliminated by removing the individual from the situation to a location in which medical services may be provided; and
 - c. There is no other practical means of transport, including another air ambulance service, available; or
 - 2. For an interfacility transport of a patient if:
 - a. The sending health care institution provides medically appropriate life support measures, staff, and equipment to sustain the patient during the interfacility transport; and
 - b. Each staff member provided by the sending health care institution has completed training in the subject areas listed in R9-25-707(A) before participating in the interfacility transport.
- C.** If an air ambulance service completes a mission under subsection (B) for which the air ambulance service does not have the resources to provide appropriate medical care, the licensee shall ensure that the air ambulance service creates a record within five working days after the mission, including:
- 1. The information required under subsection (A)(8),
 - 2. The manner in which the air ambulance service deviated from subsection (A)(5), and
 - 3. The justification for operating under subsection (B).
- D.** If an air ambulance service uses a single-member medical team as authorized under R9-25-706(B) and (C), the licensee shall ensure that the air ambulance service creates a record within five working days after the mission, including:
- 1. The information required under subsection (A)(9),
 - 2. The name and qualifications of the individual comprising the single-member medical team, and
 - 3. The justification for using a single-member medical team.
- E.** If an air ambulance service completes a critical care interfacility transport mission under conditions permitted in R9-25-802(F), the licensee shall ensure that the air ambulance service creates a record within five working days after the mission, including:
- 1. The information required under subsection (A)(9),
 - 2. A description of the life-support equipment used on the mission,
 - 3. A list of the equipment and supplies required in R9-25-802(C) that were removed from the air ambulance for the mission, and
 - 4. The justification for conducting the mission as permitted under R9-25-802(F).
- F.** A licensee shall ensure that an individual does not serve on the medical team for an interfacility maternal transport unless the air ambulance service's medical director has verified and attested in writing to the individual's having the proficiencies described in R9-25-706(A)(2).
- G.** A licensee shall ensure that an individual does not serve on the medical team for an interfacility neonatal transport unless the air ambulance service's medical director has verified and attested in writing to the individual's having the proficiencies described in R9-25-706(A)(3).
- H.** A licensee shall ensure that the air ambulance service:
- 1. Retains each document required to be created or maintained under this Article or Article 2 or 8 of this Chapter for at least three years after the last event recorded in the document, and
 - 2. Produces each document for Department review upon request.
- I.** A licensee shall ensure that, while on a mission, two-way voice communication is available:
- 1. Between and among personnel on the air ambulance, including the pilot; and
 - 2. Between personnel on the air ambulance and the following persons on the ground:
 - a. Personnel;
 - b. Physicians providing on-line medical direction or on-line medical guidance to medical team members; and
 - c. For a rotor-wing air ambulance mission:
 - i. Emergency medical services providers, and
 - ii. Law enforcement agencies.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). R9-25-705 repealed; new Section R9-25-705 renumbered from R9-25-710 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

R9-25-706. Minimum Standards for Mission Staffing (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

- A.** A licensee shall ensure that, except as provided in subsection (B):
- 1. Each critical care mission is staffed by a medical team of at least two individuals with the following qualifications:
 - a. For a critical care interfacility transport mission:
 - i. A physician or registered nurse; and
 - ii. Another physician, another registered nurse, a Paramedic, or a licensed respiratory care practitioner; and
 - b. For a critical care mission that is an emergency medical services transport:
 - i. A physician or registered nurse; and
 - ii. A Paramedic or another registered nurse;

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2. Each interfacility maternal transport mission is staffed by a medical team that:
 - a. Complies with the requirements for a critical care mission medical team in subsection (A)(1); and
 - b. Has the following additional qualifications:
 - i. Proficiency in advanced emergency cardiac life support that includes didactic instruction and a practical skills test, consistent with training recognized by the American Heart Association;
 - ii. Proficiency in neonatal resuscitation; and
 - iii. Proficiency in stabilization and transport of the pregnant patient;
 3. Each interfacility neonatal transport mission is staffed by a medical team that:
 - a. Complies with the requirements for a critical care mission medical team in subsection (A)(1); and
 - b. Has the following additional qualifications:
 - i. Proficiency in pediatric advanced emergency life support that includes didactic instruction and a practical skills test, consistent with training recognized by the American Heart Association; and
 - ii. Proficiency in neonatal resuscitation and stabilization of the neonatal patient; and
 4. Each advanced life support mission is staffed by a medical team of at least two individuals with the following qualifications:
 - a. For an advanced life support mission that is an emergency medical services transport:
 - i. A physician, registered nurse, or Paramedic; and
 - ii. Another Paramedic or another registered nurse;
 - b. For an advanced life support interfacility transport mission:
 - i. A physician, registered nurse, or Paramedic; and
 - ii. Another Paramedic, a licensed respiratory care practitioner, or another registered nurse.
- B.** If the pilot on a mission using a rotor-wing air ambulance determines, in accordance with the air ambulance service's written guidelines required under subsection (C)(1), that the weight of a second medical team member could potentially compromise the performance of the rotor-wing air ambulance and the safety of the mission, and the use of a single-member medical team is consistent with the on-line medical direction or on-line medical guidance received as required under subsection (C)(2), an air ambulance service may use a single-member medical team consisting of an individual with the following qualification:
1. For a critical care mission, a physician or registered nurse; and
 2. For an advanced life support mission, a physician, registered nurse, or Paramedic.
- C.** A licensee shall ensure that:
1. Each air ambulance service rotor-wing pilot is provided with written guidelines to use in determining when the weight of a second medical team member could potentially compromise the performance of a rotor-wing air ambulance and the safety of a mission, including the conditions of density altitude and weight that warrant the use of a single-member medical team;
 2. The following are done, without delay, after an air ambulance service rotor-wing pilot determines that the weight of a second medical team member could potentially compromise the performance of a rotor-wing air ambulance and the safety of a mission:
 - a. The pilot communicates that information to the medical team,
 - b. The medical team obtains on-line medical direction or on-line medical guidance regarding the use of a single-member medical team, and
 - c. The medical team proceeds in compliance with the on-line medical direction or on-line medical guidance;
3. A single-member medical team has the knowledge and medical equipment to perform one-person cardiopulmonary resuscitation;
4. The patient care provided by each single-member medical team, including consideration of each patient's status upon arrival at the destination health care institution, is reviewed through the quality improvement processes in R9-25-705(A)(11)(b) and (c); and
5. A single-member medical team is used only when no other transport team is available that would be more appropriate for delivering the level of care that a patient requires.
- D.** A licensee shall ensure that the air ambulance service creates and maintains for each personnel member a file containing documentation of the personnel member's qualifications, including, as applicable, licenses, certifications, and training records.
- Historical Note**
- New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). R9-25-706 renumbered to R9-25-710; new Section R9-25-706 renumbered from R9-25-711 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by exempt rulemaking at 28 A.A.R. 3681 (December 2, 2022), with an immediate effective date of November 8, 2022 (Supp. 22-4).
- R9-25-707. Minimum Standards for Training (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2213)**
- A.** A licensee shall ensure that each medical team member completes training in the following subjects before serving on a mission:
1. Aviation terminology;
 2. Physiological aspects of flight;
 3. Patient loading and unloading;
 4. Safety in and around the aircraft;
 5. In-flight communications;
 6. Use, removal, replacement, and storage of the medical equipment installed on the aircraft;
 7. In-flight emergency procedures;
 8. Emergency landing procedures; and
 9. Emergency evacuation procedures.
- B.** A licensee shall ensure that the air ambulance service documents each medical team member's completion of the training required under subsection (A), including the name of the medical team member, each training component completed, and the date of completion.
- Historical Note**
- New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). R9-25-707 renumbered to R9-25-709; new Section R9-25-707 renumbered from R9-25-713 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022

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(Supp. 22-2).

R9-25-708. Minimum Standards for Medical Control (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)**A.** A licensee shall ensure that:

1. The air ambulance service has an administrative medical director who:
 - a. Meets the qualifications in subsection (B);
 - b. Supervises and evaluates the quality of medical care provided by medical team members;
 - c. Ensures the competency and current qualifications of all medical team members;
 - d. Except as provided in subsections (A)(3) and (4), ensures that:
 - i. Each EMCT medical team member receives medical direction as required under Article 2 of this Chapter; and
 - ii. Each non-EMCT medical team member receives medical guidance through written treatment protocols and according to subsection (C); and
 - e. Approves, ensures implementation of, and annually reviews treatment protocols to be followed by medical team members;
2. The administrative medical director reviews data related to patient care and transport services provided, documentation, and patient status upon arrival at destination that are collected through the quality management program in R9-25-705(A)(11);
3. For an interfacility maternal transport mission, on-line medical direction or on-line medical guidance provided to medical team member is provided by a physician who meets the qualifications of subsection (B)(2)(b)(i);
4. For an interfacility neonatal transport mission, on-line medical direction or on-line medical guidance provided to medical team member is provided by a physician who meets the qualifications of subsection (B)(2)(b)(ii);

B. An administrative medical director shall:

1. Be a physician; and
2. Comply with one of the following:
 - a. If the air ambulance service provides emergency medical services transports, meet the qualifications of R9-25-201(A)(1); or
 - b. If the air ambulance service does not provide emergency medical services transports, meet the qualifications of R9-25-201(A)(1) or one of the following:
 - i. If the air ambulance service provides interfacility maternal transport missions, have board certification or have completed an accredited residency program in one of the following specialty areas:
 - (1) Obstetrics and gynecology, with subspecialization in critical care medicine or maternal and fetal medicine; or
 - (2) Pediatrics, with subspecialization in neonatal-perinatal medicine;
 - ii. If the air ambulance service provides interfacility neonatal transport missions, have board certification or have completed an accredited residency program in one of the following specialty areas:
 - (1) Obstetrics and gynecology, with subspecialization in maternal and fetal medicine; or

- (2) Pediatrics, with subspecialization in neonatal-perinatal medicine, neonatology, pediatric critical care medicine, or pediatric intensive care; or
- iii. If neither subsection (B)(2)(b)(i) or (ii) applies, have board certification or have completed an accredited residency program in one of the following specialty areas:
 - (1) Anesthesiology, with subspecialization in critical care medicine;
 - (2) Internal medicine, with subspecialization in critical care medicine;
 - (3) If the air ambulance service transports only pediatric patients, pediatrics, with subspecialization in pediatric critical care medicine or pediatric emergency medicine; or
 - (4) If the air ambulance service transports only surgical patients, surgery, with subspecialization in surgical critical care.

C. An administrative medical director shall ensure that each non-EMCT medical team member receives on-line medical guidance provided by:

1. The administrative medical director;
2. Another physician designated by the administrative medical director; or
3. If the medical guidance needed exceeds the administrative medical director's area of expertise, a consulting specialty physician.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). R9-25-708 renumbered to R9-25-711; new Section R9-25-708 renumbered from R9-25-715 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

R9-25-709. Changes Affecting a License (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2213)

- A.** At least 30 days before the date of a change in an air ambulance service's name, the licensee shall send the Department written notice of the name change.
- B.** At least 90 days before an air ambulance service ceases to operate, the licensee shall send the Department written notice of the intention to cease operating, effective on a specific date, and the licensee's intention to relinquish the air ambulance service's license as of that date.
- C.** Within 30 days after the date of receipt of a notice described in subsection (A) or (B), the Department shall:
 1. For a notice described in subsection (A), issue an amended license that incorporates the name change but retains the expiration date of the current license; and
 2. For a notice described in subsection (B), send the licensee written confirmation of the voluntary relinquishment of the air ambulance service's license, with an effective date consistent with the written notice.
- D.** A licensee shall notify the Department in writing at least 30 calendar days before:
 1. Changing the physical address used for the air ambulance service, as provided according to R9-25-704(A)(1)(c); or
 2. Terminating operations at a physical address used for the air ambulance service, as provided according to R9-25-704(A)(1)(c).

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- E. A licensee shall notify the Department in writing within one working day after:
1. A change in the air ambulance service's eligibility for licensure under R9-25-703(B) or (C);
 2. A change in the business organization information most recently submitted to the Department according to R9-25-704(A)(1)(f);
 3. A change in the air ambulance service's CAMTS accreditation status, including a copy of the air ambulance service's new CAMTS accreditation report, if applicable;
 4. A change in the air ambulance service's hours of operation, as specified according to R9-25-704(A)(1)(h);
 5. A change in the air ambulance service's schedule of rates, as specified according to R9-25-704(A)(1)(i); or
 6. A change in the mission types provided, as specified according to R9-25-704(A)(1)(j).
- F. If the Department receives a notice specified in subsection (E)(6), the Department:
1. Shall reissue a license for the air ambulance service reflecting the change, but retaining the expiration date on the original license; and
 2. May conduct an inspection according to R9-25-711.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). R9-25-709 renumbered to R9-25-712; new Section R9-25-709 renumbered from R9-25-707 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

R9-25-710. Term and Transferability of License (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2213, 36-2214, and 41-1092.11)

- A. The Department shall issue an initial license:
1. When based on current CAMTS accreditation, with a term beginning on the date of issuance of the initial license and ending on the expiration date of the CAMTS accreditation upon which licensure is based; and
 2. When based on Department inspection, with a term beginning on the date of issuance of the initial license and ending three years later.
- B. The Department shall issue a renewal license with a term beginning on the day after the expiration date shown on the previous license and ending:
1. When based on current CAMTS accreditation, on the expiration date of the CAMTS accreditation upon which licensure is based; and
 2. When based on Department inspection, three years after the effective date of the renewal license.
- C. If a licensee submits an application packet for renewal as described in R9-25-704(B), the current license does not expire until the Department has made a final determination on the application for renewal, as provided in A.R.S. § 41-1092.11.
- D. At least 30 days before an anticipated change of ownership:
1. A licensee wanting to transfer an air ambulance service license shall submit a letter to the Department that contains:
 - a. A request that the air ambulance service license be transferred,
 - b. The name and license number of the currently licensed air ambulance service, and
 - c. The name of the person to whom the air ambulance service license is to be transferred; and

2. The person to whom the license is to be transferred shall submit to the Department an application packet that complies with R9-25-704(A).

- E. A new owner shall not operate an air ambulance service in this state until:
1. The new owner complies with requirements in Articles 7 and 8 of this Chapter, and
 2. The Department has issued an air ambulance service license to the new owner.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). R9-25-710 renumbered to R9-25-705; new Section R9-25-710 renumbered from R9-25-706 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

R9-25-711. Inspections and Investigations (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2213, and 36-2214)

- A. Except as provided in subsections (D) and (E), the Department shall inspect an air ambulance service, as required under A.R.S. § 36-2214(B), before issuing an initial or renewal license and as necessary to determine compliance with this Article, Articles 2 and 8 of this Chapter, and A.R.S. Title 36, Chapter 21.1.
- B. A Department inspection may include the air ambulance service's premises, records, and equipment, and each air ambulance used by the air ambulance service.
- C. If the Department receives written or verbal information alleging a violation of this Article, Article 2 or 8 of this Chapter, or A.R.S. Title 36, Chapter 21.1, the Department shall conduct an investigation.
1. The Department may conduct an inspection as part of an investigation.
 2. A licensee shall allow the Department to inspect the air ambulance service's premises, records, and equipment, and each air ambulance and to interview personnel as part of an investigation.
- D. Except as provided in subsection (C), the Department shall not conduct an inspection of an air ambulance service before issuing an initial or renewal license if an applicant or licensee provides documentation of current CAMTS certification as part of the application packet according to R9-25-704(A)(8).
- E. When an application for an air ambulance service license is submitted along with a transfer request due to a change of ownership, the Department shall determine whether an inspection is necessary based upon the potential impact to public health, safety, and welfare.
- F. The Department shall conduct each inspection in compliance with A.R.S. § 41-1009.
- G. If the Department determines that an air ambulance service is not in compliance with the requirements in this Article, Article 2 or 8 of this Chapter, or A.R.S. Title 36, Chapter 21.1, the Department may:
1. Take an enforcement action as described in R9-25-712; or
 2. Require that the air ambulance service submit to the Department, within 15 days after written notice from the Department, a corrective action plan to address issues of compliance that do not directly affect the health or safety of a patient that:

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- a. Describes how each identified instance of non-compliance will be corrected and reoccurrence prevented, and
- b. Includes a date for correcting each instance of non-compliance that is appropriate to the actions necessary to correct the instance of non-compliance.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). R9-25-711 renumbered to R9-25-706; new Section R9-25-711 renumbered from R9-25-708 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

R9-25-712. Enforcement Actions (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2213, 36-2214, 36-2215, 41-1092.03, and 41-1092.11(B))

- A. The Department may take an action listed in subsection (B) against an air ambulance service that:
 1. Fails to meet the eligibility requirements of R9-25-703;
 2. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;
 3. Fails or has failed to comply with any provision in this Article or Article 2 or 8 of this Chapter;
 4. Does not submit a corrective action plan, as provided in R9-25-711(G)(2), that is acceptable to the Department;
 5. Does not complete a corrective action plan submitted according to R9-25-711(G)(2); or
 6. Knowingly or negligently provides false documentation or false or misleading information to the Department or to a patient, third-party payor, or other person billed for service.
- B. The Department may take the following actions against an air ambulance service:
 1. Except as provided in subsection (B)(3), after notice and an opportunity to be heard is provided under A.R.S. Title 41, Chapter 6, Article 10, suspend:
 - a. The air ambulance service license, or
 - b. The certificate of registration of an aircraft to be used as an air ambulance by the air ambulance service;
 2. After notice and an opportunity to be heard is provided under A.R.S. Title 41, Chapter 6, Article 10, revoke:
 - a. The air ambulance service license, or
 - b. The certificate of registration of an aircraft to be used as an air ambulance by the air ambulance service; and
 3. As permitted under A.R.S. § 41-1092.11(B), if the Department determines that the public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in the Department's order, immediately suspend:
 - a. The air ambulance service license pending proceedings for revocation or other action, or
 - b. The certificate of registration of an aircraft to be used as an air ambulance by the air ambulance service pending proceedings for revocation or other action.
- C. In determining whether to take action under subsection (B), the Department shall consider:

1. The severity of each violation relative to public health and safety;
2. The number of violations relative to the transport volume of the air ambulance service;
3. The nature and circumstances of each violation;
4. Whether each violation was corrected and, if so, the manner of correction; and
5. The duration of each violation.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (Supp. 12-3). New Section R9-25-712 renumbered from R9-25-709 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

R9-25-713. Renumbered

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Section R9-25-713 renumbered to R9-25-707 by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

R9-25-714. Repealed

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Repealed by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

R9-25-715. Renumbered

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Section R9-25-715 renumbered to R9-25-708 by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

R9-25-716. Repealed

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Repealed by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

R9-25-717. Repealed

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Repealed by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

R9-25-718. Repealed

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Repealed by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

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ARTICLE 8. AIR AMBULANCE REGISTRATION

Article 8, consisting of R9-25-801 through R9-25-808, recodified to Article 5 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Editor's Note: Article 8, consisting of Sections R9-25-801 through R9-25-803 and Exhibits, was recodified from A.A.C. R9-13-1501 through R9-13-1503. These recodified Sections were originally filed under an exemption from A.R.S. Title 41, Chapter 6. Refer to the historical notes in 9 A.A.C. 13 for adoption dates (Supp. 98-1).

Article 8, consisting of Section R9-25-805 and Exhibits 1 through 3, was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to A.R.S. § 36-2205(C). Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; and the Department was not required to hold public hearings on this Section. Under A.R.S. § 36-2205(D) a person may petition the Director to amend an adopted protocol pursuant to A.R.S. § 41-1033 (Supp. 97-2).

R9-25-801. Requirement, Eligibility, and Application for an Initial or Renewal Certificate of Registration for an Air Ambulance (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, 36-2232(A)(11), and 36-2240(4))

- A.** To be eligible to obtain a certificate of registration for an air ambulance, an applicant shall:
 1. Ensure that the aircraft is not currently registered with the Department by another air ambulance service;
 2. Hold a current and valid air ambulance service license issued under Article 7 of this Chapter;
 3. Possess a copy of a current and valid registration for the air ambulance, issued by the Arizona Department of Transportation under A.R.S. Title 28, Chapter 25, Article 4; and
 4. Comply with all applicable requirements of this Article, Articles 2 and 7 of this Chapter, and A.R.S. Title 36, Chapter 21.1.
 - B.** An applicant for an initial or renewal certificate of registration for an air ambulance shall submit an application packet to the Department, including:
 1. The following information in a Department-provided format:
 - a. The applicant's name; mailing address; email address; fax number, if any; and telephone number;
 - b. The names of all other business organizations operated by the applicant related to the use of an air ambulance;
 - c. The physical address of the applicant, if different from the mailing address;
 - d. If applicable, the number of the applicant's air ambulance service license;
 - e. The name, title, address, email address, and telephone number of the individual acting on behalf of the applicant according to R9-25-102;
 - f. The name, address, telephone number, and email address of the owner of the air ambulance, if different from the applicant;
 - g. Whether the air ambulance is a fixed-wing or rotor-wing aircraft;
 - h. The number of engines on the air ambulance;
 - i. The manufacturer's name;
 - j. The model name of the air ambulance;
 - k. The year the air ambulance was manufactured;
 - l. The serial number of the air ambulance;
 - m. The tail number of the air ambulance;
 - n. The aircraft colors, including fuselage, stripe, and lettering;
 - o. A description of any insignia, monogram, or other distinguishing characteristics of the aircraft's appearance;
 - p. The address at which the air ambulance is usually based;
 - q. The address in Arizona at which the air ambulance will be available for inspection;
 - r. The name and telephone number of the individual to contact to arrange for inspection, if the inspection is preannounced;
 - s. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-25-1201(C)(3);
 - t. Attestation that the information provided in the application packet, including the information in the accompanying documents, is accurate and complete; and
 - u. The dated signature of the applicant;
 2. A copy of a current and valid registration for the air ambulance, issued by the Arizona Department of Transportation under A.R.S. Title 28, Chapter 25, Article 4; and
 3. Unless the applicant uses or intends to use the aircraft as an air ambulance only as a volunteer not-for-profit service, the following fees:
 - a. A \$50 registration fee, as required under A.R.S. § 36-2212(D); and
 - b. A \$200 annual regulatory fee, as required under A.R.S. § 36-2240(4).
- C.** The Department requires submission of a separate application and the fees in subsection (B)(3) for each air ambulance.
- D.** Except as provided in A.R.S. § 36-2232(A)(11), the Department shall inspect each air ambulance according to R9-25-805(A) and (B) to determine compliance with the provisions of A.R.S. Title 36, Chapter 21.1 and this Article:
 1. Within 30 calendar days before issuing an initial certificate of registration; and
 2. At least every 12 months thereafter, before issuing a renewal certificate of registration.
- E.** The Department shall review and approve or deny each application as described in Article 12 of this Chapter.
- F.** If the Department approves the application and sends the applicant the written notice of approval, specified in R9-25-1201(C)(5), the Department shall issue the certificate of registration to the applicant:
 1. For an applicant with a current and valid air ambulance service license issued under Article 7 of this Chapter, within five working days after the date on the written notice of approval; and
 2. For an applicant that does not have a current and valid air ambulance service license issued under Article 7 of this Chapter, when the air ambulance service license is issued.
- G.** The Department may deny a certificate of registration for an air ambulance if the applicant:
 1. Fails to meet the eligibility requirements of subsection (A);

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2. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;
3. Fails or has failed to comply with any provision in this Article or Article 2 or 7 of this Chapter;
4. Knowingly or negligently provides false documentation or false or misleading information to the Department; or
5. Fails to submit to the Department documents or information requested under R9-25-1201(B)(1) or (C)(3) and requests a denial as permitted under R9-25-1201(E).

Historical Note

R9-25-801 recodified from A.A.C. R9-13-1501 (Supp. 98-1). Amended by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-501 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Section R9-25-801 repealed; new Section R9-25-801 renumbered from R9-25-802 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

R9-25-802. Minimum Standards for an Air Ambulance (Authorized by A.R.S. §§ 36-2202(A)(3), (4), and (5); 36-2209(A)(2); and 36-2212)

- A.** An applicant or certificate holder shall ensure that an air ambulance has:
1. A climate control system to prevent temperature extremes that would adversely affect patient care;
 2. If a fixed-wing air ambulance, pressurization capability;
 3. Interior lighting that allows for patient care and monitoring without interfering with the pilot's vision;
 4. For each place where a patient may be positioned, at least one electrical power outlet or other power source that is capable of operating all electrically powered medical equipment without compromising the operation of any electrical aircraft equipment;
 5. A back-up source of electrical power or batteries capable of operating all electrically powered life-support equipment for at least one hour;
 6. An entry that allows for patient loading and unloading without rotating a patient and stretcher more than 30 degrees about the longitudinal axis or 45 degrees about the lateral axis and without compromising the operation of monitoring systems, intravenous lines, or manual or mechanical ventilation;
 7. A configuration that allows each medical team member sufficient access to each patient to begin and maintain treatment modalities, including complete access to the patient's head and upper body for effective airway management;
 8. A configuration that allows for rapid exit of personnel and patients, without obstruction from stretchers and medical equipment;
 9. A configuration that protects the aircraft's flight controls, throttles, and communications equipment from any intentional or accidental interference from a patient or equipment and supplies;
 10. A padded interior or an interior that is clear of objects or projections in the head strike envelope;
- B.** An applicant or certificate holder shall ensure that:
1. Except as provided in subsections (D), (E), and (F), each air ambulance has the equipment and supplies required in subsection (C) for each mission for which the air ambulance is used; and
 2. The equipment and supplies on an air ambulance are secured, stored, and maintained in a manner that prevents hazards to personnel and patients.
- C.** An applicant or certificate holder shall ensure that an air ambulance used for an advanced life support mission or critical care mission has the following equipment and supplies:
1. The following ventilation and airway equipment and supplies:
 - a. Portable and fixed suction apparatus, with wide-bore tubing, rigid pharyngeal curved suction tip, tonsillar and flexible suction catheters, 5F-14F;
 - b. Portable and fixed oxygen equipment, with variable flow regulators;
 - c. Oxygen administration equipment, including: tubing; non-rebreathing masks (adult and pediatric sizes); and nasal cannulas (adult and pediatric sizes);
 - d. Bag-valve mask, with hand-operated, self-reexpanding bag (adult size), with oxygen reservoir/accumulator; mask (adult, pediatric, infant, and neonate sizes); and valve;
 - e. Airways, oropharyngeal (adult, pediatric, and infant sizes);
 - f. Laryngoscope handle, adult and pediatric, with, if applicable, extra batteries and bulbs;
 - g. Laryngoscope blades, sizes 0, 1, and 2, straight; sizes 3 and 4, straight and curved;
 - h. Endotracheal tube cuff pressure manometer;
 - i. Endotracheal tubes, sizes 2.5-5.0 mm cuffed or uncuffed and 6.0-8.0 mm cuffed;
 - j. Stylettes for Endotracheal tubes, adult and pediatric;
 - k. Airways, nasal (adult, pediatric, and infant sizes), one each in French sizes 16 to 34;
 - l. One type of supraglottic airway device, adult and pediatric;
 - m. 10 mL straight-tip syringes;
- D.** An installed self-activating emergency locator transmitter;
- E.** A voice communications system that:
- a. Is capable of air-to-ground communication, and
 - b. Allows the flight crew and medical team members to communicate with each other during flight;
- F.** Interior patient compartment wall and floor coverings that are:
- a. Free of cuts or tears,
 - b. Made from non-absorbent material,
 - c. Capable of being disinfected, and
 - d. Maintained in a sanitary manner; and
- G.** If a rotor-wing air ambulance, the following:
- a. A searchlight that:
 - i. Has a range of motion of at least 90 degrees vertically and 180 degrees horizontally,
 - ii. Is capable of illuminating a landing site, and
 - iii. Is located so that the pilot can operate the searchlight without removing the pilot's hands from the aircraft's flight controls;
 - b. Restraining devices that can be used to prevent a patient from interfering with the pilot or the aircraft's flight controls; and
 - c. A light to illuminate the tail rotor.

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- n. Small volume nebulizer or nebulizers and aerosol masks, adult and pediatric;
- o. Magill forceps, adult and pediatric;
- p. Nasogastric tubes, sizes 5F and 8F, Salem sump sizes 14F and 18F;
- q. End-tidal CO₂ detectors, quantitative;
- r. Portable automatic ventilator with positive end expiratory pressure; and
- s. In-line viral/bacterial filter;
- 2. The following monitoring and defibrillation equipment and supplies:
 - a. Portable, battery-operated monitor/defibrillator, with:
 - i. Tape write-out/recorder,
 - ii. Defibrillator pads,
 - iii. Adult and pediatric paddles or hands-free patches,
 - iv. ECG leads,
 - v. Adult and pediatric chest attachment electrodes, and
 - vi. Capability to provide electrical discharge below 25 watt-seconds; and
 - b. Transcutaneous cardiac pacemaker, either stand-alone unit or integrated into monitor/defibrillator;
- 3. For rotor wing aircraft only, the following immobilization devices and supplies:
 - a. Cervical collars, rigid, adjustable or in an assortment of adult and pediatric sizes;
 - b. Head immobilization device, either firm padding or another commercial device;
 - c. Lower extremity (femur) traction device, including lower extremity, limb support slings, padded ankle hitch, padded pelvic support, and traction strap; and
 - d. Upper and lower extremity immobilization splints;
- 4. The following bandages:
 - a. Burn pack, including standard package, clean burn sheets;
 - b. Dressings, including:
 - i. Sterile multi-trauma dressings (various large and small sizes);
 - ii. Abdominal pads, 10" x 12" or larger; and
 - iii. 4" x 4" gauze sponges;
 - c. Gauze rolls, sterile (4" or larger);
 - d. Elastic bandages, non-sterile (4" or larger);
 - e. Occlusive dressing, sterile, 3" x 8" or larger; and
 - f. Adhesive or self-adhesive tape, including various sizes (1" or larger) hypoallergenic and various sizes (1" or larger) adhesive or self-adhesive;
- 5. The following obstetrical equipment and supplies:
 - a. Separate sterile obstetrical kit, including:
 - i. Towels,
 - ii. 4" x 4" dressing,
 - iii. Umbilical tape,
 - iv. Sterile scissors or other cutting utensil,
 - v. Bulb suction,
 - vi. Clamps for cord,
 - vii. Sterile gloves,
 - viii. Blankets, and
 - ix. A head cover; and
 - b. An alternate portable patient heat source or two heat packs;
- 6. The following infection control equipment and supplies, including the availability of latex-free:
 - a. Eye protection (full peripheral glasses or goggles, face shield);
 - b. Masks, at least as protective as a National Institute for Occupational Safety and Health-approved N-95 respirator, which are fit-tested;
 - c. Gloves, non-sterile;
 - d. Jumpsuits or gowns;
 - e. Shoe covers;
 - f. Disinfectant hand wash, commercial antimicrobial (towelette, spray, or liquid);
 - g. Disinfectant solution for cleaning equipment;
 - h. Standard sharps containers;
 - i. Disposable red trash bags; and
 - j. Protective facemasks or cloth face coverings for patients;
- 7. The following injury prevention equipment:
 - a. Appropriate restraints, such as seat belts or, if applicable, child safety restraints, for patient, personnel, and family members;
 - b. For rotor wing aircraft only, safety vest or other garment with reflective material for each personnel member;
 - c. Fire extinguisher, either disposable with an indicator of a full charge or with a current inspection tag;
 - d. Hazardous material reference guide; and
 - e. Hearing protection for patient and personnel;
- 8. The following vascular access equipment and supplies:
 - a. Intravenous administration equipment, with fluid in bags;
 - b. Antiseptic solution (alcohol wipes and povidone-iodine wipes);
 - c. Intravenous pole or roof hook;
 - d. Intravenous catheters 14G-24G;
 - e. Intraosseous needles, adult and pediatric sizes;
 - f. Venous tourniquet;
 - g. One of each of the following types of intravenous solution administration sets:
 - i. A set with blood tubing,
 - ii. A set capable of delivering 60 drops per cc, and
 - iii. A set capable of delivering 10 or 15 drops per cc;
 - h. Intravenous arm boards, adult and pediatric;
 - i. IV pump or pumps (minimum of 3 infusion lines); and
 - j. IV pressure bag;
- 9. The agents, specified in a table of agents established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references, that an administrative medical director has authorized for use, based on the EMCT classification of the medical team; and
- 10. The following miscellaneous equipment and supplies:
 - a. Sphygmomanometer (infant, pediatric, and adult regular and large sizes);
 - b. Stethoscope;
 - c. Pediatric equipment sizing reference guide;
 - d. Thermometer with low temperature capability;
 - e. Heavy bandage or paramedic scissors for cutting clothing, belts, and boots;
 - f. Cold packs;
 - g. Flashlight (1) with extra batteries or recharger, as applicable;
 - h. Blankets;
 - i. Sheets;

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- j. Disposable emesis bags or basins;
 - k. For fixed wing aircraft only, a disposable bedpan;
 - l. For fixed wing aircraft only, a disposable urinal;
 - m. Properly secured patient transport system;
 - n. Lubricating jelly (water soluble);
 - o. Glucometer or blood glucose measuring device with reagent strips;
 - p. Pulse oximeter with pediatric and adult probes;
 - q. Automatic blood pressure monitor; and
 - r. A commercially available trauma arterial tourniquet.
- D.** An applicant or certificate holder shall ensure that an air ambulance used for an interfacility maternal transport mission has:
- 1. The equipment and supplies in subsection (C); and
 - 2. The following:
 - a. A Doppler fetal heart monitor;
 - b. Unless use is not indicated for the patient as determined through on-line medical direction or on-line medical guidance provided as described in R9-25-708(A)(3), an external fetal heart and tocographic monitor with printer capability;
 - c. Tocolytic and anti-hypertensive medications;
 - d. Advanced emergency cardiac life support equipment and supplies; and
 - e. Neonatal resuscitation equipment and supplies.
- E.** An applicant or certificate holder shall ensure that an air ambulance used for an interfacility neonatal transport mission has:
- 1. The equipment and supplies in subsection (C); and
 - 2. The following:
 - a. A transport incubator with:
 - i. Battery and inverter capabilities,
 - ii. An infant safety restraint system, and
 - iii. An integrated neonatal-capable pressure ventilator with oxygen-air supply and blender;
 - b. An invasive automatic blood pressure monitor;
 - c. A neonatal monitor or monitors with heart rate, respiratory rate, temperature, non-invasive blood pressure, and pulse oximetry capabilities;
 - d. Neonatal-specific drug concentrations and doses;
 - e. Thoracostomy supplies;
 - f. Neonatal resuscitation equipment and supplies;
 - g. A neonatal size cuff (size 2, 3, or 4) for use with an automatic blood pressure monitor; and
 - h. A neonatal probe for use with a pulse oximeter.
- F.** A certificate holder may conduct a critical care interfacility transport mission using an air ambulance that does not have all of the equipment and supplies required in subsection (C) if:
- 1. Care of the patient to be transported necessitates use of life-support equipment that, because of its size or weight or both, makes it unsafe or impossible for the air ambulance to carry all of the equipment and supplies required in subsection (C), as determined by the certificate holder based upon:
 - a. The individual aircraft's capabilities,
 - b. The size and weight of the equipment and supplies required in subsection (C) and of the additional life-support equipment,
 - c. The composition of the required medical team, and
 - d. Environmental factors such as density altitude;
 - 2. The certificate holder ensures that, during the mission, the air ambulance has the equipment and supplies necessary to provide an appropriate level of medical care for

the patient and to protect the health and safety of the personnel on the mission; and

- 3. The certificate holder ensures that the air ambulance is not used for another mission until the air ambulance has all of the equipment and supplies required in subsection (C).

Historical Note

R9-25-802 recodified from A.A.C. R9-13-1502 (Supp. 98-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4092, effective September 1, 2001 (Supp. 01-3). Amended by exempt rulemaking at 8 A.A.R. 931, effective February 15, 2002 (Supp. 02-1). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-502 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Section R9-25-802 renumbered to R9-25-801; new Section R9-25-802 renumbered from R9-25-807 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

Exhibit 1. Repealed**Historical Note**

Section R9-25-802, Exhibit 1 recodified from A.A.C. R9-13-1502, Exhibit 1 (Supp. 98-1). Exhibit 1 repealed by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4).

Exhibit 2. Repealed**Historical Note**

Section R9-25-802, Exhibit 2 recodified from A.A.C. R9-13-1502, Exhibit 2 (Supp. 98-1). Exhibit 2 repealed by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4).

Exhibit 3. Repealed**Historical Note**

Section R9-25-802, Exhibit 3 recodified from A.A.C. R9-13-1502, Exhibit 3 (Supp. 98-1). Exhibit 3 repealed by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4).

Exhibit 4. Repealed**Historical Note**

Section R9-25-802, Exhibit 4 recodified from A.A.C. R9-13-1502, Exhibit 4 (Supp. 98-1). Exhibit 4 repealed by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4).

R9-25-803. Changes Affecting Registration (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), and 36-2212)

- A.** At least 30 days before the date of a change in a certificate holder's name, the certificate holder shall send the Department written notice of the name change.
- B.** No later than 10 days after a certificate holder ceases to use an aircraft as an air ambulance, the certificate holder shall send the Department written notice of the date that the certificate holder ceased to use the aircraft as an air ambulance and of the certificate holder's intention to relinquish the certificate of registration for the use as an air ambulance as of that date.
- C.** Within 30 days after the date of receipt of a notice described in subsection (A) or (B), the Department shall:

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1. For a notice described in subsection (A), issue an amended certificate of registration that incorporates the name change but retains the expiration date of the current certificate of registration; and
 2. For a notice described in subsection (B):
 - a. Void the certificate of registration for the air ambulance; and
 - b. Send the certificate holder written confirmation of the voluntary relinquishment of the certificate of registration, with an effective date that corresponds to the written notice.
- D.** A certificate holder shall notify the Department in writing within one working day after a change in the certificate holder's eligibility to hold a certificate of registration for an air ambulance under R9-25-801(A).
- E.** Upon receiving a notification required in subsection (D), the Department:
1. Shall revoke the certificate for the aircraft used as an air ambulance; and
 2. If the air ambulance is the only aircraft used as an air ambulance by an air ambulance service, may revoke the license of the air ambulance service.

Historical Note

Section R9-25-803 recodified from A.A.C. R9-13-1503, (Supp. 98-1). Section repealed; new Section adopted effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4). Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Amended by exempt rulemaking at 8 A.A.R. 2625, effective June 1, 2002 (Supp. 02-2). Section recodified to R9-25-503 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Section R9-25-803 renumbered to R9-25-804; new Section R9-25-803 renumbered from R9-25-804 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

Exhibit 1. Recodified**Historical Note**

Section R9-25-803, Exhibit 1 "EMT-P Drug List" and "EMT-I Drug List" recodified from A.A.C. R9-13-1503, Exhibit 1 "EMT-P Drug List" and "EMT-I Drug List" (Supp. 98-1). Exhibit 1 repealed; new Exhibit 1 adopted effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4). Amended under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) at 6 A.A.R. 1507, effective May 1, 2000 (Supp. 00-1). Amended under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) at 6 A.A.R. 3762, effective October 1, 2000 (Supp. 00-3). Amended by exempt rulemaking at 7 A.A.R. 1654, effective March 30, 2001 (Supp. 01-1). Amended by exempt rulemaking at 8 A.A.R. 2625, effective June 1, 2002 (Supp. 02-2). Amended by exempt rulemaking at 9 A.A.R. 1703, effective May 15, 2003

(Supp. 03-2). Exhibit 1 recodified to Article 5, Exhibit 1 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Exhibit 2. Recodified**Historical Note**

Exhibit 2 adopted effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4). Amended under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) at 6 A.A.R. 1507, effective May 1, 2000 (Supp. 00-1). Amended under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) at 6 A.A.R. 3762, effective October 1, 2000 (Supp. 00-3). Amended by exempt rulemaking at 7 A.A.R. 1199, effective February 13, 2001 (Supp. 01-1). Amended by exempt rulemaking at 8 A.A.R. 2625, effective June 1, 2002 (Supp. 02-2). Exhibit 2 recodified to Article 5, Exhibit 2 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

R9-25-804. Term and Transferability of Certificate of Registration (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, and 41-1092.11)

- A.** The Department shall issue an initial certificate of registration:
1. With a term of one year from date of issuance of the initial certificate of registration; or
 2. If requested by the applicant, with a term shorter than one year that allows for the Department to conduct annual inspections of all of the applicant's air ambulances at one time.
- B.** The Department shall issue a renewal certificate of registration with a term of one year from the expiration date on the previous certificate of registration.
- C.** If a certificate holder submits an application for renewal as described in R9-25-801 before the expiration date of the current certificate of registration, the current certificate of registration does not expire until the Department has made a final determination on the application for renewal, as provided in A.R.S. § 41-1092.11.
- D.** A certificate of registration is not transferable from one person to another.
- E.** If there is a change in the ownership of an aircraft used as an air ambulance or the person who can legally use the aircraft as an air ambulance, the new owner or person who can legally use the aircraft as an air ambulance shall apply for and obtain a new certificate of registration before using the aircraft as an air ambulance in this state.

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-504 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Section R9-25-804 renumbered to R9-25-803; new Section R9-25-804 renumbered from R9-25-803 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023

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(Supp. 23-2).

R9-25-805. Inspections (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, and 36-2232(A)(11))

- A. Except as provided in R9-25-711(C), an applicant or a certificate holder shall make an air ambulance available for inspection within Arizona within 10 working days after a request by the Department.
- B. The Department shall conduct each inspection in compliance with A.R.S. § 41-1009.
- C. As permitted under A.R.S. § 36-2232(A)(11), upon a certificate holder's request and at the certificate holder's expense, the annual inspection of an air ambulance required for renewal of a certificate of registration may be conducted by a Department-approved inspection facility.

Historical Note

Adopted under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C), effective May 19, 1997; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-505 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

Exhibit 1. Recodified

Historical Note

Adopted under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C), effective May 19, 1997; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Exhibit 1 recodified to Article 5, Exhibit 1 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Exhibit 2. Recodified

Historical Note

Adopted under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C), effective May 19, 1997; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Exhibit 2 recodified to Article 5, Exhibit 2 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Exhibit 3. Repealed

Historical Note

Adopted under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C), effective May 19, 1997; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2). Exhibit repealed by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4).

R9-25-806. Repealed

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4). Amended by exempt rulemaking at 10 A.A.R. 239, effective Janu-

ary 3, 2004 (Supp. 03-4). Section recodified to R9-25-506 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Repealed by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

R9-25-807. Renumbered

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 2633, effective June 1, 2002 (Supp. 02-2). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-507 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Section R9-25-807 renumbered to R9-25-802 by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

Table 8.1. Repealed

Historical Note

New Table 8.1 renumbered from Table 1 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Table 8.1 amended by final expedited rulemaking at 24 A.A.R. 3487, with an immediate effective date of December 4, 2018 (Supp. 18-4). Table 8.1, Minimum Equipment and Supplies Required on Air Ambulances, by Mission Level and Aircraft Type, repealed by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

Table 1. Renumbered

Historical Note

New Table 1 made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Table 1 renumbered to Table 8.1 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-808. Recodified

Historical Note

New Section made by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-508 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

ARTICLE 9. GROUND AMBULANCE CERTIFICATE OF NECESSITY

R9-25-901. Definitions (Authorized by A.R.S. § 36-2202 (A))

In addition to the definitions in A.R.S. § 36-2201 and R9-25-101, the following definitions apply in Articles 9, 10, 11, and 12 unless otherwise specified:

1. "Accounting period" means a continuous 12-month span of time used by an applicant or a certificate holder for purposes of planning, budgeting, or annual financial reporting to the Department.
2. "Adjustment" means a modification, correction, or alteration to a rate or charge.
3. "ALS base rate" means the monetary amount set by the Department for a certificate holder to bill a patient according to A.R.S. § 36-2239(F).

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4. "Ambulance response" means EMS provided by a ground ambulance service.
5. "Ambulance Revenue and Cost Report" means the information required in R9-25-909, which records and reports the financial activities of an applicant or a certificate holder.
6. "Application packet" means the information, applicable fees, and documents required by the Department when making a decision for certification, licensure, or approval of a request.
7. "Back-up agreement" means a written arrangement, which may include one of the following, between a certificate holder and a neighboring or overlapping certificate holder to allow one of the certificate holders to provide ambulance response or transport within the other certificate holder's service area on a limited basis when the certificate holder's ambulances are temporarily not able to provide needed services in the certificate holder's service area:
 - a. A mutual aid agreement, or
 - b. A Memorandum of Understanding.
8. "BLS base rate" means the monetary amount set by the Department for a certificate holder to bill a patient according to A.R.S. § 36-2239(G).
9. "Certificate holder" means a person to whom the Department issues a certificate of necessity.
10. "Certificate of registration" means an authorization issued by the Department to a certificate holder to operate a ground ambulance vehicle.
11. "Change of ownership" means a transfer of controlling legal or controlling financial interest and authority in a ground ambulance service, as demonstrated according to R9-25-904(A)(1).
12. "Charge" means the monetary amount billed for disposable supplies, medical supplies, medication, and oxygen-related costs used in providing care to a patient.
13. "Chassis" means the part of a ground ambulance vehicle consisting of all base components, including front and rear suspension, exhaust system, brakes, engine, engine hood or cover, transmission, front and rear axles, front fenders, drive train and shaft, fuel system, engine air intake and filter, accelerator pedal, steering wheel, tires, heating and cooling system, battery, and operating controls and instruments.
14. "Controlling person" means an individual who:
 - a. Owns at least a 20% interest in the business organization that operates or is applying to operate as a ground ambulance service;
 - b. If an applicant or certificate holder is a partnership, is a general partner or is a limited partner who holds at least 20% of the voting rights of the partnership;
 - c. If an applicant or certificate holder is a corporation, association, or limited liability company, is the president, chief executive officer, or incorporator, or an individual who owns or controls at least 20% of the voting securities; or
 - d. Is responsible for the overall day-to-day management and operation of the ground ambulance service.
15. "Contract rate or range of rates" means the monetary amount established by the Department according to R9-25-1103.
16. "Convalescent transport" means a ground ambulance service's response to a request for ambulance response or transport that is:
 - a. Not an interfacility transport, and
 - b. Pre-arranged to occur at a specific time.
17. "Critical care rate" means the monetary amount that is set by the Department for a certificate holder to bill a patient for critical care services.
18. "Critical care services" means care provided during an interfacility transport to a patient who has an illness or injury acutely or chronically impairing one or more organ systems, such that the conditions are life-threatening and require constant monitoring to avoid deterioration of the patient's condition.
19. "Dispatch" means the direction to a certificate holder or an emergency medical services provider to respond to a call for ambulance response or transport.
20. "Driver's compartment" means the part of a ground ambulance vehicle that contains the controls and instruments for operation of the ground ambulance vehicle.
21. "Financial statements" means an applicant's balance sheet, annual income statement, and annual cash flow statement, or corresponding documents if applicable to the type of business organization, prepared according to the conventions, and rules and procedures for accounting, including broad and specific guidelines, established by the Financial Accounting Standards Board or the Governmental Accounting Standards Board.
22. "Frame" means the structural foundation on which a ground ambulance vehicle chassis is constructed.
23. "General public rate" means the monetary amount set by the Department for a certificate holder to bill a patient for critical care services, ALS services, BLS services, mileage, standby waiting, or according to a subscription service contract.
24. "Generally accepted accounting principles" means the conventions, and rules and procedures for accounting, including broad and specific guidelines, established by the Financial Accounting Standards Board.
25. "Gross revenue" means the total monetary amount billed by a certificate holder during an accounting period, prior to any deductions, for providing ambulance response or transport.
26. "Ground ambulance service" means an ambulance service that operates on land.
27. "Ground ambulance service contract" means a written agreement between a certificate holder and a person for the provision of ambulance response or transport.
28. "Ground ambulance vehicle" means a motor vehicle, defined in A.R.S. § 28-101, specifically designed to carry ambulance attendants and patients on land.
29. "Level of service" means critical care services, ALS services, or BLS services, based on the type of ambulance attendants and the services provided by the ground ambulance service.
30. "Major defect" means a condition that exists on a ground ambulance vehicle that makes the ground ambulance vehicle unsafe to use for providing transport.
31. "Mileage rate" means the monetary amount set by the Department for a certificate holder to bill for transport of a patient for each mile traveled during the transport.
32. "Minor defect" means a condition that exists on a ground ambulance vehicle that may cause the ground ambulance

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- vehicle to become unsafe to use for providing transport if allowed to continue.
33. "Out-of-service" means a ground ambulance vehicle cannot be operated for transport.
 34. "Patient compartment" means the part of a ground ambulance vehicle that is intended to hold a patient during transport.
 35. "Priority" means whether a response mode to a dispatch, on the basis of the information available to the certificate holder, is:
 - a. Emergent, that is, an immediate response is required due to a patient's perceived condition; or
 - b. Non-emergent, that is, a response is required at a time appropriate to a patient's perceived condition.
 36. "Public necessity" means that a need exists within an identified population and service area for all or part of the services proposed by an applicant or determined by the Department.
 37. "Response time" means the difference between the time a certificate holder receives:
 - a. A 9-1-1 or similar system dispatch and the time the certificate holder's first ground ambulance vehicle arrives at the scene; or
 - b. A request for an interfacility transport of a patient with a time-critical condition and the time the certificate holder's ground ambulance vehicle arrives at the health care institution to provide transport.
 38. "Scene locality" means:
 - a. An urban area, a geographic region delineated as an urbanized area by the United States Department of Commerce, Bureau of the Census;
 - b. A suburban area, a geographic region within a 10-mile radius of an urban area that has a population density equal to or greater than 1,000 residents per square mile;
 - c. A rural area, a geographic region with a population of less than 40,000 residents that is not a suburban area; or
 - d. A wilderness area, a geographic region that has a population density of less than one resident per square mile.
 39. "Scheduled transport" means to convey a patient at a pre-arranged time by a ground ambulance vehicle for which an immediate dispatch and response is not necessary.
 40. "Service area" means the geographical boundary designated on a certificate of necessity using the criteria in A.R.S. § 36-2233(I).
 41. "Standby waiting rate" means the monetary amount set by the Department for a certificate holder to bill a patient when a ground ambulance vehicle is required to wait in excess of 15 minutes to load or unload the patient, unless the excess delay is caused by the ground ambulance vehicle or the ambulance attendants on the ground ambulance vehicle.
 42. "Subscription service" means the provision of ambulance response or transport by a certificate holder to a group of individuals within the certificate holder's service area who contracted with the certificate holder for coverage to provide ambulance response or transport and the allocation of annual costs among the group of individuals.
 43. "Subscription service contract" means a written agreement for subscription service.
 44. "Subscription service rate" means the monetary amount set by the Department for a certificate holder to bill to a person for coverage under a subscription service contract.
 45. "Third-party payor" means a person, other than a patient, who is financially responsible for the payment, in whole or in part, of a patient's billed general public rates and charges for ambulance response or transport provided to the patient by a ground ambulance service.
 46. "Time-critical condition" means a patient's illness or injury, such as ST Elevated Myocardial Infarction, stroke, trauma that meets the criteria in R9-25-1308(H)(6)(b)(i), or hemodynamic instability, for which research has shown that a transport to a specialized health care institution or a higher level of care improves patient outcomes.
 47. "Time-sensitive condition" means a patient's illness or injury for which, in the opinion of one of the following, a delay in the patient receiving appropriate medical services may result in harm to the patient:
 - a. For an interfacility transport, a physician, physician assistant, or registered nurse practitioner providing medical services to the patient; and
 - b. For a transport that results from a 9-1-1 or similar system dispatch, an EMCT or the physician providing on-line medical direction for the patient.
 48. "Transport" means the conveyance of one or more patients in a ground ambulance vehicle from the point of patient pick-up to a specified destination.
 49. "Type of service" means an interfacility transport, a convalescent transport, or a transport that results from a 9-1-1 or similar system dispatch, which is provided by a ground ambulance service.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-902. Application for an Initial Certificate of Necessity (Authorized by A.R.S. §§ 36-2201(11)(h), 36-2204, 36-2232, 36-2233, 36-2234, 36-2236(A), 36-2240)

- A. An applicant for an initial certificate of necessity shall submit to the Department an application packet that includes:
1. The following information in a Department-provided format:
 - a. The legal business or corporate name, mailing address, physical address if different from the mailing address, telephone number, facsimile number if any, and email address of the ground ambulance service;
 - b. Any other names by which the applicant is known;
 - c. If the applicant is a:
 - i. Governmental entity, the type of governmental entity; or
 - ii. Business organization:
 - (1) The type of business organization, and
 - (2) Whether the business organization is proprietary or non-profit;
 - d. A list of all business organizations or governmental entities affiliated with the applicant, if applicable, including for each:
 - i. The legal name;

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- ii. The type of business organization, if applicable; and
 - iii. Whether the relationship to the applicant is as a:
 - (1) Parent organization,
 - (2) Subordinate organization,
 - (3) Subsidiary organization,
 - (4) Member organization, or
 - (5) Business organization related to an ambulance service, ambulance response, or transport for which a controlling person of the applicant is also a controlling person of the business organization;
 - e. The name, title, address, email address, and telephone number of the following:
 - i. Each applicant and individual responsible for managing the ground ambulance service,
 - ii. The individual acting for the applicant according to R9-25-102,
 - iii. The individual to contact to access the ground ambulance service's records required in R9-25-908(B), and
 - iv. The statutory agent for the ground ambulance service or the individual designated by the applicant to accept service of process and subpoenas for the ground ambulance service;
 - f. The name, address, email address, and telephone number of the person providing dispatch for the ground ambulance service;
 - g. The address, hours of operation, and, if available, telephone number of each suboperation station located within the proposed service area;
 - h. Whether the applicant has a proposed deployment plan for the ground ambulance vehicles in subsection (A)(1)(m), including:
 - i. Whether the purchase and deployment of additional ground ambulance vehicles are planned for the first 12 months following the applicant receiving a certificate of necessity;
 - ii. Whether additional purchases and further deployment of additional ground ambulance vehicles are planned for the second 12-month-period following the applicant receiving a certificate of necessity; and
 - iii. Whether ground ambulance vehicles will be deployed based on knowledge of the level of service, types of service provided, and locations of calls;
 - i. Whether the applicant has a plan for participating in the implementation of a political subdivision's emergency preparedness plan;
 - j. A list of EMS providers in surrounding service areas with whom the applicant has a back-up agreement or from whom the applicant has a letter of support;
 - k. A description of the communication equipment to be used in each ground ambulance vehicle and suboperation station;
 - l. If applicable, a description of traffic preemption equipment that the applicant plans to use to facilitate movement of a ground ambulance vehicle through traffic;
 - m. For each ground ambulance vehicle proposed to be used by the ground ambulance service, the manufacturer's name, the year the ground ambulance vehicle was manufactured, and, if available, the current mileage;
 - n. The number of ambulance attendants and the type of licensure, certification, or registration for each attendant;
 - o. The proposed hours of operation for the ground ambulance service;
 - p. The type of service;
 - q. The level of service;
 - r. If the applicant plans to provide ALS services or critical care services, a description of how the applicant plans to provide administrative medical direction according to R9-25-201 and on-line medical direction according to R9-25-202, including, as applicable:
 - i. The name, address, and telephone number of the base hospital or centralized medical direction communications center for the ground ambulance service;
 - ii. The name, address, professional license number, and telephone number of the physician providing administrative medical direction; and
 - iii. The name, address, professional license number, and telephone number of the physician or group of physicians providing on-line medical direction;
 - s. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-25-1201(C)(3);
 - t. Attestation that the applicant is familiar with the requirements in A.R.S. Title 36, Chapter 21.1 and this Chapter and will comply with applicable statutes and rules in any matter relating to or affecting the ground ambulance service;
 - u. Attestation that any information or documents submitted to the Department are true and correct; and
 - v. The signature of the individual acting for the applicant according to R9-25-102 and the date signed;
2. The following information about the proposed service area:
- a. The square miles within the proposed service area;
 - b. Whether a ground ambulance service currently operates in all or part of the proposed service area and, if so, a list of the ground ambulance services currently operating in the proposed service area;
 - c. The population demographics within the proposed service area;
 - d. Any changes in the population since the last national census;
 - e. Any change in the population demographics since the last national census;
 - f. The medical needs of the population within the proposed service area;
 - g. The number of anticipated requests for each type of service and level of service in the proposed service area, including the basis for the estimate;
 - h. The available routes of travel within the proposed service area;
 - i. The anticipated average mileage per transport within the proposed service area, including the basis for the estimate;
 - j. The geographic features and environmental conditions within the proposed service area;

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- k. The available medical and emergency medical resources within the proposed service area;
- l. The geographic distribution of health care institutions within and surrounding the service area to which and from which the ground ambulance service may be transporting patients;
- m. A statement of the proposed general public rates for services provided within the proposed service area;
- n. A statement of the proposed charges;
- o. The proposed response times and a compliance percentage, for each scene locality in the proposed service area and priority that will be assigned by the applicant to a response; and
- p. If planning to provide interfacility transports within the proposed service area:
 - i. The response times and compliance percentages for the interfacility transport of a patient with a time-critical condition for each scene locality; and
 - ii. Either:
 - (1) A plan for complying with the requirements in R9-25-908(E)(3)(c) that demonstrates how quality patient care will be provided, including to patients with a time-sensitive condition; or
 - (2) A plan and justification for a standard different from that in R9-25-908(E)(3)(c);
3. A plan to provide temporary ambulance response or transport service to the proposed service area for a limited time when the applicant is unable to provide ambulance response or transport service to the proposed service area, including the criteria for the person providing dispatch to implement the plan;
4. Copies of the back-up agreements supporting the plan in subsection (A)(3) or letters of support specified according to subsection (A)(1)(j);
5. A plan for orientation and on-going training of employees;
6. If applicable, a copy of a plan for implementing deployment of ground ambulance vehicles as specified in subsection (A)(1)(h), including the timeframe, if applicable, for the purchase and deployment of additional ground ambulance vehicles during the first 12 months after receiving a certificate of necessity;
7. Whether the applicant or the individual acting for the applicant according to R9-25-102:
 - a. Has ever been convicted of a felony or a misdemeanor involving moral turpitude,
 - b. Has ever had a license or certificate of necessity for a ground ambulance service suspended or revoked by any state or political subdivision, or
 - c. Has ever operated a ground ambulance service without the required certification or licensure in this or any other state;
8. A description of the proposed service area by any method specified in A.R.S. § 36-2233(E) and global positioning system data, in a Department-specified format, that would allow a map to be created that illustrates the proposed service area;
9. Documentation for the individual specified according to subsection (A)(1)(e)(ii) that complies with A.R.S. § 41-1080;
10. A copy of the business organization's articles of incorporation, articles of organization, or partnership documents, if applicable;
11. A copy of an organizational chart, illustrating both:
 - a. The relationships in subsection (A)(1)(d) with two levels of supervision; and
 - b. At least three levels of supervision of key individuals operating the ground ambulance service, including the individuals listed in subsection (A)(1)(e)(i) through (iii);
12. A projected Ambulance Revenue and Cost Report covering the first consecutive 12 months of operation, as specified in R9-25-909(A);
13. A written explanation of why the applicant believes there is a public need for the applicant to receive an initial certificate of necessity, including:
 - a. A summary of how the applicant plans to address the factors in subsection (A)(2) to ensure the provision of quality patient care,
 - b. Justification for the proposed level of service,
 - c. Justification for proposed response times or compliance percentage, and
 - d. Supporting documentation;
14. If available, any study or statistical analysis that examines the need for ground ambulance service within a service area or proposed service area that:
 - a. Considers the current or proposed service area's medical, fire, and police services; and
 - b. Was created for or adopted by:
 - i. A political subdivision, or
 - ii. A local emergency medical services coordinating system under A.R.S. § 36-2210(1);
15. A summary of the applicant's financial history, including:
 - a. Documentation of capital resources and financial reserves, if applicable, that is available for the establishment and operation of the ground ambulance service; and
 - b. A plan for coverage of expected and unexpected expenses, including the source and amount of funding for cash flow from the date the ground ambulance service commences operation until the date cash flow covers monthly expenses, with supporting documentation;
16. If the applicant is intending to bill for services, the method and plan for the applicant to bill for services;
17. A list of all actual or anticipated purchase agreements or lease agreements to be used in connection with the ground ambulance service, including the monetary amount and duration of each agreement, for:
 - a. Real estate,
 - b. Ground ambulance vehicles, or
 - c. Equipment exceeding \$10,000;
18. Documentation supporting the estimate of the number of transports to be provided, as shown in the Ambulance Revenue and Cost Report, including any proposed ground ambulance service contract under A.R.S. § 36-2232(A)(1) or 36-2234(M);
19. If the applicant is requesting to establish general public rates, the information and documents specified in R9-25-1101(A);
20. If the applicant is proposing charges to patients under R9-25-1109, the information required in R9-25-1109(A);
21. Any subscription service contract under A.R.S. § 36-2232(A)(1) and R9-25-1105;

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22. If using a contracted person to provide dispatch, a copy of the contract;
 23. If the applicant is planning to provide ALS services or critical care services:
 - a. A copy of each current written contract for providing administrative medical direction,
 - b. A copy of each current written contract for providing on-line medical direction, and
 - c. Proof of professional liability insurance for personnel providing ALS services or critical care services required in R9-25-908(A)(1)(a)(iii);
 24. A certificate of insurance or documentation of self-insurance required in A.R.S. § 36-2237(A) and R9-25-908(A)(1)(a)(i) and (ii);
 25. A surety bond if required under A.R.S. § 36-2237(B);
 26. The resume or other description of experience and qualification to operate a ground ambulance service of the individuals specified according to subsection (A)(11)(b);
 27. If applicable, a copy of the applicant's plan for participating in the implementation of a political subdivision's emergency preparedness plan according to subsection (A)(1)(h), including as applicable:
 - a. Mass casualty protocols;
 - b. The provision of ambulance response and transport in the event of a local, state-wide, or national emergency;
 - c. Description of the applicant's experience in disaster response command and control structure; and
 - d. Special situations in the proposed service area that need to be taken into consideration; and
 28. Any other documents, exhibits, or statements that the applicant believes may assist the Director in evaluating the application or any other information or documents needed by the Director to clarify incomplete or ambiguous information or documents, such as:
 - a. The quality improvement process, as required in R9-25-908(K)(2);
 - b. A plan to collect and submit electronic patient care reports consistent with R9-25-908(K)(2)(a);
 - c. A plan to adopt clinical guidelines and operating procedures, consistent with national and state guidelines;
 - d. If applicable, a plan to initiate guideline-based pre-arrival instructions for all callers accessing 9-1-1 or a similar system for assistance;
 - e. Evidence of regular attendance and participation in meetings of the emergency medical services council, established according to A.R.S. § 36-2203, or a regional emergency medical and trauma services system, established according to A.R.S. § 36-2210;
 - f. Evidence of participation in a community-level injury prevention program; or
 - g. Documentation demonstrating that the service model will be cost effective.
- B.** In addition to the information and documents specified in subsection (A), applicant for an initial certificate of necessity shall submit the \$100 application filing fee for an initial certificate of necessity.
- C.** The Department shall approve or deny an application under this Section according to A.R.S. § 36-2233 and Article 12 of this Chapter.
- D.** The Department may approve an application with special limitations or conditions, based on the best interest of the public.
- E.** If the Department approves an application and sends the applicant the written notice of approval, specified in R9-25-1201(C)(5), the Department shall issue the certificate of necessity to the applicant, consistent with A.R.S. §§ 36-2233(E) and 36-2234(A):
1. After the applicant has submitted to the Department for each ground ambulance vehicle to be operated by the ground ambulance service:
 - a. An application for registration of the ground ambulance vehicle that includes all of the information required according to R9-25-1001(B)(1);
 - b. A copy of a current and valid motor vehicle registration for the ground ambulance vehicle, issued according to A.R.S. Title 28, Chapter 7, Article 2, or similar statutes in another state; and
 - c. Unless the applicant intends to operate the ground ambulance vehicle only as a volunteer not-for-profit service, the following fees for each ground ambulance vehicle to be registered:
 - i. A \$50 registration fee, as required under A.R.S. § 36-2212(D); and
 - ii. A \$200 ambulance operation fee, as required under A.R.S. § 36-2240(3); and
 2. When the certificate of registration for the first ground ambulance vehicle to be operated by the ground ambulance service is issued.
- F.** The Department may deny an application according to A.R.S. § 36-2233 if an applicant:
1. Fails to comply with any provision in A.R.S. Title 36, Chapter 21.1;
 2. Fails to comply with any provision in this Article or Article 2, 10, or 11 of this Chapter;
 3. Knowingly or negligently provides false documentation or false or misleading information to the Department; or
 4. Fails to submit to the Department documents or information requested under R9-25-1201(B)(1) or (C)(3) and requests a denial as permitted under R9-25-1201(E).

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).
 Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-903. Application for Renewal of a Certificate of Necessity (Authorized by A.R.S. §§ 36-2233, 36-2235, 36-2238, 36-2240, 36-2242)

- A.** An applicant for a renewal of a certificate of necessity shall submit to the Department, not less than 30 days before the expiration date of the certificate of necessity, an application packet that includes:
1. The following information in a Department-provided format:
 - a. The identifying number on the applicant's current certificate of necessity;
 - b. The legal business or corporate name, address, telephone number, and facsimile number of the ground ambulance service;
 - c. Any other names by which the applicant is known;
 - d. The names of all other business organizations operated by the applicant related to the ground ambulance service;

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- e. The name, title, address, email address, and telephone number of the following:
 - i. Each applicant and individual responsible for managing the ground ambulance service,
 - ii. The individual acting for the applicant according to R9-25-102,
 - iii. The individual to contact to access the ground ambulance service's records required in R9-25-908(B), and
 - iv. The statutory agent for the ground ambulance service or the individual designated by the applicant to accept service of process and subpoenas for the ground ambulance service;
 - f. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-25-1201(C)(3);
 - g. Attestation that the applicant has analyzed response times according to R9-25-908(G)(2) and, if applicable, performance of interfacility transports of patients with no time-critical condition according to R9-25-908(H)(1);
 - h. Attestation that the applicant is familiar with the requirements in A.R.S. Title 36, Chapter 21.1 and this Chapter and will comply with applicable statutes and rules in any matter relating to or affecting the ground ambulance service;
 - i. Attestation that the certificate holder, except as provided in R9-25-908(G)(4), R9-25-908(H)(3), or R9-25-908(K)(1)(c), has and is continuing to meet the conditions of the certificate of necessity;
 - j. Attestation that any information or documents submitted to the Department are true and correct; and
 - k. The signature of the applicant or the applicant's designated representative and the date signed;
2. Proof of continuous insurance coverage or a statement of continuing self-insurance, including a copy of the current certificate of insurance or current statement of self-insurance required in R9-25-908(A);
 3. Proof of continued coverage by a surety bond if required under A.R.S. § 36-2237(B);
 4. A copy of the list of current charges required in R9-25-1109;
 5. A list of all certificate holders with which the applicant has back-up agreements;
 6. If an instance of noncompliance has been identified, a corrective action plan or documentation specified in R9-25-908(G)(4), R9-25-908(H)(3), or R9-25-908(K)(1)(c), as applicable, if not already submitted to the Department; and
 7. \$50 application filing fee.
- B.** A certificate holder who fails to file a timely application for renewal of the certificate of necessity according to A.R.S. § 36-2235 and this Section, shall:
1. Cease operations at 12:01 a.m. on the date the certificate of necessity expires;
 2. If planning to continue operating as a ground ambulance service, file an initial certificate of necessity application according to R9-25-902; and
 3. Not resume operations without receiving a new certificate of necessity from the Department.
- C.** The Department shall review an application packet under this Section according to A.R.S. §§ 36-2233 and 36-2235 and Article 12 of this Chapter, and:
1. Approve the application;
 2. Approve the application with a corrective action plan, as specified in subsection (A)(6);
 3. Approve the application with special limitations or conditions; or
 4. Deny the application.
- D.** The Department may deny an application according to A.R.S. § 36-2235 if an applicant:
1. Fails to comply with any provision in A.R.S. Title 36, Chapter 21.1;
 2. Fails to comply with any provision in this Article or Article 2, 10, or 11 of this Chapter;
 3. Knowingly or negligently provides false documentation or false or misleading information to the Department; or
 4. Fails to submit to the Department documents or information requested under R9-25-1201(B)(1) or (C)(3) and requests a denial as permitted under R9-25-1201(E).
- E.** If a certificate holder submits an application for renewal according to subsection (A), the current certificate of necessity does not expire until the Department has made a final determination on the application for renewal, as provided in A.R.S. § 41-1092.11.
- F.** If a certificate holder does not intend to apply for renewal of a certificate of necessity, the certificate holder shall:
1. At least 90 days before the expiration date of the certificate of necessity, send the Department written notice of the certificate holder's intention to cease operating, effective on the expiration date; and
 2. Not discontinue service, except as provided in A.R.S. § 36-2238.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Section R9-25-903 renumbered to R9-25-906; new Section R9-25-903 renumbered from R9-25-904 and amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-904. Transfer of a Certificate of Necessity (Authorized by A.R.S. §§ 36-2232, 36-2233, 36-2236(A) and (B), 36-2238)

- A.** A certificate holder shall request that a certificate of necessity be transferred if:
1. There is an anticipated change of ownership, which is considered to occur when:
 - a. In the case of ownership by a sole proprietor, 20% or more interest or a beneficial interest is sold or transferred;
 - b. In the case of ownership by a partnership or a private corporation, 20% or more of the stock, interest, or beneficial interest is sold or transferred; or
 - c. The controlling influence changes to the extent that the management and control of the ground ambulance service is significantly altered, as determined according to subsection (B);
 2. The certificate holder and another certificate holder plan to execute a ground ambulance service contract for the provision of ambulance response or transport by one of the certificate holder's ground ambulance service in a portion of the other certificate holder's service area, except as part of a backup agreement; or
 3. There is a change in the type of business organization.
- B.** The Department shall consider the following when determining whether a controlling influence in the ground ambulance

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service is changing to the extent that the management and control of the ground ambulance service has altered significantly:

1. Whether there has been or will be a change in who manages or controls the day-to-day operations of one or more ground ambulance vehicles operated by the ground ambulance service, including whether the certificate holder has entered into or intends to enter into a contract or an agreement with another person or entity to supervise or manage all or a part of the ground ambulance service;
 2. Whether there has been or will be a change in who manages or controls staffing and personnel decisions for one or more ground ambulance vehicles operated by the ground ambulance service;
 3. Whether there has been or will be a change in the operating policies and procedures for one or more ground ambulance vehicles operated by the ground ambulance service;
 4. Whether there has been or will be a change in who pays the operating expenses or who receives the operating revenue;
 5. Whether there has been or will be a change in the policy holder on the insurance coverage of one or more ground ambulance vehicles operated by the ground ambulance service;
 6. Whether there has been or will be a change in ownership, management, or control of the supplies, equipment, and materials for one or more ground ambulance vehicles operated by the ground ambulance service;
 7. Whether there has been or will be a change in the risk or liability attendant to the operation of one or more ground ambulance vehicles operated by the ground ambulance service;
 8. Whether there has been or will be a change in who manages or controls the strategic or long-term planning of the ground ambulance service;
 9. Whether the certificate holder has changed or intends to change affiliations, such as a parent company or a subsidiary owned or operated by the certificate holder, from that specified according to R9-25-902(A)(1)(d); and
 10. Other information related to the management and control of the ground ambulance service that the Department deems relevant.
- C. When requesting a transfer of a certificate of necessity:
1. A certificate holder wanting to transfer the certificate of necessity shall submit the following information to the Department in a written format:
 - a. The name and certificate of necessity number of the certificate holder;
 - b. A request that the certificate of necessity be transferred, including the rationale for the transfer;
 - c. Whether the transfer is due to a change of ownership or to a change in the type of business organization; and
 - d. If the transfer is due to a change of ownership, the name of the person to whom the certificate of necessity is to be transferred; and
 2. The person identified in subsection (C)(1)(d) or the individual acting according to R9-25-102 for the new type of business organization shall submit to the Department:
 - a. The information and documents specified in R9-25-902(A)(1), (3) through (7), (9) through (12), (15) through (18), and (22) through (29);
 - b. The \$50 application filing fee for a transfer of a certificate of necessity, as required under A.R.S. § 36-2240(3); and
 - c. A description of any planned amendments to the certificate of necessity during the next 12 months.
- D. In deciding whether to transfer a certificate of necessity is in the public's best interest, the Director shall consider the following:
1. The information required in subsections (C)(2)(a) and (c);
 2. Whether the person specified according to subsection (C)(1)(d) is fit and proper;
 3. Whether there is a public need for the transfer to take place:
 - a. Based on a possible gap in service or unmet needs in the service area; and
 - b. To ensure consistent service provision, efficiency, cost-effectiveness, and the health and safety of individuals in the service area;
 4. Whether the person specified according to subsection (C)(1)(d) demonstrates the ability to provide quality patient care; and
 5. Other matters determined by the Director or the applicant to be relevant to the determination of public necessity.
- E. The Department shall approve or deny an application under this Section according to A.R.S. § 36-2233 and Article 12 of this Chapter.
- F. If the Department approves an application for a transfer and sends the person in subsection (C)(1)(d) the written notice of approval, specified in R9-25-1201(C)(5), the Department shall issue the certificate of necessity to the person in subsection (C)(1)(d):
1. After the person in subsection (C)(1)(d) has submitted to the Department for each ground ambulance vehicle to be operated by the ground ambulance service:
 - a. An application for registration of the ground ambulance vehicle that includes all of the information required according to R9-25-1001(B)(1);
 - b. A copy of a current and valid motor vehicle registration for the ground ambulance vehicle, issued according to A.R.S. Title 28, Chapter 7, Article 2, or similar statutes in another state; and
 - c. Unless the person in subsection (C)(1)(d) intends to operate the ground ambulance vehicle only as a volunteer not-for-profit service, the following fees for each ground ambulance vehicle to be registered:
 - i. A \$50 registration fee, as required under A.R.S. § 36-2212(D); and
 - ii. A \$200 ambulance operation fee, as required under A.R.S. § 36-2240(3); and
 2. When the certificate of registration for the first ground ambulance vehicle to be operated by the ground ambulance service is issued.
- G. The Department may deny an application under this Section if an applicant:
1. Fails to comply with any provision in A.R.S. Title 36, Chapter 21.1;
 2. Fails to comply with any provision in this Article or Article 2, 10, or 11 of this Chapter;
 3. Knowingly or negligently provides false documentation or false or misleading information to the Department; or
 4. Fails to submit to the Department documents or information requested under R9-25-1201(B)(1) or (C)(3) and requests a denial as permitted under R9-25-1201(E).

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- H.** If the Department denies the transfer of a certificate of necessity, the certificate holder shall not discontinue service, except as provided in A.R.S. § 36-2238.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). R9-25-904 renumbered to R9-25-903; new Section R9-25-904 made by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-905. Application for Amendment of a Certificate of Necessity (Authorized by A.R.S. §§ 36-2232, 36-2240, 36-2247)

- A.** A certificate holder requesting to amend the certificate of necessity due to a change in the legal name of the ground ambulance service shall submit to the Department:
1. The certificate of necessity number for the ground ambulance service;
 2. The name of the ground ambulance services on the certificate of necessity;
 3. The new legal name of the ground ambulance service;
 4. The name, title, address, email address, and telephone number of an individual whom the Department may contact about the requested amendment;
 5. Documentation demonstrating that the change in the name of the ground ambulance service does not constitute a change of ownership; and
 6. If applicable, documentation showing the new legal name of the ground ambulance service on:
 - a. Documentation of insurance coverage required according to R9-25-908(A), and
 - b. Coverage by a surety bond if required under A.R.S. § 36-2237(B).
- B.** A certificate holder requesting to amend the certificate of necessity for a reason other than a change in subsection (A) shall submit to the Department:
1. The following information in a Department-provided format:
 - a. The certificate of necessity number for the ground ambulance service;
 - b. The name and address of the ground ambulance service on the certificate of necessity;
 - c. The name, title, address, email address, and telephone number of an individual whom the Department may contact about the requested amendment;
 - d. A description of the requested change and the rationale for the change;
 - e. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-25-1201(C)(3);
 - f. Attestation that the applicant is familiar with the requirements in A.R.S. Title 36, Chapter 21.1 and this Chapter and will comply with applicable statutes and rules in any matter relating to or affecting the ground ambulance service;
 - g. Attestation that the certificate holder will meet the conditions of a modified certificate of necessity, including billing only those rates and charges approved and set by the Director;
 - h. Attestation that any information or documents submitted to the Department are true and correct; and
 - i. The signature of the applicant or the applicant's designated representative and the date signed;
 2. For a change in the legal address of the ground ambulance service:
 - a. The new legal address of the ground ambulance service; and
 - b. If applicable, documentation showing the new legal address of the ground ambulance service on documentation of insurance coverage required according to R9-25-908(A);
 3. For a change in the hours of service:
 - a. The current and proposed new hours of service,
 - b. The date on which the applicant plans to implement the change,
 - c. Information about the effect the requested change is expected to have on patients,
 - d. Information about the effect the requested change is expected to have on other EMS providers or ground ambulance services in or around the service area, and
 - e. Information about the financial effect the requested change is expected to have on the ground ambulance service;
 4. For a change in the level of service to be provided:
 - a. If planning to begin providing critical care services or ALS services:
 - i. A description of how the certificate holder plans to provide administrative medical direction according to R9-25-201 and on-line medical direction according to R9-25-202,
 - ii. A copy of a current written contract for providing administrative medical direction,
 - iii. A copy of a current written contract for providing on-line medical direction, and
 - iv. Proof of professional liability insurance for personnel providing ALS services or critical care services as required in R9-25-908(A)(1)(a)(iii);
 - b. If planning to begin providing only BLS services:
 - i. A description of the rationale for stopping the provision of ALS services or critical care services,
 - ii. An acknowledgement that another emergency medical services provider may be granted a certificate of necessity to provide ALS services or critical care services in the service area to meet the needs of patients, and
 - iii. A plan for rendezvousing with another ground ambulance service providing ALS services or critical care services, if applicable, for patients requiring more than BLS services, including the identification of the other ground ambulance service;
 - c. Information about the effect the requested change is expected to have on patients, including how the requested change will result in quality patient care;
 - d. Information about the effect the requested change is expected to have on other EMS providers or ground ambulance services in or around the service area; and
 - e. Information about the financial effect the requested change is expected to have on the ground ambulance service;
 5. For a change in the type of service to be provided:
 - a. If planning to begin providing interfacility transports of patients with a time-critical condition:

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- i. An estimate of the number of transports to be provided;
- ii. The names of the health care institutions anticipated to be the source or destination of the transports;
- iii. The proposed response times and compliance percentages for the interfacility transport of a patient with a time-critical condition;
- iv. A justification for the response time or compliance percentage that demonstrates how quality patient care will be provided; and
- v. Whether another ground ambulance service is currently providing interfacility transports of patients with a time-critical condition in the service area and, if so, the name of the other ground ambulance service and the anticipated financial impact on the other ground ambulance service if the change is approved;
- b. If planning to begin providing interfacility transports of patients who do not have a time-critical condition or convalescent transports:
 - i. An estimate of the number of transports to be provided;
 - ii. The names of the health care institutions anticipated to be the source or destination of the transports;
 - iii. Either:
 - (1) A plan for complying with the requirements in R9-25-908(E)(3)(c) that demonstrates how quality patient care will be provided, including to patients with a time-sensitive condition; or
 - (2) A plan and justification for a standard different from that in R9-25-908(E)(3)(c);
 - iv. If the certificate holder is requesting to amend the certificate of necessity according to A.R.S. § 36-2234.01, the information required according to A.R.S. § 36-2234.01(B)(1) and (2); and
 - v. Whether another ground ambulance service is currently providing interfacility transports or convalescent transports in the service area and, if so, the name of the other ground ambulance service and the anticipated financial impact on the other ground ambulance service if the change is approved;
- c. If planning to begin providing ambulance response or transport requested through 9-1-1 or a similar system:
 - i. An estimate of the number of transports to be provided;
 - ii. The names of the health care institutions anticipated to be the destination of the transports;
 - iii. The proposed response times or compliance percentage;
 - iv. A justification for the response times or compliance percentage that demonstrates how quality patient care will be provided; and
 - v. Whether another ground ambulance service is currently providing ambulance response or transport requested through 9-1-1 or a similar system in the service area and, if so, the name of the other ground ambulance service and the anticipated financial impact on the other ground ambulance service if the change is approved;
- d. Information about the effect the requested change is expected to have on patients, including how the requested change will result in quality patient care;
- e. Information about the effect the requested change is expected to have on health care institutions within and surrounding the service area to which and from which the ground ambulance service would be transporting patients;
- f. Information about the effect the requested change is expected to have on other EMS providers or ground ambulance service in or around the service area;
- g. Information about the financial effect the requested change is expected to have on the ground ambulance service; and
- h. If the planned change will result in new or revised back-up agreements, a copy of the new or revised back-up agreement;
- 6. Except as specified in subsection (D), for a change in the service area:
 - a. A description of the current service area and the proposed service area by any method specified in A.R.S. § 36-2233(E) and global positioning system data that would allow a map to be created that illustrates the current service area and the proposed service area;
 - b. The following information about the proposed service area to be used by the Director in assessing the need for the proposed change:
 - i. The square miles within the proposed service area;
 - ii. The population demographics within the proposed service area;
 - iii. The change in the population demographics since the last national census;
 - iv. The medical needs of the population within the proposed service area;
 - v. The number of anticipated requests for each type of service and level of service in the proposed service area;
 - vi. The available routes of travel within the proposed service area;
 - vii. The geographic features and environmental conditions within the proposed service area;
 - viii. Whether a ground ambulance service currently operates in all or part of the proposed service area and if so, where;
 - ix. The available medical and emergency medical resources within the proposed service area;
 - x. The geographic distribution of health care institutions within and surrounding the proposed service area to which and from which the ground ambulance service would be transporting patients; and
 - xi. The proposed response times and compliance percentage, for each scene locality and priority that will be assigned by the applicant to a response;
 - c. Information about the effect the requested change is expected to have on patients, including how the requested change will result in quality patient care;
 - d. Information about the effect the requested change is expected to have on health care institutions within

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- and surrounding the proposed service area to which and from which the ground ambulance service would be transporting patients;
- e. Information about the effect the requested change is expected to have on EMS providers in the proposed service area that do not provide transport;
 - f. Information about the financial effect the requested change is expected to have on the ground ambulance service;
 - g. Whether the applicant has a proposed deployment plan for the ground ambulance vehicles registered under Article 10 of this Chapter to the applicant, including:
 - i. Whether suboperation stations will be used or whether ground ambulance vehicles will be deployed based on experience with the level and types of calls; and
 - ii. If suboperation stations will be used, where the applicant plans to locate suboperation stations within the applicant's proposed service area;
 - h. Whether the applicant has a plan for participating in the implementation of a political subdivision's emergency preparedness plan;
 - i. A list of EMS providers in surrounding service areas with whom the applicant has a back-up agreement or from whom the applicant has a letter of support; and
 - j. Any other information specified in R9-25-906 that the applicant believes relevant to a determination of the public necessity for the change in the service area;
7. For a change in the ground ambulance service's response times for ambulance response or transport requested through 9-1-1 or a similar system or for an interfacility transport of a patient with a time-critical condition:
 - a. A description of the ground ambulance service's current response times and compliance percentage;
 - b. The results of the analysis of response time performance required in R9-25-908(G)(2);
 - c. The requested response times or compliance percentage, including a justification for each response time;
 - d. Information about the effect the requested change is expected to have on patients, including applicable information in subsections (B)(6)(b) and (c);
 - e. Information about the effect the requested change is expected to have on health care institutions within and surrounding the service area to which and from which the ground ambulance service would be transporting patients;
 - f. Information about the effect the requested change is expected to have on EMS providers in the service area that do not provide transport; and
 - g. Information about the financial effect the requested change is expected to have on the ground ambulance service;
 8. For a change in the plan for complying with the requirements in R9-25-908(E)(3)(c), or with a standard different from that in R9-25-908(E)(3)(c), that demonstrates how quality patient care will be provided, including to patients with a time-sensitive condition:
 - a. A description of the ground ambulance service's current plan;
 - b. The results of the analysis of the performance required in R9-25-908(H)(2);
 - c. The requested standard if different from that in R9-25-908(E)(3)(c);
 - d. Information about the effect the requested change is expected to have on patients, including applicable information in subsections (B)(6)(b) and (c);
 - e. Information about the effect the requested change is expected to have on health care institutions within and surrounding the service area to which and from which the ground ambulance service would be transporting patients; and
 - f. Information about the financial effect the requested change is expected to have on the ground ambulance service;
 9. For a change in the special limitations or conditions on the ground ambulance service's certificate of necessity:
 - a. A description of the special limitations or conditions on the ground ambulance service's certificate of necessity;
 - b. The requested change to the special limitations or conditions on the ground ambulance service's certificate of necessity, including a justification for each change and how the change is in the best interest of the public;
 - c. Information about the effect the requested change is expected to have on patients, including how the requested change will result in quality patient care;
 - d. Information about the effect the requested change is expected to have on health care institutions within and surrounding the service area to which and from which the ground ambulance service would be transporting patients;
 - e. Information about the effect the requested change is expected to have on EMS providers in the service area that do not provide transport; and
 - f. Information about the financial effect the requested change is expected to have on the ground ambulance service;
 10. Information required in R9-25-1102 and R9-25-1109(B), as applicable, related to the change, including any change in:
 - a. The proposed general public rates for services provided, or
 - b. The proposed charges;
 11. If applicable, letters of support for the change;
 12. Any other information or documentation demonstrating the public necessity for the change or otherwise justifying the change;
 13. Any other information or documents requested by the Director to clarify incomplete or ambiguous information or documents;
 14. Any documents, exhibits, or statements that the amending certificate holder wishes to submit to assist the Director in evaluating the proposed amendment; and
 15. The \$50 application filing fee.
- C.** A certificate holder subject to special limitations or conditions that are not displayed on the certificate holder's certificate of necessity may request, according to subsections (B)(1) and (9), to have the special limitations or conditions modified if the special limitations or conditions were the result of a final decision of the Director, established according to A.R.S. § 41-1092.08(F), issued before January 1, 2024.
- D.** If a certificate of necessity was granted to a certificate holder under A.R.S. § 36-2233(I)(2), the certificate holder shall

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notify the Department of a change in the service area within 30 calendar days after the change is finalized and include:

1. The following information in a Department-provided format:
 - a. The certificate of necessity number for the ground ambulance service,
 - b. The name and address of the ground ambulance service on the certificate of necessity,
 - c. A description of the change and the reason for the change,
 - d. The effective date of the change,
 - e. Attestation that the information or documents submitted to the Department are true and correct, and
 - f. The signature of the certificate holder's designated representative and the date signed;
 2. A description of the current service area and the proposed service area by any method specified in A.R.S. § 36-2233(E) and global positioning system data that would allow a map to be created that illustrates the current service area and the proposed service area; and
 3. Documentation establishing that the change in service area is under A.R.S. § 36-2233(E)(2).
- E.** The Department shall approve or deny an application under subsection (B) or (C) according to A.R.S. § 36-2233, Article 12 of this Chapter, and, if applicable, R9-25-1106 and R9-25-1107.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-906. Determining Public Necessity (Authorized by A.R.S. § 36-2233(F))

- A.** In determining public necessity for an initial or amended certificate of necessity, the Director shall consider the following to ensure quality patient care:
1. The following information, as proposed by the applicant for the service area:
 - a. Proposed response times or compliance percentage,
 - b. The priority that may be assigned by an applicant or a certificate holder to a response, and
 - c. The percentage of time the actual response time for a run is or is anticipated to be compliant with the proposed response times during a 12-month period;
 2. Whether issuing the certificate of necessity is in the public's best interest:
 - a. Based on a possible gap in service or unmet needs in the service area; and
 - b. To ensure consistent service provision, efficiency, cost-effectiveness, and the health and safety of individuals in the service area;
 3. The information in R9-25-902(A)(1) through (4), (6), (8), (12) through (14), and (19) through (22);
 4. If applicable, the information in subsection (B); and
 5. Other matters determined by the Director or the applicant to be relevant to the determination of public necessity.
- B.** In deciding whether issuing a certificate of necessity to more than one ground ambulance service for the same service area or overlapping service areas is in the public's best interest, the Director shall consider the following in addition to the information in subsections (A)(1) through (3):

1. The existence of another ground ambulance service providing ambulance response or transport to all or part of the service area, including the level of service and type of service being provided;
2. The current response times and compliance percentages achieved for requests made through 9-1-1 or a similar system in all or part of the service area;
3. If applicable, the current response times and compliance percentages achieved for interfacility transports for patients with a time-critical condition in all or part of the service area;
4. If applicable, the applicant's plans to provide interfacility transports for patients with no time-critical condition in all or part of the service area in compliance with R9-25-908(E)(3);
5. The applicant's plans for implementation, taking into consideration the stability and consistency of service provision;
6. If available, information or data that demonstrates the inability of the other certificate holder to provide services in all or part of the service area;
7. How the applicant plans to interact with the ground ambulance service currently providing services in all or part of the service area, including the information in R9-25-908(E)(1)(a), (b), and (c);
8. The availability of emergency medical services in all or part of the service area;
9. The financial impact on certificate holders whose service area includes all or part of the service area in the requested certificate of necessity;
10. The demonstrated need for additional 9-1-1 or similarly dispatched transport, convalescent transport, or interfacility transport, as applicable, including:
 - a. Whether a study or statistical analysis demonstrating need has been created for or adopted by the applicant, a political subdivision within the current or proposed service area, or a local emergency medical services coordinating system under A.R.S. § 36-2210 that:
 - i. Examines whether another ground ambulance service is necessary within the service area or proposed service area to provide ambulance response or transport; and
 - ii. Takes into account the current or proposed service area's medical, fire, and police services and the other ground ambulance service;
 - b. If a study or statistical analysis in subsection (B)(11)(a) exists, the content of the study or statistical analysis demonstrating need; and
 - c. Information received by the Department from a political subdivision, a health care institution, an elected official, or another interested party, as described in A.R.S. § 36-2233(D), indicating a need;
11. For an application for additional 9-1-1 or similarly dispatched transport, the difference between the current response times in the service area for 90% compliance and the response times for 90% compliance proposed by the applicant; and
12. Whether a certificate holder for the service area has demonstrated noncompliance with requirements in this Article, Articles 2, 10, or 11 of this Chapter, or A.R.S. Title 36, Chapter 21.1.

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- C. The Department may periodically assess whether there have been changes in public necessity associated with a certificate of necessity, to include ensuring quality patient care.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). R9-25-906 renumbered to R9-25-907; new Section R9-25-906 renumbered from R9-25-903 and amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-907. Determining Response Times, Priority for Responses, and Compliance with Specified Times (Authorized by A.R.S. §§ 36-2232, 36-2233, 36-2236)

- A. The Department may periodically assess whether the following parameters, as associated with a certificate of necessity, are appropriate to ensure quality patient care:
1. Response times, consistent with A.R.S. §§ 36-2232(A)(4) and 36-2236(E);
 2. The priority to be assigned by a certificate holder to a response;
 3. The percentage of time that the actual response time for a run is compliant with the response times for the certificate of necessity during a 12-month period;
 4. If applicable, the plan for complying with the requirements in R9-25-908(E)(3)(c), or with a standard different from that in R9-25-908(E)(3)(c), that demonstrates how quality patient care will be provided, including to patients with a time-sensitive condition; and
 5. If applicable, the percentage of time that the certificate holder is compliant with the standards in the plan in subsection (A)(4) during a 12-month period.
- B. In determining response times, the priority to be assigned by a certificate holder to a response, and the percentage of time the actual response time for a run is compliant with the proposed response times during a 12-month period for all or part of a service area or proposed service area, the Director may consider the following:
1. Differences in scene locality, if applicable;
 2. The response times and compliance percentages of other ground ambulance services in similar scene localities, as determined by historical response time data;
 3. The population density and demographics in the service area or proposed service area;
 4. The geographic features and environmental conditions within the service area or proposed service area;
 5. The geographic distribution of health care institutions within and surrounding the service area or proposed service area to which and from which the ground ambulance service would be transporting patients;
 6. Requirements of a 9-1-1 or similar dispatch system for all or part of the service area;
 7. Requirements in a contract approved by the Department between a ground ambulance service and a political subdivision or health care institution;
 8. Whether the certificate holder provides interfacility transports of patients with a time-critical condition and, if so:
 - a. The geographic distribution of health care institutions in the service area, and
 - b. The anticipated volumes of 9-1-1 dispatches and of interfacility transports;
 9. The basis for prioritization for the dispatch of a ground ambulance vehicle or an emergency medical services provider;
10. Information from a political subdivision, a health care institution, an elected official, or another interested party, as described in A.R.S. § 36-2233(D), in the service area that was received by the Department about the request; and
11. Other information submitted according to R9-25-902(A)(2) and (14) or R9-25-905(B), as applicable; and
12. Other matters determined by the Director to be relevant to a determination of response times and compliance percentage, for each scene locality and priority that will be assigned by the applicant to a response.
- C. The Department may:
1. Develop a set of uniform standards for response times based on historical response time data:
 - a. By using the scene locality of a service area or proposed service area, and
 - b. Considering the response time for 90 percent of runs;
 2. Compare the actual performance of a ground ambulance service to the applicable uniform standard developed according to subsection (C)(1);
 3. Establish response times based on the applicable uniform standard and the factors specified in subsection (B); and
 4. Take enforcement action, if appropriate, against a certificate holder based on response-time performance compared with the uniform standard, taking into consideration the factors in subsection (B).
- D. In determining compliance with the standards in the plan in subsection (A)(4) during a 12-month period, the Director may consider the following:
1. The information submitted according to R9-25-902(A)(2) and (14) or R9-25-905(B), as applicable;
 2. The geographic distribution of health care institutions in the service area and the anticipated volumes of interfacility transports and 9-1-1 dispatches;
 3. Requirements in a contract approved by the Department between a ground ambulance service and health care institution;
 4. The basis for prioritization for the dispatch of a ground ambulance vehicle according to procedures established by the certificate holder's medical direction authority;
 5. Information from a political subdivision, a health care institution, an elected official, or another interested party, as described in A.R.S. § 36-2233(D), in the service area that was received by the Department about the request; and
 6. Other matters determined by the Director to be relevant to a determination of compliance with the standards in the plan in subsection (A)(4).

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Section R9-25-907 repealed; new Section R9-25-907 renumbered from R9-25-906 and amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-908. Operations (Authorized by A.R.S. §§ 36-2204.02, 36-2211, 36-2224, 36-2232, 36-2233, 36-2237, 36-2241)

- A. Insurance: A certificate holder shall:
1. Either:
 - a. Maintain with an insurance company authorized to transact business in this state:

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- i. A minimum single occurrence automobile liability insurance coverage of \$1,000,000 for ground ambulance vehicles;
 - ii. A minimum single occurrence professional liability insurance coverage for the ground ambulance service of \$1,000,000; and
 - iii. If the certificate holder provides ALS services or critical care services, a minimum single occurrence professional liability insurance coverage for personnel of the ground ambulance service providing ALS services or critical care services of \$1,000,000; or
 - b. Be self-insured for the amounts in subsection (A)(1)(a); and
 2. Submit to the Department within seven days after renewal of the insurance coverage in subsection (A)(1)(a) or a change in how the insurance coverage in subsection (A)(1)(a) or (b) is obtained:
 - a. A copy of the certificate of insurance in subsection (A)(1)(a); or
 - b. Documentation of self-insurance according to subsection (A)(1)(b).
- B. Record Retention:** According to A.R.S. § 36-2241, a certificate holder shall maintain the following records for the Department's review and inspection:
1. The certificate holder's financial statements;
 2. All federal and state income tax records;
 3. All employee-related expense reports and payroll records;
 4. All bank statements and documents used to reconcile accounts;
 5. All documents establishing the depreciation of assets, such as schedules or accounting records on ground ambulance vehicles, equipment, office furniture, and other plant and equipment assets subject to depreciation;
 6. All prehospital history incident reports, as specified in subsection (J)(1);
 7. All patient billing and reimbursement records;
 8. All dispatch records, as specified in subsection (J)(2);
 9. All policies and procedures required by this Article or Article 2, 10, or 11 of this Chapter;
 10. All plans required by this Article or Article 2, 10, or 11 of this Chapter;
 11. Documentation of the analysis of response time performance according to subsection (G)(2);
 12. Documentation of the analysis of performance of interfacility transports of patients with no time-critical condition, including patients with a time-sensitive condition, according to subsection (H)(1);
 13. Documentation of notification to the Department of instances of noncompliance according to subsection (K)(1)(c);
 14. All back-up agreements, contracts, grants, and financial assistance records related to ground ambulance vehicles, ambulance response, and transport;
 15. All written complaints about the ground ambulance service; and
 16. Information about destroyed or otherwise irretrievable records in a file including:
 - a. A list of each record destroyed or otherwise irretrievable,
 - b. A description of the circumstances under which each record became destroyed or otherwise irretrievable, and
 - c. The date each record was destroyed or became otherwise irretrievable.
- C. Staffing:** A certificate holder shall ensure that:
1. If a ground ambulance vehicle is marked with a level of service, the ground ambulance vehicle is staffed to provide the level of service identified;
 2. An administrative medical director for the ground ambulance service complies with requirements in R9-25-201(F) and R9-25-502(B);
 3. Policies and procedures are established, implemented, and maintained that cover:
 - a. Job descriptions, duties, and qualifications, including required skills and knowledge for EMCTs and other employees; and
 - b. Orientation and in-service education for EMCTs and other employees;
 4. An EMCT employed by the ground ambulance service:
 - a. Is assigned patient care duties consistent with the EMCT's scope of practice and the administrative medical director's evaluation of the EMCT's skills and capabilities;
 - b. Complies with the protocols required in R9-25-201(E)(2);
 - c. Receives training on the policies and procedures required in R9-25-201(E)(3)(b); and
 - d. Receives ongoing education, training, or remediation consistent with the policies and procedures required in R9-25-201(E)(3)(b)(x); and
 5. Staffing of ground ambulance vehicles:
 - a. For the provision of BLS or ALS, is consistent with A.R.S. § 36-2239; and
 - b. Effective January 1, 2025, for critical care services, includes at least one:
 - i. Paramedic with an additional endorsement, indicating additional training and authorization from the Department to provide critical care services; or
 - ii. Registered nurse.
- D. Communications and Advertising:** A certificate holder shall ensure that the ground ambulance service:
1. Makes a good faith effort to communicate information:
 - a. About its hours of operation to the general public through print media, broadcast media, the Internet, or other means; and
 - b. About resource availability and deployment to other EMS providers in overlapping and surrounding service areas;
 2. Does not advertise that the ground ambulance service:
 - a. Provides a type of service or level of service other than what is granted in the certificate of necessity,
 - b. Operates in the service area other than what is granted in the certificate of necessity, or
 - c. In a manner that circumvents the use of 9-1-1 or another similarly designated emergency telephone number;
 3. Establishes, implements, and maintains the protocol for providing information to emergency receiving facility staff concurrent with the transfer of care, required in R9-25-201(E)(2)(d)(i), which includes:
 - a. The date and time the dispatch was received by the ground ambulance service;
 - b. The unique number used by the ground ambulance service to identify the run;
 - c. The name of the ground ambulance service;

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- d. The number or other identifier of the ground ambulance vehicle used for the run;
 - e. The following information about the patient:
 - i. The patient's name;
 - ii. The patient's date of birth or age, as available;
 - iii. The principal reason for requesting services for the patient;
 - iv. The patient's medical history, including any chronic medical illnesses, known allergies to medications, and medications currently being taken by the patient;
 - v. The patient's level of consciousness at initial contact and when reassessed;
 - vi. The patient's pulse rate, respiratory rate, oxygen saturation, and systolic blood pressure at initial contact and when reassessed;
 - vii. The results of an electrocardiograph, if available;
 - viii. The patient's glucose level at initial contact and when reassessed, if applicable;
 - ix. The patient's level of responsiveness score, as applicable, at initial contact and when reassessed;
 - x. The results of the patient's neurological assessment, if applicable; and
 - xi. The patient's pain level at initial contact and when reassessed; and
 - f. Any procedures or other treatment provided to the patient at the scene or during transport, including any agents administered to the patient; and
 - 4. Establishes, implements, and maintains a protocol for providing information to another certificate holder, ambulance service, EMS provider, or health care institution concurrent with the transfer of care, which includes the information in subsections (D)(3)(c), (d), (e), and (f).
- E. Dispatch and Scheduling:** A certificate holder shall ensure that:
- 1. A contract or other agreement, including internal policies and procedures, to provide dispatch exists and includes:
 - a. Information about other certificate holders with which the certificate holder has a back-up agreement;
 - b. The process and parameters under which a ground ambulance vehicle of another certificate holder will be dispatched to respond to a call to which a ground ambulance vehicle of the certificate holder cannot respond;
 - c. Except as specified in subsection (E)(2), for an area within the certificate holder's service area that overlaps with another certificate holder's service area, that the nearest ground ambulance vehicle to the patient's location, under either certificate holder that can provide the necessary level of service, will be directed to respond to a call made through 9-1-1 or a similar dispatch system; and
 - d. If the entity providing dispatch is external to the ground ambulance service, a requirement that the certificate holder receive a copy of each dispatch made under the contract or other agreement;
 - 2. If a certificate holder has a ground ambulance service contract under R9-25-1104 with a political subdivision, the ground ambulance service contract contains requirements that specify a method for dispatch, which may differ from requirements in subsection (E)(1)(c); and
- 3. For an interfacility transport of a patient with no time-critical condition:
 - a. Unless already specified in a written agreement between the certificate holder and the person requesting the interfacility transport, the entity receiving the request for the interfacility transport provides an estimated time of arrival to the person requesting the interfacility transport at the time that the interfacility transport is requested;
 - b. If the estimated time of arrival provided according to subsection (E)(3)(a) changes to a later time, the ground ambulance service, either directly or indirectly, does one of the following:
 - i. Contacts another ground ambulance service to respond to the dispatch, based on the ground ambulance service's back-up plan and back-up agreements;
 - ii. Provides to the contact at the requesting health care institution the name and telephone number of another ground ambulance service with which the ground ambulance service has a back-up agreement; or
 - iii. Provides an amended estimated time of arrival to the person requesting transport that takes into consideration:
 - (1) The patient's condition and needs, and
 - (2) Health and safety;
 - c. Effective January 1, 2025, unless otherwise specified on the certificate holder's certificate of necessity, the actual time of arrival of a ground ambulance vehicle at a health care institution for an interfacility transport of a patient who does not have a time-critical condition is within 60 minutes of the estimated time of arrival in subsection (E)(3)(a) or amended estimated time of arrival in subsection (E)(3)(b)(iii) for at least 90% of the interfacility transports; and
 - d. If the interfacility transport does not meet the standards in subsection (E)(3)(c), factors that may have contributed to not meeting the standards are considered through the quality improvement process in subsection (K)(2)(b).
- F. Transport:** A certificate holder:
- 1. Shall only provide ambulance response or transport within the service area identified in the certificate holder's certificate of necessity except:
 - a. When authorized by a service area's dispatch, before the service area's ground ambulance vehicle arrives at the scene;
 - b. According to a back-up agreement; or
 - c. If the area is not included in the service area of another certificate holder;
 - 2. Except as specified in subsection (F)(3), shall transport a patient in the certificate holder's service area who requests transport; and
 - 3. May deny transport to a patient in the certificate holder's service area:
 - a. As limited by A.R.S. § 36-2224;
 - b. If the patient is in a health care institution and the patient's medical condition requires a level of care or monitoring during transport that exceeds the scope of practice of the ambulance attendants' certification;
 - c. If the transport may result in an immediate threat to the ambulance attendant's safety, as determined by

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the ambulance attendant, the certificate holder, the administrative medical director, or a physician providing on-line medical direction and does not affect the ground ambulance service's hours of operation;

- d. If the patient is 18 years or age or older, or meets the requirements in A.R.S. § 12-2451, 44-131, or 44-132, and refuses to be transported; or
- e. If the patient is in a health care institution and does not meet the federal requirements for medically necessary ground vehicle ambulance transport as identified in 42 CFR 410.40.

G. Response Time Performance: A certificate holder shall ensure that:

1. Response times resulting from a 9-1-1 or similar system dispatch or, if applicable, a request for the interfacility transport of a patient with a time-critical condition comply with requirements of the certificate holder's certificate of necessity;
2. Response time performance, based on the information in subsection (J)(2), is assessed at least every six months for compliance with requirements of the certificate holder's certificate of necessity;
3. The following are reported to the Department annually, in a Department-provided format, concurrent with the submission of the information required in R9-25-909:
 - a. Response time data that complies with requirements in A.R.S. § 36-2232(A)(3), and
 - b. The results of the response time performance assessments in subsection (G)(2); and
4. If response time performance does not comply with requirements of the certificate holder's certificate of necessity, either:
 - a. A corrective action plan, developed according to R9-25-910(E)(2)(a) through (d), is submitted to the Department with the information required in subsection (G)(3); or
 - b. The certificate holder submits to the Department with the information required in subsection (G)(3) documentation demonstrating that noncompliance was due to:
 - i. A situation specified in A.R.S. § 36-2232(G), or
 - ii. An external factor beyond the control of the certificate holder.

H. Performance of Interfacility Transports of Patients with No Time-Critical Condition: Effective January 1, 2025, a certificate holder shall ensure that:

1. The performance of interfacility transports of patients with no time-critical condition, including patients with a time-sensitive condition:
 - a. Is based on the information in subsection (J)(2);
 - b. Is assessed at least every six months;
 - c. Includes the analysis of:
 - i. The number of calls received;
 - ii. The time a call was received;
 - iii. The estimated time of arrival;
 - iv. The time of arrival at the patient's location; and
 - v. Any other information about cancelled calls, amended estimated times of arrival, or delays that may have factored into performance; and
 - d. Includes a description of any actions taken by the certificate holder to improve performance;
2. The results of the performance assessments in subsection (H)(1) are reported to the Department annually in a

Department-provided format, concurrent with the submission of the information required in R9-25-909; and

3. If the performance of interfacility transports of patients with no time-critical condition does not comply with subsection (E)(3)(c) or requirements of the certificate holder's certificate of necessity, as applicable, either:

- a. A corrective action plan, developed according to R9-25-910(E)(2)(a) through (d), is submitted to the Department with the information required in subsection (H)(2); or
- b. The certificate holder submits to the Department with the information required in subsection (H)(2) documentation demonstrating that noncompliance was due to an external factor beyond the control of the certificate holder.

I. The Department may require that a certificate holder contract for third-party monitoring of response time performance as part of a:

1. Political subdivision contract, unless both parties to the contract waive the requirement; or
2. Corrective action plan.

J. Records: A certificate holder shall ensure that:

1. A prehospital incident history report, in a Department-provided format, is created for each patient that includes the following information, as available:
 - a. The name and identification number of the ground ambulance service;
 - b. Information about the software for the storage and submission of the prehospital incident history report;
 - c. The unique number assigned to the run;
 - d. The unique number assigned to the patient;
 - e. Information about the response to the dispatch, including:
 - i. The level of service requested;
 - ii. Information obtained by the person providing dispatch about the request;
 - iii. Information about the ground ambulance vehicle assigned to the dispatch;
 - iv. Information about the EMCTs responding to the dispatch;
 - v. The priority assigned to the dispatch; and
 - vi. Response delays, as applicable;
 - f. The date and time that:
 - i. The call requesting service was received through the 9-1-1 or similar dispatch system,
 - ii. The request was received by the person providing dispatch,
 - iii. The ground ambulance service received the dispatch,
 - iv. The ground ambulance vehicle left for the patient's location,
 - v. The ground ambulance vehicle arrived at the patient's location,
 - vi. The EMCTs in the ground ambulance vehicle arrived at the patient's side,
 - vii. Transfer of care for the patient occurred at a location other than the destination,
 - viii. The ground ambulance vehicle departed the patient's location,
 - ix. The ground ambulance vehicle arrived at the destination,
 - x. Transfer of care for the patient occurred at the destination, and

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- xi. The ground ambulance vehicle was available to take another call;
- g. Information about the patient, including:
 - i. The patient's first and last name;
 - ii. The address of the patient's residence;
 - iii. The county of the patient's residence;
 - iv. The country of the patient's residence;
 - v. The patient's gender, race, ethnicity, and age;
 - vi. The patient's estimated weight;
 - vii. The patient's date of birth; and
 - viii. If the patient has an alternate residence, the address of the alternate residence;
- h. The primary method of payment for services and anticipated level of payment;
- i. Information about the scene, including:
 - i. Specific information about the location of the scene;
 - ii. Whether the ground ambulance vehicle was first on the scene;
 - iii. The number of patients at the scene;
 - iv. Whether the scene was the location of a mass casualty incident; and
 - v. If the scene was the location of a mass casualty incident, triage information;
- j. Information about the reason for requesting service for the patient, including:
 - i. The date and time of onset of symptoms and when the patient was last well;
 - ii. Information about the principal reason the patient needs services;
 - iii. The patient's symptoms;
 - iv. The results of the EMCT's initial assessment of the patient;
 - v. If the patient was injured, information about the injury and the cause of the injury;
 - vi. If the patient experienced a cardiac arrest, information about the etiology of the cardiac arrest and subsequent treatment provided; and
 - vii. For an interfacility transport, the reason for the transport;
- k. Information about any specific barriers to providing care to the patient;
- l. Information about the patient's medical history, including:
 - i. Known allergies to medications,
 - ii. Surgical history,
 - iii. Current medications, and
 - iv. Alcohol or drug use;
- m. Information about the patient's current medical condition, including the information in subsections (D)(2)(e)(v) through (xi) and the time and method of assessment;
- n. Information about agents administered to the patient, including the dose and route of administration, time of administration, and the patient's response to the agent;
- o. If not specifically included under subsection (J)(1)(l), (l)(iv), (m), or (n), the information required in A.A.C. R9-4-602(A);
- p. Information about any procedures performed on the patient and the patient's response to the procedure;
- q. Whether the patient was transported and, if so, information about the transport;
- r. Information about the destination of the transport, including the reason for choosing the destination;
- s. Whether transfer of care for the patient to another EMS provider or ambulance service occurred and, if so, identification of the EMS provider or ambulance service;
- t. Unless transfer of care for the patient to another EMS provider or ambulance service occurred, information about:
 - i. Whether the destination facility was notified that the patient being transported has a time-critical condition and the time of notification,
 - ii. The disposition of the patient at the destination, and
 - iii. The disposition of the run;
- u. Any other narrative information about the patient, care received by the patient, or transport; and
- v. The name and certification level of the EMCT providing the information; and
- 2. Dispatch records for each call or request for service, including all cancelled runs, contain the following information, in a Department-provided format:
 - a. The name of the ground ambulance service;
 - b. The date;
 - c. Level of service;
 - d. Type of service;
 - e. Staffing of the run;
 - f. Time of receipt of the call;
 - g. Time of the dispatch;
 - h. The estimated time of arrival, as provided according to subsection (E)(3)(a) if applicable;
 - i. Departure time to the patient's location;
 - j. Address of the patient's location;
 - k. Time of arrival at the patient's location;
 - l. Departure time to the destination health care institution;
 - m. Name and address of the destination health care institution;
 - n. Time of arrival at the destination health care institution;
 - o. Any type of delay, if applicable;
 - p. The unique reference number used by the ground ambulance service to identify the patient, dispatch, or run;
 - q. The number assigned to the ground ambulance vehicle by the certificate holder;
 - r. The priority assigned by a certificate holder to the response;
 - s. The scene locality; and
 - t. Whether the dispatch is a scheduled transport.
- K. Assuring Consistent, Compliant Performance: A certificate holder shall:
 - 1. Adopt, implement, and maintain policies and procedures for:
 - a. Complaint resolution;
 - b. Assessing the ground ambulance service's compliance with requirements in this Article, Articles 2, 10, or 11 of this Chapter, or A.R.S. Title 36, Chapter 21.1, including the review of:
 - i. The information provided to an emergency receiving facility for compliance with the protocol required in R9-25-201(E)(2)(d),
 - ii. Chain of custody for drugs,

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- iii. Compliance with minimum equipment requirements for a ground ambulance vehicle,
 - iv. Compliance with requirements in R9-25-201(E)(3), and
 - v. The quality improvement parameters in subsection (K)(2)(b) related to the provision of services;
 - c. Notifying the Department within 30 calendar days after completing an assessment in subsection (K)(1)(b), during which an instance of noncompliance was identified, and submitting a corrective action plan that complies with requirements in R9-25-910(E)(2)(a) through (d); and
 - d. A quality improvement process according to subsection (K)(2);
 - 2. Establish, document, and implement a quality improvement process, as specified in policies and procedures, through which:
 - a. Data related to initial patient assessment, patient care, transport services provided, and patient status upon arrival at the destination are:
 - i. Collected continuously;
 - ii. For the information required in subsection (J)(1), submitted to the Department, in a format specified by the Department and within 48 hours after the beginning of a run, for quality improvement purposes; and
 - iii. If notified that the submission of information to the Department according to subsection (K)(2)(a)(ii) was unsuccessful, corrected and resubmitted within seven days after notification;
 - b. Continuous quality improvement processes are developed and implemented to identify, document, and evaluate issues related to the provision of services to ensure quality patient care, including:
 - i. Care provided to patients with time-critical conditions, including deviations from national treatment standards for a patient with a time-critical condition;
 - ii. Transport, including an interfacility transport of a patient that does not have a time-critical condition;
 - iii. Documentation; and
 - iv. Patient status upon arrival at the destination;
 - c. A committee consisting of the administrative medical director, the individual managing the ground ambulance service or designee, and other employees as appropriate:
 - i. Review the data in subsection (K)(2)(a) and any issues identified in subsection (K)(2)(b) on at least a quarterly basis; and
 - ii. Implement activities to improve performance when deviations in patient care, transport, or documentation are identified; and
 - d. The activities in subsection (K)(2)(c) are documented, consistent with A.R.S. §§ 36-2401, 36-2402, and 36-2403; and
 - 3. Ensure that the information required in subsection (J)(2) is submitted to the Department, in a Department-provided format, and within 48 hours after the receipt of a call or request for service.
- L. If a certificate holder has a reasonable basis to believe that a situation or circumstance specified according to A.R.S. § 36-2211(A) has occurred, the certificate holder shall:
 - 1. If applicable, take immediate action to prevent the recurrence of the situation or circumstance;
 - 2. Report the suspected situation or circumstance to the Department and, if applicable, according to A.R.S. § 13-3620 or 46-454;
 - 3. Document:
 - a. The suspected situation or circumstance;
 - b. Any action taken according to subsection (L)(1); and
 - c. The report in subsection (L)(2);
 - 4. Maintain the documentation in subsection (L)(3) for at least 12 months after the date of the report in subsection (L)(2);
 - 5. Initiate an investigation of the situation or circumstance and document the following information within five working days after the report required in subsection (L)(2):
 - a. The dates, times, and description of the situation or circumstance;
 - b. A description of any injury to a patient related to the suspected situation or circumstance and any change to the patient's physical, cognitive, functional, or emotional condition;
 - c. The names of witnesses to the suspected situation or circumstance; and
 - d. The actions taken by the certificate holder to prevent the suspected situation or circumstance from occurring in the future; and
 - 6. Maintain a copy of the documented information required in subsection (L)(5) and any other information obtained during the investigation for at least 12 months after the date the investigation was initiated.
 - M. A certificate holder shall notify the Department of a change in the number or location of suboperation stations in the certificate holder's service area, according to A.R.S. § 36-2232(C)(4), and include:
 - 1. The certificate of necessity number for the ground ambulance service;
 - 2. The name of the ground ambulance services on the certificate of necessity;
 - 3. The name, title, address, email address, and telephone number of an individual whom the Department may contact about the notification; and
 - 4. Information about the change, including, as applicable:
 - a. How the number of suboperation stations is changed from the information on the certificate holder's certificate of necessity;
 - b. The address of each suboperation station that is being removed from service; and
 - c. The address, hours of operation, and telephone number of each new suboperation station located within the service area.
 - N. A certificate holder shall submit to the Department, no later than 180 days after the certificate holder's fiscal year end, the information in the Ambulance Revenue and Cost Report specified in R9-25-909(A) or (C), as appropriate to the certificate holder's business organization.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Section R9-25-908 repealed; new Section R9-25-908 made by final rulemaking at 30 A.A.R. 581 (March 29, 2024),

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with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-909. Ambulance Revenue and Cost Reporting Requirements (Authorized by A.R.S. §§ 36-2232, 36-2246)

- A.** Except as provided in subsection (C), a certificate holder shall ensure that an Ambulance Revenue and Cost Report for a ground ambulance service includes, in a Department-provided format:
1. The following information to identify the source and time period for the Ambulance Revenue and Cost Report:
 - a. The legal name of the ground ambulance service and any other names by which the ground ambulance service is known;
 - b. The identifying number on the certificate holder's current certificate of necessity, if applicable;
 - c. The physical address at which financial records on which the information in the Ambulance Service and Cost Report is based are maintained;
 - d. The mailing address for the ground ambulance service, if different from the address in subsection (A)(1)(c);
 - e. The name, title, email address, and telephone number of the following:
 - i. The individual responsible for managing the ground ambulance service; and
 - ii. The individual to contact regarding the information in the Ambulance Service and Cost Report;
 - f. The beginning date and ending date of the reporting period; and
 - g. Whether the method of valuing inventory is:
 - i. First-in-first-out;
 - ii. Last-in-first-out; or
 - iii. Another method, including a description of the method;
 2. The following information to provide data in support of information in other portions of the Ambulance Revenue and Cost Report:
 - a. Except as provided in subsection (B), for each of the following, for the reporting period, under the ground ambulance service's subscription service rate, contract rate, or general public rate, the number of:
 - i. Transports billed at the critical care rate,
 - ii. Transports billed at the ALS base rate,
 - iii. Transports billed at the BLS base rate,
 - iv. Miles billed at the mileage rate while a patient is being transported,
 - v. Hours and minutes billed according to R9-25-1108(E), and
 - vi. Canceled and non-billable runs;
 - b. For each of subsections (A)(2)(a)(i) through (vi), the total number for all three rates for the reporting period; and
 - c. If applicable, the number of hours different classifications of EMCT and other ambulance attendants volunteered for the ground ambulance service and the total number of volunteer hours for the reporting period;
 3. The following information about revenue generated for the reporting period from routine operations of the ground ambulance service:
 - a. Except as provided in subsection (B), the amount of revenue generated from the following sources of revenue:
 - i. Transports billed at the critical care rate;
 - ii. Transports billed at the ALS base rate;
 - iii. Transports billed at the BLS base rate;
 - iv. Miles billed at the mileage rate while a patient is being transported;
 - v. Hours and minutes billed according to R9-25-1108(E),
 - vi. Charges for disposable supplies, medical supplies, medications, and oxygen-related items;
 - vii. Charges for nursing services;
 - viii. Charges for positioning a staffed ground ambulance vehicle at a public or private event, such as a sporting event or car race; and
 - ix. Other sources of routine operating revenue; and
 - b. The total amount of revenue generated for the reporting period from routine operations of the ground ambulance service;
 4. The costs of goods, such as disposable supplies, medical supplies, medications, and oxygen-related items, charged to patients for the reporting period, calculated as:
 - a. The cost of the beginning inventory of all such goods,
 - b. Plus the costs of purchased items,
 - c. Plus any other costs, and
 - d. Minus the cost of the ending inventory of all such goods;
 5. The following information about revenue generated for the reporting period from sources other than routine operations of the ground ambulance service:
 - a. For each entity with which the ground ambulance service has a ground ambulance service contract:
 - i. The name of the entity with which the ground ambulance service has the contract,
 - ii. The total number of billable runs for the reporting period,
 - iii. The amount billed for the reporting period based on the general public rate,
 - iv. The percent discount under the contract, and
 - v. The resulting discount amount;
 - b. The total amount of the discount amount from all the entities listed according to subsection (A)(5)(a); and
 - c. For a ground ambulance service providing subscription service, subscription service revenue and direct expenses, including:
 - i. The amount billed for the reporting period at the general public rate established according to R9-25-1101 or R9-25-1102;
 - ii. Any reductions to the amount in subsection (A)(5)(c)(i) due to:
 - (1) The discount amount the ground ambulance service receives from AHCCCS as an allowable rate,
 - (2) The discount amount the ground ambulance service receives from Medicare as an allowable rate,
 - (3) The subscription service rate established according to R9-25-1105, and
 - (4) Uncollectable revenue associated with subscription service;
 - iii. The total of the amounts in subsections (A)(5)(c)(ii)(1) through (4);
 - iv. The difference between the amount in subsection (A)(5)(c)(i) and the amount in subsection (A)(5)(c)(iii);

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- v. The amount of revenue from the sales of subscription service contracts;
- vi. A description of other revenue associated with subscription service and the amount of revenue;
- vii. The total subscription service revenue, calculated as the sum of the amounts in subsections (A)(5)(c)(iv) through (vi); and
- viii. Direct expenses incurred selling subscription service contracts, by type of expense and in total;
- d. The amount of revenue generated for the reporting period, by type of source of revenue, including from any other sources of revenue besides routine operations of the ground ambulance service;
- e. The total amount of revenue generated for the reporting period from sources other than routine operations of the ground ambulance service;
- 6. Except as provided in subsection (B), the following information about discounts for all applicable patients for the reporting period, based on the difference between the general public rate a ground ambulance service assesses a patient and the discount amount the ground ambulance service receives for each of the following:
 - a. From AHCCCS reimbursement;
 - b. From Medicare reimbursement;
 - c. From a contact rate or range of rates established according to R9-25-1103; and
 - d. From the provision of subscription service established according to R9-25-1105;
 - e. From any other discount amount, including a description of the source and the amount; and
 - f. The totals of subsections (A)(6)(a) through (e);
- 7. The total amount of revenue generated and allowances given by the ground ambulance service for the reporting period;
- 8. The following information about personnel of the ground ambulance service:
 - a. Except as provided in subsection (B), the number of FTEs, calculated as the sum of all hours for which employee wages were paid for the reporting period divided by 2,080, for each of the following categories of personnel, for the reporting period:
 - i. Owners or officers of the ground ambulance service;
 - ii. Managers of the ground ambulance service;
 - iii. Each classification of ambulance attendants who provide services on a ground ambulance vehicle, not including personnel who were paid wages on a per run basis; and
 - iv. Other types of employees;
 - b. The total number of FTEs for the reporting period;
 - c. Except as provided in subsection (B), the following for each category of personnel in subsections (A)(8)(a)(i) through (iv), including personnel who were paid wages on a per run basis:
 - i. Gross wages,
 - ii. Payroll taxes,
 - iii. Employee fringe benefits, and
 - iv. The totals of subsections (A)(8)(c)(i) through (iii);
 - d. The total amount of personnel expenses in subsection (A)(8)(c) for all personnel;
 - e. Details of salaries and wages paid to officers or owners of the ground ambulance service, including:
 - i. The name, title, and percentage ownership of each officer or owner;
 - ii. The salary or wages paid and FTE equivalent for the time the officer or owner spent performing management duties, for each officer or owner;
 - iii. The salary or wages paid and FTE equivalent for the time the officer or owner spent performing duties as an EMCT, for each officer or owner;
 - iv. The salary or wages paid and FTE equivalent for the time the officer or owner spent performing office or administrative duties, for each officer or owner;
 - v. The salary or wages paid and FTE equivalent for the time the officer or owner spent performing other types of duties, for each officer or owner; and
 - vi. The total salary or wages paid and FTE equivalent for the time all officers or owners spent performing the types of duties in subsections (A)(8)(e)(ii) through (v); and
- 9. Except as provided in subsection (B), the operating expenses incurred by the ground ambulance service for the reporting period, for each type of operating expense;
- 10. The total operating expenses incurred by the ground ambulance service for the reporting period;
- 11. Ambulance service income, calculated as the difference between the amount identified in subsection (A)(7) and the amount identified in subsection (A)(10);
- 12. The income and expenses, other than revenue and operating expenses, for each type of income received and expense incurred by the ground ambulance service for the reporting period;
- 13. The total income and expenses, other than revenue and operating expenses, for the reporting period;
- 14. The net income or loss for the reporting period, before taxes, calculated as the sum of the amounts identified in subsections (A)(11) and (A)(13);
- 15. The amounts of:
 - a. State income taxes,
 - b. Federal income taxes, and
 - c. The total of subsections (A)(15)(a) and (b);
- 16. The net income or loss for the reporting period, after taxes, calculated as the difference between the amounts in subsections (A)(14) and (A)(15)(c);
- 17. Information pertaining to depreciation of property or equipment;
- 18. The amount of assets, for each type of asset, of the ground ambulance service for the reporting period;
- 19. The total amount of assets of the ground ambulance service for the reporting period;
- 20. The amount of liabilities, for each type of liability, of the ground ambulance service for the reporting period;
- 21. The total amount of liabilities of the ground ambulance service for the reporting period;
- 22. The amount of long-term debt, for each type of long-term debt, of the ground ambulance service for the reporting period;
- 23. The total amount of long-term debt of the ground ambulance service for the reporting period;

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24. The amount of equity, for each type of equity, of the ground ambulance service for the reporting period;
 25. The total amount of equity of the ground ambulance service for the reporting period;
 26. The total amount of liabilities and equity of the ground ambulance service for the reporting period;
 27. The statement of cash flows for the reporting period;
 28. A list of all business organizations or governmental entities affiliated with the certificate holder, if applicable, including for each:
 - a. The legal name;
 - b. The type of business organization, if applicable; and
 - c. Whether the relationship to the applicant is as a:
 - i. Parent organization,
 - ii. Subordinate organization,
 - iii. Subsidiary organization,
 - iv. Member organization, or
 - v. Business organization related to an ambulance service, EMS, or transport for which a controlling person of the applicant is also a controlling person of the business organization; and
 29. An attestation including:
 - a. The signature of the individual specified in subsection (A)(1)(c)(i), including the individual's title and date of signature;
 - b. A statement that the individual in subsection (A)(29)(a) directed the preparation of the Ambulance Revenue and Cost Report in accordance with requirements in this Article and using an accrual basis of accounting; and
 - c. A statement that the information provided in the Ambulance Revenue and Cost Report is true and correct.
- B.** If a ground ambulance service applies local resident subsidization to reimbursement under the general public rate, a certificate holder shall ensure that the Ambulance Revenue and Cost Report for a ground ambulance service includes, in a Department-provided format:
1. The following, in total and broken out for both subsidized patients and non-subsidized patients:
 - a. The information for subsections (A)(2)(a)(i) through (vi) under the ground ambulance service's general public rate;
 - b. The amount of revenue generated from the sources of revenue specified in subsections (A)(3)(a)(i) through (ix) from routine operations of the ground ambulance service; and
 - c. The amount of discount for all applicable patients for the reporting period, based on the difference between the general public rate a ground ambulance service assesses a patient and the discount amount the ground ambulance service receives:
 - i. From AHCCCS reimbursement,
 - ii. From Medicare reimbursement, and
 - iii. Due to the local resident subsidization;
 2. The number of FTEs, calculated as the sum of all hours for which employee wages were paid for the reporting period divided by 2,080, for each of the following categories of personnel, for the reporting period:
 - a. Managers of the ground ambulance service;
 - b. Ambulance attendants who provide services on a ground ambulance vehicle, not including personnel who were paid wages on a per run basis; and
 - c. Other types of employees;
 3. The following for each category of personnel in subsection (B)(2)(a) through (c):
 - a. Gross wages,
 - b. Payroll taxes,
 - c. Employee fringe benefits, and
 - d. The totals of subsections (B)(3)(a) through (c);
 4. If applicable, for each category of employee in subsection (B)(2)(a) through (c), the basis of allocation of gross wages, payroll taxes, employee fringe benefits, and the totals of the allocations; and
 5. If applicable, for each category of employee in subsection (B)(2)(a) through (c), the allocation percentage for gross wages, payroll taxes, and employee fringe benefits;
 6. The operating expenses incurred, for each type of operating expense, by the ground ambulance service for the reporting period in total and with the allocation percentage for each category of operating expense, including the basis of allocation.
- C.** A certificate holder shall ensure that an Ambulance Revenue and Cost Report for a ground ambulance service under A.R.S. § 36-2246(C) includes, in a Department-provided format:
1. The following information to identify the source and time period for the Ambulance Revenue and Cost Report:
 - a. The legal name of the ground ambulance service and any other names by which the ground ambulance service is known; and
 - b. The beginning date and ending date of the reporting period; and
 2. The following information to provide data in support of information in other portions of the Ambulance Revenue and Cost Report:
 - a. For each of the following, for the reporting period, under the ground ambulance service's subscription service rate, contract rate, or general public rate, the number of:
 - i. Transports billed at the critical care rate,
 - ii. Transports billed at the ALS base rate,
 - iii. Transports billed at the BLS base rate,
 - iv. Miles billed at the mileage rate while a patient is being transported,
 - v. Hours and minutes billed according to R9-25-1108(E), and
 - vi. Canceled and non-billable runs;
 - b. For each of subsections (C)(2)(a)(i) through (vi), the total number for all three rates for the reporting period; and
 - c. If applicable, the number of hours different classifications of EMCT and other ambulance attendants volunteered for the ground ambulance service and the total number of volunteer hours for the reporting period;
 3. The following information about revenue generated for the reporting period from routine operations of the ground ambulance service:
 - a. The amount of revenue generated from the following sources of revenue:
 - i. Transports billed at the critical care rate;
 - ii. Transports billed at the ALS base rate;
 - iii. Transports billed at the BLS base rate;
 - iv. Miles billed at the mileage rate while a patient is being transported;
 - v. Hours and minutes billed according to R9-25-1108(E),

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- vi. Charges for disposable supplies, medical supplies, medications, and oxygen-related items;
- vii. Charges for nursing services; and
- viii. Charges for positioning a staffed ground ambulance vehicle at a public or private event, such as a sporting event or car race; and
- b. The total amount of revenue generated for the reporting period from routine operations of the ground ambulance service;
- 4. The following information about discounts for all applicable patients for the reporting period, based on the difference between the general public rate a ground ambulance service assesses a patient and the discount amount the ground ambulance service receives:
 - a. From AHCCCS reimbursement,
 - b. From Medicare reimbursement,
 - c. Due to a contact rate or range of rates established according to R9-25-1103,
 - d. Due to a subscription service rate established according to R9-25-1105,
 - e. Due to any other revenue reduction, and
 - f. From the totals of subsections (C)(4)(a) through (e);
- 5. The total amount of revenue generated, less allowances given, by the ground ambulance service from routine operations for the reporting period;
- 6. The following information about personnel of the ground ambulance service:
 - a. The total number of FTEs, calculated as the sum of all hours for which employee wages were paid for the reporting period divided by 2,080, for the reporting period;
 - b. The number of FTEs, for each of the following categories of personnel, for the reporting period, not including personnel who were paid wages on a per run basis:
 - i. Managers of the ground ambulance service,
 - ii. Ambulance attendants who provide services on a ground ambulance vehicle, and
 - iii. Other types of employees;
 - c. The gross wages for each category of personnel in subsection (C)(6)(b)(i) through (iii);
 - d. Payroll taxes and employee fringe benefits for each category of personnel; and
 - e. The total gross wages taxes and fringe benefits for all category of personnel in subsections (C)(6)(b)(i) through (iii);
- 7. The operating expenses incurred by the ground ambulance service for the reporting period for each type of operating expense;
- 8. The total operating expenses incurred by the ground ambulance service for the reporting period;
- 9. The total operating income or loss, calculated as the difference between the amount identified in subsection (C)(5) and the amount identified in subsection (C)(8);
- 10. The amount of revenue generated or income derived for the reporting period by type of source of revenue or income, from sources other than routine operations of the ground ambulance service, including from:
 - a. The sale of subscription service contracts under R9-25-1105;
 - b. Any other sources of operating revenue besides routine operations of the ground ambulance service, including a description of the sources and amount of revenue;
 - c. Local supportive funding; and
 - d. Any other sources of income besides routine operations of the ground ambulance service, including a description of the sources and amount of income;
- 11. Any other expenses incurred by the ground ambulance service for the reporting period, including a description of the sources and amount of expenses;
- 12. The net income or loss for the reporting period, before taxes, from sources other than routine operations of the ground ambulance service, calculated as the sum of the amounts identified in subsections (C)(9) and (C)(10), minus the amount in subsection (C)(11);
- 13. The amounts of:
 - a. State income taxes,
 - b. Federal income taxes, and
 - c. The total of subsections (C)(13)(a) and (b);
- 14. The net income or loss for the reporting period, after taxes, calculated as the difference between the amounts in subsections (C)(12) and (C)(13)(c);
- 15. The amount of assets, for each type of asset, of the ground ambulance service for the reporting period;
- 16. The total amount of current assets of the ground ambulance service for the reporting period;
- 17. Information pertaining to depreciation of property or equipment;
- 18. The amount of liabilities, for each type of liability, of the ground ambulance service for the reporting period;
- 19. The total amount of liabilities of the ground ambulance service for the reporting period;
- 20. The amount of long-term debt, for each type of long-term debt, of the ground ambulance service for the reporting period;
- 21. The total amount of long-term debt of the ground ambulance service for the reporting period;
- 22. The amount of equity, for each type of equity, of the ground ambulance service for the reporting period;
- 23. The total amount of equity of the ground ambulance service for the reporting period;
- 24. The total amount of liabilities and equity of the ground ambulance service for the reporting period;
- 25. The statement of cash flows for the reporting period.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Section R9-25-909 repealed; new Section R9-25-909 renumbered from R9-25-910 and amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-910. Inspections and Investigations (Authorized by A.R.S. §§ 36-2204, 36-2212, 36-2232, 36-2241, 36-2245)

- A. The Department may conduct an inspection of a ground ambulance service, which may include the ground ambulance service's premises, records, and equipment, and each ground ambulance vehicle operated or to be operated by the ground ambulance service.
- B. If the Department receives written or verbal information alleging a violation of this Article; Article 2, 10, or 11 of this Chapter; or A.R.S. Title 36, Chapter 21.1, the Department may conduct an investigation.
 - 1. The Department may conduct an inspection as part of an investigation.
 - 2. A certificate holder shall allow the Department to inspect the ground ambulance service's premises, records, and

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equipment, and each ground ambulance vehicle and to interview personnel as part of an investigation.

- C. When an application for a certificate of necessity for a ground ambulance service is submitted along with a transfer request due to a change of ownership, the Department shall determine whether an inspection is necessary based upon the potential impact to public health, safety, and welfare.
- D. The Department shall conduct each inspection in compliance with A.R.S. § 41-1009.
- E. If the Department determines that a ground ambulance service is not in compliance with the requirements in this Article; Article 2, 10, or 11 of this Chapter; or A.R.S. Title 36, Chapter 21.1, the Department may:
 - 1. Take an enforcement action as described in R9-25-911; or
 - 2. As part of a stipulated agreement under A.R.S. § 36-2245(I), require that the ground ambulance service submit to the Department, within 30 days after written notice from the Department, a corrective action plan acceptable to the Department to address issues of compliance that do not directly affect the health or safety of a patient that:
 - a. Describes how each identified instance of noncompliance will be corrected and reoccurrence prevented;
 - b. Includes a date for correcting each instance of noncompliance that is appropriate to the actions necessary to correct the instance of noncompliance;
 - c. Includes the signature of the individual acting for the certificate holder according to R9-25-102 and date signed; and
 - d. If noncompliance is associated with medical direction, EMCT skills or performance, or other issues related to compliance with Article 2 or Article 5 of this Chapter, includes the dated signature of the administrative medical director.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Section R9-25-910 renumbered to R9-25-909; new Section R9-25-910 made by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-911. Enforcement Action (Authorized by A.R.S. §§ 36-2234(L), 36-2244, 36-2245, 41-1092.03, 41-1092.11(B))

- A. The Department may take an action listed in subsection (B) against a ground ambulance service that:
 - 1. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;
 - 2. Fails or has failed to comply with any provision in this Article or Article 2, 10, or 11 of this Chapter;
 - 3. Does not submit a corrective action plan, as provided in R9-25-903(A)(6), R9-25-908(G)(4)(a), R9-25-908(H)(3)(a), R9-25-908(K)(1)(c), or R9-25-910(E)(2), that is acceptable to the Department;
 - 4. Does not complete a corrective action plan submitted according to R9-25-903(A)(8) or R9-25-910(E)(2); or
 - 5. Knowingly or negligently provides false documentation or false or misleading information to the Department or to a patient, third-party payor, or other person billed for service.
- B. The Department may take the following actions against a ground ambulance service:

- 1. Except as provided in subsection (B)(3), after notice and an opportunity to be heard is provided under A.R.S. Title 41, Chapter 6, Article 10, suspend:
 - a. The ground ambulance service's certificate of necessity, or
 - b. The certificate of registration of a ground ambulance vehicle operated by the ground ambulance service;
- 2. After notice and an opportunity to be heard is provided under A.R.S. Title 41, Chapter 6, Article 10, revoke:
 - a. The ground ambulance service's certificate of necessity, or
 - b. The certificate of registration of a ground ambulance vehicle operated by the ground ambulance service;
- 3. As permitted under A.R.S. §§ 36-2234(N) and 41-1092.11(B), if the Department determines that the public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in the Department's order, immediately suspend:
 - a. The ground ambulance service's certificate of necessity pending proceedings for revocation or other action, or
 - b. The certificate of registration of a ground ambulance vehicle operated by the ground ambulance service pending proceedings for revocation or other action; or
- 4. Another enforcement action according to A.R.S. § 36-2245(I), (J), or (K).
- C. In determining the type of enforcement action to impose under A.R.S. § 36-2245, the Director shall consider:
 - 1. The severity of the violation relative to public health and safety;
 - 2. The number of violations relative to the annual transport volume of the certificate holder;
 - 3. The nature and circumstances of the violation;
 - 4. Whether the violation was corrected, the manner of correction, and the time-frame involved;
 - 5. The duration of each violation;
 - 6. The frequency and nature of complaints received by the Department about a certificate holder; and
 - 7. The impact of the penalty or assessment on the provision of ambulance response or transport in the certificate holder's service area.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). R9-25-911 repealed; new R9-25-911 renumbered from R9-25-912 and amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-912. Renumbered**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Section R9-25-912 renumbered to R9-25-911 by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

Exhibit 9A. Repealed**Historical Note**

Exhibit 9A renumbered from Exhibit A and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). The Department requested (file number R22-134) that two corrections be made to page 1

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of Exhibit 9(A) as amended at 19 A.A.R. 4032 (December 13, 2013); missing form fields have also been added due to clerical errors when formatting this Exhibit (Supp. 22-3). Exhibit 9A repealed by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

Exhibit A. Renumbered**Historical Note**

New Exhibit adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). New Exhibit A recodified from Article 12 at 12 A.A.R. 2243, effective June 2, 2006 (Supp. 06-2). Exhibit A renumbered to Exhibit 9A by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit 9B. Repealed**Historical Note**

Exhibit 9B renumbered from Exhibit B and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Exhibit 9B repealed by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

Exhibit B. Renumbered**Historical Note**

New Table adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). New Exhibit B recodified from Article 12 at 12 A.A.R. 2243, effective June 2, 2006 (Supp. 06-2). Exhibit B renumbered to Exhibit 9B by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

ARTICLE 10. GROUND AMBULANCE VEHICLE REGISTRATION**R9-25-1001. Initial and Renewal Application for a Certificate of Registration (Authorized by A.R.S. §§ 36-2212, 36-2232, 36-2240)****A.** To be eligible to obtain a certificate of registration for a ground ambulance vehicle, an applicant shall:

1. Hold a current and valid certificate of necessity issued under Article 9 of this Chapter;
2. Possess a copy of a current and valid motor vehicle registration for the ground ambulance vehicle, issued according to A.R.S. Title 28, Chapter 7, Article 2, or similar statutes in another state; and
3. Comply with all applicable requirements of this Article; Articles 2, 9, and 11 of this Chapter; and A.R.S. Title 36, Chapter 21.1.

B. An applicant for an initial or renewal certificate of registration of a ground ambulance vehicle shall submit an application packet to the Department that contains:

1. The following information in a Department-provided format:
 - a. The applicant's legal business or corporate name, including all other business names used by the applicant related to the use of a ground ambulance vehicle;
 - b. The applicant's mailing address; email address; physical address of the business, if different from the mailing address; fax number, if any; and telephone number;

- c. The following information about the ground ambulance vehicle:
 - i. The manufacturer's name;
 - ii. The year the ground ambulance vehicle was manufactured;
 - iii. The vehicle identification number of the ground ambulance vehicle;
 - iv. The unit number of the ground ambulance vehicle, assigned by the applicant;
 - v. The ground ambulance vehicle's state license plate number; and
 - vi. The location at which the ground ambulance vehicle will be available for inspection;
 - d. If applicable, the identification number of the certificate of necessity under which the ground ambulance vehicle is registered;
 - e. The name, email address, and telephone number of the individual to contact to arrange for inspection, if the inspection is preannounced;
 - f. The name, title, address, email address, and telephone number of the individual acting on behalf of the applicant according to R9-25-102;
 - g. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-25-1201(C)(3);
 - h. Attestation that the information provided in the application packet, including the information in the accompanying documents, is accurate and complete; and
 - i. The signature of the applicant or applicant's designated representative and date signed;
2. A copy of documentation demonstrating compliance with subsection (A)(2); and
 3. Unless the applicant operates or intends to operate the ground ambulance vehicle only as a volunteer not-for-profit service, the following fees:
 - a. A \$50 registration fee, as required under A.R.S. § 36-2212(D); and
 - b. A \$200 annual regulatory fee, as required under A.R.S. § 36-2240(4).
- C.** Except as provided in A.R.S. § 36-2232(A)(11), the Department shall inspect each ground ambulance vehicle according to R9-25-1004(A) and (B) to determine compliance with the provisions of A.R.S. Title 36, Chapter 21.1 and this Article:
1. Within 30 calendar days before an initial certificate of registration is issued by the Department; and
 2. At least every 12 months thereafter, before issuing a renewal certificate of registration.
- D.** The Department shall review and approve or deny each application as described in Article 12 of this Chapter.
- E.** If the Department approves the application and sends the applicant the written notice of approval, specified in R9-25-1201(C)(5), the Department shall issue the certificate of registration to the applicant:
1. For an applicant with a current and valid certificate of necessity issued under Article 9 of this Chapter, within five working days after the date on the written notice of approval; and
 2. For an applicant that does not have a current and valid certificate of necessity issued under Article 9 of this Chapter, when the certificate of necessity is issued.
- F.** The Department may deny a certificate of registration for a ground ambulance vehicle if the applicant:

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1. Fails to meet the eligibility requirements of subsection (A);
2. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;
3. Fails or has failed to comply with any provision in this Article or Article 2, 9, or 11 of this Chapter;
4. Knowingly or negligently provides false documentation or false or misleading information to the Department; or
5. Fails to submit to the Department documents or information requested under R9-25-1201(B)(1) or (C)(3) and requests a denial as permitted under R9-25-1201(E).

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-1002. Term and Transferability of Certificates of Registration (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, and 41-1092.11)

- A. The Department shall issue an initial certificate of registration:
 1. With a term of one year from date of issuance of the initial certificate of registration; or
 2. If requested by the applicant, with a term shorter than one year that allows for the Department to conduct annual inspections of all of the applicant's ground ambulance vehicles at one time.
- B. The Department shall issue a renewal certificate of registration with a term of one year from the expiration date on the previous certificate of registration.
- C. If a certificate holder submits an application for renewal as described in R9-25-1001 before the expiration date of the current certificate of registration, the current certificate of registration does not expire until the Department has made a final determination on the application for renewal, as provided in A.R.S. § 41-1092.11.
- D. A certificate of registration is not transferable from one person to another.
- E. If there is a change in the ownership of a ground ambulance vehicle or the person who can legally possess and operate the ground ambulance vehicle, the new owner or person who can legally possess and operate the ground ambulance vehicle shall apply for and obtain a new certificate of registration before operating the ground ambulance vehicle in this state.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). R9-25-1002 renumbered to R9-25-1005; new R9-25-1002 made by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-1003. Changes Affecting Registration (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2238, and 36-2247)

- A. At least 30 days before the date of a change in a certificate holder's name, the certificate holder shall send the Department written notice of the name change.
- B. Within 30 days after the date of receipt of a notice described in subsection (A), the Department shall issue an amended certificate of registration that incorporates the name change but

retains the expiration date of the current certificate of registration.

- C. No later than 10 days after a certificate holder ceases to operate a ground ambulance vehicle, the certificate holder shall send the Department written notice of the date that the certificate holder ceased to operate the ground ambulance vehicle and of the certificate holder's intention to relinquish the certificate of registration for the ground ambulance vehicle as of that date.
- D. Within 30 days after the date of receipt of a notice described in subsection (C), the Department:
 1. Shall:
 - a. Void the certificate of registration for the ground ambulance vehicle; and
 - b. Send the certificate holder written confirmation of the voluntary relinquishment of the certificate of registration, with an effective date that corresponds to the written notice; and
 2. If the ground ambulance vehicle is the only ground ambulance vehicle operated by a ground ambulance service, may revoke the certificate of necessity of the ground ambulance service.
- E. A certificate holder shall notify the Department in writing within one working day after a change in the certificate holder's eligibility to hold a certificate of registration for a ground ambulance vehicle under R9-25-1001(A)(2) or (3).
- F. Upon receiving a notification required in subsection (E), the Department:
 1. Shall revoke the certificate for the ground ambulance vehicle; and
 2. If the ground ambulance vehicle is the only ground ambulance vehicle operated by a ground ambulance service, may revoke the certificate of necessity of the ground ambulance service.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 3487, with an immediate effective date of December 4, 2018 (Supp. 18-4). R9-25-1003 repealed; new R9-25-1003 made by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-1004. Ground Ambulance Vehicle Inspections (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2232(A)(11), and 36-2241)

- A. Except as provided in R9-25-910(B) and subsection (B)(2), an applicant or a certificate holder shall:
 1. Make a ground ambulance vehicle, equipment, and supplies available for inspection within Arizona within 10 working days after a request by the Department; and
 2. Upon the Department's request, provide the opportunity to ride in or operate the ground ambulance vehicle being inspected.
- B. The Department:
 1. Shall inspect:
 - a. Each ground ambulance vehicle according to R9-25-1005 and Table 10.1,
 - b. Supplies and equipment according to Table 10.2, and

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- c. For the level of service the ground ambulance vehicle is expected to be used to provide;
 - 2. May inspect, without prior notification, a ground ambulance vehicle or supplies and equipment, for the level of service a ground ambulance vehicle is being used to provide at the time of inspection; and
 - 3. Shall conduct each inspection in compliance with A.R.S. § 41-1009.
 - C. As permitted under A.R.S. § 36-2232(A)(11), upon a certificate holder's request and at the certificate holder's expense, the annual inspection of a ground ambulance vehicle required for renewal of a certificate of registration may be conducted by a Department-approved inspection facility according to Table 10.1.
 - D. A certificate holder may request the Department to inspect all of the certificate holder's ground ambulance vehicles at the same date and location.
 - E. If, after inspection of a certificate holder's ground ambulance vehicle according to Table 10.1, the Department determines that the ground ambulance vehicle has:
 - 1. A major defect, the certificate holder shall take the ground ambulance vehicle out-of-service until the major defect is corrected; or
 - 2. A minor defect, the certificate holder:
 - a. May allow the ground ambulance vehicle to be operated to transport patients for up to 15 calendar days while the minor defect is corrected; and
 - b. After 15 calendar days, shall take the ground ambulance vehicle out-of-service until the minor defect is corrected, unless granted an extension of time, according to subsection (F), to repair the minor defect.
 - F. The Department may grant an extension of time for a certificate holder to repair a minor defect upon a written request from the certificate holder, detailing the reasons for the need of an extension of time.
 - G. Within 15 calendar days after the date of repair of a major defect or minor defect, a certificate holder shall submit written notice and documentation of the repair to the Department.
- Historical Note**
- New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).
 Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). R9-25-1004 repealed; new R9-25-1004 made by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).
- R9-25-1005. Minimum Standards for Ground Ambulance Vehicles (Authorized by A.R.S. §§ 36-2202(A)(5), 36-2232(C)(5))**
- A. An applicant for a certificate of registration or a certificate holder shall ensure that a ground ambulance vehicle is marked on the sides of the ground ambulance vehicle with the legal business or corporate name of the applicant or certificate holder, with letters not less than six inches in height.
 - B. An applicant for a certificate of registration or a certificate holder shall ensure a ground ambulance vehicle is equipped with the following:
 - 1. An engine intake air cleaner that meets the ground ambulance vehicle manufacturer's engine specifications;
 - 2. A brake system that meets the requirements in A.R.S. § 28-952;
 - 3. A cooling system in the engine compartment that maintains the engine temperature operating range required to prevent damage to the ground ambulance vehicle engine;
 - 4. A battery:
 - a. With no leaks, corrosion, or other visible defects; and
 - b. As measured by a voltage meter, capable of generating:
 - i. 12.6 volts at rest, and
 - ii. 13.2 to 14.2 volts on high idle with all electrical equipment turned on;
 - 5. A wiring system in the engine compartment designed to prevent the wire from being cut by or tangled in the engine or hood;
 - 6. Hoses, belts, and wiring with no visible defects;
 - 7. An electrical system capable of maintaining a positive amperage charge while the ground ambulance vehicle is stationary and operating at high idle with headlights, running lights, patient compartment lights, environmental systems, and all warning devices turned on;
 - 8. An exhaust pipe, muffler, and tailpipe that meet the requirements in A.R.S. § 28-955 under the ground ambulance vehicle and securely attached to the chassis;
 - 9. A frame capable of supporting the:
 - a. Gross vehicle weight of the ground ambulance vehicle; and
 - b. The anticipated weight of ambulance attendants, supplies and equipment, and patients;
 - 10. A horn that meets the requirements in A.R.S. § 28-954(A);
 - 11. A siren that meets the requirements in A.R.S. § 28-954(E);
 - 12. A front bumper that is positioned at the forward-most part of the ground ambulance vehicle extending to the ground ambulance vehicle's outer edges;
 - 13. A fuel cap of a type specified by the manufacturer for each fuel tank;
 - 14. A steering system to include:
 - a. For a hydraulic power steering system:
 - i. Power-steering belts free from frays, cracks, or slippage;
 - ii. Power-steering system that is free from leaks; and
 - iii. Fluid in the power-steering system that fills the reservoir between the full level and the add level indicator on the dipstick;
 - b. For an electrical or other type of steering system that does not contain the components of a hydraulic power steering system, components that:
 - i. Provide the same functions as a hydraulic power steering system, and
 - ii. Meet manufacturer's specifications; and
 - c. Bracing extending from the center of the steering wheel to the steering wheel ring that is not cracked;
 - 15. Front and rear shock absorbers that are free from leaks;
 - 16. Tires on each axle that:
 - a. Are properly inflated;
 - b. Are of equal size, equal ply ratings, and equal type;
 - c. Are free of bumps, knots, or bulges;
 - d. Have no exposed ply or belting; and
 - e. Have tread groove depth equal to or more than 4/32 inch;

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17. An air cooling system capable of achieving and maintaining a 20° F difference between the air intake and the cool air outlet;
 18. Air cooling and heater hoses secured in all areas of the ground ambulance vehicle and chassis to prevent wear due to vibration;
 19. Body free of damage or rust that interferes with the physical operation of the ground ambulance vehicle or creates a hole in the driver's compartment or the patient compartment;
 20. Windshield defrosting and defogging equipment;
 21. Emergency warning lights that provide 360° conspicuity;
 22. At least one 5-lb. ABC dry, chemical, multi-purpose fire extinguisher in a quick release bracket, either disposable with an indicator of a full charge or with a current inspection tag;
 23. A heating system capable of achieving and maintaining a temperature of not less than 68° F in the patient compartment within 30 minutes;
 24. Sides of the ground ambulance vehicle insulated and sealed to prevent dust, dirt, water, carbon monoxide, and gas fumes from entering the interior of the patient compartment and to reduce noise;
 25. Interior patient compartment wall and floor coverings that are:
 - a. In good repair and capable of being disinfected, and
 - b. Maintained in a sanitary manner;
 26. Padding over exit areas from the patient compartment and over sharp edges in the patient compartment;
 27. Secured interior equipment and other objects;
 28. When present, hangers or supports for equipment mounted not to protrude more than 2 inches when not being used;
 29. Functional lamps and signals, including:
 - a. Bright and dim headlamps,
 - b. Brake lamps,
 - c. Parking lamps,
 - d. Backup lamps,
 - e. Tail lamps,
 - f. Turn signal lamps,
 - g. Side marker lamps,
 - h. Hazard lamps,
 - i. Patient loading door lamps and side spot lamps,
 - j. Spot lamp in the driver's compartment and within reach of the ambulance attendant, and
 - k. Patient compartment interior lamps;
 30. Side-mounted rear vision mirrors and wide vision mirror mounted on, or attached to, the side-mounted rear vision mirrors or other optical devices allowing monitoring of the area surrounding the ground ambulance vehicle;
 31. A patient loading door that permits the safe loading and unloading of a patient occupying a stretcher in a supine position;
 32. At least two means of egress from the patient compartment to the outside through a door;
 33. Functional open door securing devices on a patient loading door;
 34. Patient compartment upholstery free of cuts or tears and capable of being disinfected;
 35. A three-point occupant restraint system installed for each seat in the driver's compartment;
 36. A restraint system installed for each seat in the patient compartment:
 - a. For a ground ambulance vehicle manufactured before January 1, 2025, that consists of at least a seat belt; and
 - b. For a ground ambulance vehicle manufactured on or after January 1, 2025, with at least three-points of contact with the occupant of a seat;
 37. A wheeled, multi-level stretcher that is:
 - a. Suitable for supporting a patient at each level;
 - b. At least 69 inches long and 20 inches wide;
 - c. Rated for use with a patient weighing either:
 - i. Up to 350 pounds, or
 - ii. For a ground ambulance vehicle capable of transporting a patient weighing over 350 pounds, up to the rated capability of the ground ambulance vehicle;
 - d. Adjustable to allow a patient to recline and to elevate the patient's head and upper torso to an angle at least 70° from the horizontal plane;
 - e. Equipped with a mattress that has a protective cover that is free of cracks, cuts, or tears and capable of being disinfected;
 - f. Equipped with a five-point restraint system to secure a patient during transport; and
 - g. Equipped to secure the stretcher to the interior of the vehicle during transport using the fastener required under subsection (B)(38);
 38. A crash stable side or center mounting fastener of the quick release type to secure a stretcher to a ground ambulance vehicle;
 39. Windshield and windows free of obstruction;
 40. A windshield free from unrepaired starred cracks and line cracks that extend more than 1 inch from the bottom or sides of the windshield or that extend more than 2 inches from the top of the windshield;
 41. A windshield-washer system that applies enough cleaning solution to clear the windshield;
 42. Operable windshield wipers with a minimum of two speeds;
 43. Functional hood latch for the engine compartment;
 44. Fuel system with fuel tanks and lines that meets manufacturer's specifications;
 45. Suspension system that meets the ground ambulance vehicle manufacturer's specifications;
 46. Instrument panel that meets the ground ambulance vehicle manufacturer's specifications; and
 47. Wheels that meet and are mounted according to manufacturer's specifications.
- C.** An applicant for a certificate of registration or a certificate holder shall ensure that a ground ambulance vehicle is equipped:
1. To provide, and capable of providing, voice communication between:
 - a. An ambulance attendant and the dispatch center; and
 - b. An ambulance attendant and a source from which the ambulance attendant may request and receive on-line medical direction, according to R9-25-201(E)(2)(a)(i); and
 2. Except as provided in subsection (E), with a global positioning monitoring device to enable the recording of times of arrival on-scene for determining response times.
- D.** An applicant for a certificate of registration or a certificate holder shall ensure that a ground ambulance vehicle is equipped, as specified in Table 10.2, to provide the level of service for which the ground ambulance vehicle is to be used.

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- E. An applicant for a certificate of registration or a certificate holder may request a waiver of the requirement in subsection (C)(2) by submitting to the Department, on an annual basis and in a Department-provided format, the following information:
1. The applicant's or certificate holder's name;
 2. If applicable, the identification number of the certificate of necessity under which the ground ambulance vehicle is registered;
 3. The identifying information specified in R9-25-1001(B)(1)(c) for the ground ambulance vehicle to which the waiver would pertain;
 4. A reason and justification for the waiver;
 5. The name, title, address, email address, and telephone number of the individual acting on behalf of the applicant or certificate holder according to R9-25-102;
 6. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-25-1201(C)(3);
 7. Attestation that the information provided is accurate and complete; and
 8. The signature of the specified according to subsection (E)(5) and date signed.
- Historical Note**
New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). R9-25-1005 repealed; new R9-25-1005 renumbered from R9-25-1002 and amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).
- R9-25-1006. Repealed**
- Historical Note**
New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Repealed by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

Table 10.1. Major and Minor Defects (Authorized by A.R.S. §§ 36-2202(A)(5), 36-2212, 36-2232, 36-2234)

The Department classifies defects on a ground ambulance vehicle as major or minor as follows:

| INSPECTION ITEM | MAJOR DEFECT | MINOR DEFECT |
|-----------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| EXTERIOR: | | |
| Emergency warning lights | Lack of 360° of conspicuity | Cracked, broken, or missing lens Inoperative lamps |
| Ground ambulance vehicle body | Damage or rust to the exterior of the ground ambulance vehicle, which interferes with the operation of the ground ambulance vehicle Damage resulting in a hole in the driver's compartment or the patient compartment Holes that may allow exhaust or dust to enter the patient compartment Bolts attaching body to chassis loose, broken, or missing | Damage resulting in cuts or rips to the exterior of the ground ambulance vehicle |
| Marking | | Missing company identification Incorrect size or location |
| Mirrors or other optical devices allowing monitoring of the area surrounding the ground ambulance vehicle | Exterior rear vision or wide vision mirrors missing or An optical device not functioning according to manufacturer's specifications | Cracked mirror glass Loose mounting bracket bolts or screws Broken mirrors Loose or broken mounting brackets Missing mounting bracket bolts or screws |
| Windshield | | Unrepaired starred cracks or line cracks extending more than 1 inch from the bottom or side of the windshield Unrepaired starred cracks or line cracks extending more than 2 inches from the top of the windshield |
| Windows | | Placement of nontransparent materials which obstruct view Cracked or broken |
| Fuel caps | Fuel caps missing or of a type not specified by the manufacturer | |
| Bumpers | | Loose or missing bumper |
| Patient compartment doors | Completely or partially missing window panel Two means of egress missing or inoperative | Inoperative open door securing devices Cracked window panels |
| Padding over exit areas | | Missing padding over exits in the patient compartment Deterioration of padding |

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| Fire extinguisher | Absent or non-functional | Not at full charge Expired inspection tag |
| Exhaust system | Exhaust fumes in the patient or driver compartment | Muffler not securely attached to the chassis and tailpipe Exhaust pipe brackets not securely attached to the chassis and tailpipe End of tailpipe pinched or bent |
| Wheels | Loose or missing lug nuts Broken lugs Cracked or bent rims | |
| Tires | Tires on each axle are not of equal size, equal ply ratings, and equal type Bumps, knots, or bulges on any tire Exposed ply or belting on any tire Flat tire on any wheel | Tread groove depth less than 4/32" measured in a tread groove on any tire Not properly inflated |
| EXTERIOR LIGHTING: | | |
| Head lamps | Inoperative | High beam inoperative Low beam inoperative Inoperative dimmer switch |
| Brake lamps | Both inoperative | One inoperative |
| Parking lamps | | Inoperative |
| Back-up lamps | | Inoperative Cracked, broken, or missing lens |
| Tail lamps | Both inoperative | One inoperative Cracked, broken, or missing lens |
| Turn signal lamps | | Any turn signal lamp inoperative Cracked, broken, or missing lens |
| Side marker lamps | | Inoperative Cracked, broken, or missing lens |
| Hazard lamps | | Inoperative |
| Loading lamps | | Inoperative Cracked, broken, or missing lens |
| ENGINE COMPARTMENT AND BATTERY: | | |
| Engine compartment | | Inoperative hood latch Deterioration of hoses, belts, or wiring Air cooling and heater hoses not secured Fluid leaks other than engine cooling system |
| Battery | Not secured For a vehicle powered by an electric motor, not meeting manufacturer's guidelines for use | Deterioration of battery hold-down clamps Corrosive acid buildup on battery terminals Incapable of generating voltage in compliance with R9-25-1005(B)(4)(b) |
| Electrical system | Does not comply with R9-25-1005(B)(7) | |
| Engine compartment wiring system | | Does not comply with R9-25-1005(B)(5) |
| Engine cooling system | Does not comply with R9-25-1005(B)(3) | Leaks in system Inadequate fluid in reservoir |
| Engine intake air cleaner | | Does not comply with R9-25-1005(B)(1) |
| DRIVER'S COMPARTMENT: | | |
| Air cooling system | Does not maintain temperature required according to R9-25-1005(B)(17) | Unsecured hoses |
| Instrument panel | | Inoperative gauges, switches, or illumination |
| Global positioning monitoring device | | Except if under a waiver granted under R9-25-1005(E), lack of operative equipment |
| Horn | | Inoperative |

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| | | |
|---------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| Siren | Inoperative | |
| Steering wheel bracing | Steering wheel bracing cracked | |
| Windshield-washer system | | Does not comply with R9-25-1005(B)(41) |
| Windshield defroster/defogger | | Inoperative Ventilation system openings partially blocked |
| Windshield wipers | Inoperative wiper on driver's side | Inoperative speed control Split or cracked wiper blade Inoperative wiper on passenger's side |
| Windshield | Windshield that is obstructed Placement of nontransparent materials that obstruct view | |
| Equipment | | Inability to secure equipment |
| Occupant restraint system | Absence of an occupant restraint system or inoperative occupant restraint system in the driver's compartment | Frayed material on the occupant restraint system |
| Spot lamp in driver's compartment | | Inoperative |
| Exhaust system | Exhaust fumes in the driver's compartment | |
| PATIENT COMPARTMENT: | | |
| Air cooling system | Does not maintain temperature required according to R9-25-1005(B)(17) | Unsecured hoses |
| Heating system | | Unsecured hoses Does not maintain minimum temperature required in R9-25-1005(B)(23) |
| Equipment | Inability to secure oxygen tanks Inability of fixed oxygen tank to hold pressure | Inability to secure other equipment Inability of portable oxygen tank to hold pressure |
| Interior wall and floor coverings and seat upholstery | Visible blood, body fluids, or tissue | Unrepaired cuts or holes in seats Missing pieces of floor covering Upholstery, floor, walls, or ceiling not capable of being disinfected |
| Occupant restraint systems and securing belts | More than one inoperative occupant restraint system in the patient compartment Absence of securing belts on a stretcher | Frayed material on the occupant restraint system or securing belt One inoperative occupant restraint system in the patient compartment |
| Stretcher fastener | Does not comply with R9-25-1005(B)(38) | |
| Hangers | | Supports or hangers protruding more than 2" when not being used |
| Edges | | Presence of exposed sharp edges |
| Patient Compartment interior lamps | All lamps inoperative | Inoperative individual lamps Missing lens |
| Stretcher | Does not comply with R9-25-1005(B)(37) | |
| Exhaust system | Exhaust fumes in the patient compartment | |
| COMMUNICATION EQUIPMENT: | | |
| Communication capability between an ambulance attendant and the dispatch center | Lack of operative communication equipment | |
| Communication capability between an ambulance attendant and the physician providing on-line medical direction | Lack of operative communication equipment | |
| GENERAL SYSTEMS: | | |
| Frame | Cracks in frame | |
| Suspension | Broken suspension parts U-bolts loose or missing | Bent suspension parts Leaking shock absorbers Cracks or breaks in shock absorber mounting brackets |
| Side insulation | Missing or settled insulation | Inadequate insulation |
| Parking brake | | Inoperative |
| Vehicle brakes | Inoperative | Fluid leaks |

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|-----------------|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Steering system | Inoperative | Power steering belts slipping Power steering belts cracked or frayed Fluid leaks Fluid does not fill the reservoir between the full level and the add level indicator on the dipstick |
|-----------------|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Historical Note

New Table 10.1 made by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

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Table 10.2. Minimum Equipment and Supplies for Ground Ambulance Vehicles (Authorized by A.R.S. § 36-2202(A)(5))

An applicant for a certificate of registration or a certificate holder shall ensure that a ground ambulance vehicle contains, at a minimum, the following operational equipment and supplies based on the level of service of use:

| MINIMUM EQUIPMENT AND SUPPLIES | | BLS | ALS |
|-------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-----|
| A. Ventilation and Airway Equipment | | | |
| 1. | Portable and fixed suction apparatus | X | X |
| 2. | Wide-bore tubing, rigid pharyngeal curved suction tip and flexible suction catheters in the following French sizes: a. Two in 6, 8, or 10; and b. Two in 12, 14, or 16 | X | X |
| 3. | One fixed oxygen cylinder or equivalent with a minimum capacity of 106 cubic feet, a minimum pressure of 500 p.s.i., and a variable flow regulator | X | X |
| 4. | One portable oxygen cylinder with a minimum capacity of 13 cubic feet, a minimum pressure of 500 p.s.i., and a variable flow regulator | X | X |
| 5. | Oxygen administration equipment, including tubing; non-rebreathing masks (adult, pediatric, and infant sizes); and nasal cannulas (adult, pediatric, and infant sizes) | X | X |
| 6. | Bag-valve mask, with hand-operated, self-reexpanding bag (adult size), with oxygen reservoir/accumulator; mask (adult, pediatric, infant, and neonate sizes); and valve | X | X |
| 7. | Airways, nasal (adult, pediatric, and infant sizes), one each in French sizes 16 to 34 | X | X |
| 8. | Airways, oropharyngeal, two each in adult, pediatric, and infant sizes | X | X |
| 9. | Laryngoscope handle, adult and pediatric, with, if applicable, extra batteries and bulbs | - | X |
| 10. | Laryngoscope blades, one each in sizes 0, 1, and 2, straight; sizes 3 and 4, straight and curved | - | X |
| 11. | Endotracheal tubes, sizes 2.5-5.5 mm cuffed or uncuffed and 6.0-9.0 mm cuffed | - | X |
| 12. | Endotracheal tube cuff pressure manometer | - | X |
| 13. | Stylettes for Endotracheal tubes, one each in adult and pediatric sizes | - | X |
| 14. | One type of supraglottic airway device | - | X |
| 15. | Two 10 mL straight-tip syringes | - | X |
| 16. | Two long, large-bore needles for needle chest decompression, 2" to 3.25" long and 14-16G | - | X |
| 17. | Hand-held nebulizer(s) | - | X |
| 18. | Aerosol masks, one each adult and pediatric | - | X |
| 19. | Magill forceps, adult and pediatric | - | X |
| 20. | Nasogastric tubes, sizes 5F and 8F, Salem sump sizes 14F and 18F | - | X |
| 21. | End-tidal CO2 detectors, quantitative, with capability for adult and pediatric patients | - | X |
| 22. | Non-Invasive Positive Pressure Ventilation (NIPPV) device with one mask in each available size | - | X |
| 23. | In-line viral/bacterial filter | - | X |
| B. Monitoring and Defibrillation | | | |
| 1. | Automatic external defibrillator | X | - |
| 2. | One portable, battery-operated monitor/defibrillator, with tape write-out/recorder, defibrillator pads, adult and pediatric paddles or hands-free patches, ECG leads, and adult and pediatric chest attachment electrodes | - | X |
| 3. | Transcutaneous cardiac pacemaker, either stand-alone unit or integrated into monitor/defibrillator, including pediatric pads and cables | - | X |
| C. Stretchers and Immobilization Devices | | | |
| 1. | One stair chair or another mechanism for safely moving a patient in an upright sitting position | X | X |
| 2. | Cervical immobilization devices, rigid, adjustable or two each in small, medium, and large sizes | X | X |
| 3. | Head immobilization device, either firm padding or another commercial device | X | X |
| 4. | Lower extremity (femur) traction device, including lower extremity, limb support slings, padded ankle hitch, padded pelvic support, and traction strap (one adult-sized and one child-sized) | X | X |
| 5. | Two upper and two lower extremity immobilization splints in each of small, medium and large sizes | X | X |
| 6. | Two full-length spine boards | X | X |
| 7. | Supplies to secure a patient to a spine board, including at least three appropriate restraint straps (not using a single chin strap for head immobilization) | X | X |
| 8. | One cervical-thoracic spinal immobilization device for extrication | X | X |
| D. Bandages | | | |
| 1. | Burn pack, including standard package, two sterile burn sheets | X | X |
| 2. | Dressings, including sterile multi-trauma dressings (various large and small sizes, including three sized 10" x 12" or larger) | X | X |
| 3. | Two abdominal pads, 10" x 12" or larger | X | X |
| 4. | Fifty non-sterile 4" x 4" gauze sponges | X | X |
| 5. | Two triangular bandages | X | X |
| 6. | Four gauze rolls, sterile (4" or larger) | X | X |

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| 7. | Ten soft roller bandages, non-sterile (4" or larger) | X | X |
| 8. | Four occlusive dressing, sterile, 3" x 8" or larger | X | X |
| 9. | Adhesive or self-adhesive tape, including various sizes (1" or larger) hypoallergenic adhesive and two various sizes (1" or larger) adhesive or self-adhesive | X | X |
| E. Obstetrical | | | |
| 1. | Sterile obstetrical kit, including towels, 4" x 4" dressing, umbilical tape, sterile scissors or other cutting utensil, bulb suction, clamps for cord, sterile gloves, blankets, and a head cover | X | X |
| 2. | An alternate portable patient heat source or 2 heat packs | X | X |
| F. Miscellaneous | | | |
| 1. | Sphygmomanometer (infant, pediatric, and adult regular and large sizes) | X | X |
| 2. | Stethoscope | X | X |
| 3. | Pediatric equipment sizing reference guide | - | X |
| 4. | Thermometer with low temperature capability | X | X |
| 5. | Paramedic or trauma shears capable of cutting heavy bandages, clothing, belts, and boots | X | X |
| 6. | Cold packs | X | X |
| 7. | Two flashlights with extra batteries or recharger, as applicable | X | X |
| 8. | Two blankets | X | X |
| 9. | One blanket with head cover made of heat-reflective material | X | X |
| 10. | Two sheets | X | X |
| 11. | Two cloth towels, each at least 12" by 12" in size | X | X |
| 12. | Five disposable emesis bags or basins | X | X |
| 13. | Lubricating jelly (water soluble) | X | X |
| 14. | Glucometer or blood glucose measuring device with reagent strips | X | X |
| 15. | Pulse oximeter with pediatric and adult probes | X | X |
| 16. | Automatic blood pressure monitor | - | X |
| 17. | Trauma arterial tourniquet | X | X |
| 18. | One scalpel | - | X |
| 19. | Mass casualty triage sorting capability for at least 50 individuals (triage tags) | X | X |
| 20. | Beginning April 2024, a method to electronically document patient information and treatment that is capable of being transferred | X | X |
| G. Infection Control (Latex-free equipment shall be available) | | | |
| 1. | Two sets of eye protection (full peripheral glasses or goggles, face shield) | X | X |
| 2. | Two masks, at least as protective as a National Institute for Occupational Safety and Health-approved N-95 respirator, which are fit-tested | X | X |
| 3. | Two pairs of gloves, non-sterile, and three pairs of non-latex gloves | X | X |
| 4. | Two jumpsuits or gowns | X | X |
| 5. | Two pairs of shoe covers | X | X |
| 6. | Disinfectant hand wash, commercial antimicrobial (towelette, spray, or liquid) | X | X |
| 7. | Disinfectant solution for cleaning equipment | X | X |
| 8. | Standard sharps containers | X | X |
| 9. | Disposable red trash bags | X | X |
| 10. | Ten protective facemasks or cloth face coverings for patients | X | X |
| H. Injury Prevention Equipment | | | |
| 1. | Safety vest or other garment with reflective material for each personnel member | X | X |
| 2. | Hazardous material reference guide | X | X |
| 3. | Hearing protection for personnel | X | X |
| I. Vascular Access | | | |
| 1. | The following intravenous solution administration sets: | - | X |
| a. | Four intravenous solution administration sets, capable of delivering 10 drops per cc | | |
| b. | Four intravenous solution administration sets capable of delivering 60 drops per cc | | |
| 2. | Antiseptic solution (alcohol wipes and povidone-iodine wipes) | X | X |
| 3. | Intravenous pressure infuser device or mechanical capability | - | X |
| 4. | Intravenous catheters, one each of 14, 16, 18, 20, 22, and 24 G | - | X |
| 5. | Two intraosseous needles, each capable of use in adult and pediatric patients | - | X |
| 6. | Venous tourniquet | - | X |

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| 7. The following syringes: | - | X |
| a. Two 1 mL tuberculin, | | |
| b. Four 3 mL, | | |
| c. Four 5 mL, | | |
| d. Four 10-12 mL, | | |
| e. Two 20 mL, and | | |
| f. Two 50-60 mL | | |
| 8. Three 5 micron filter needles | - | X |
| 9. Assorted sizes of non-filter needles | - | X |
| 10. Intravenous arm boards, adult and pediatric | - | X |
| J. Medications | | |
| 1. Agents specified in a table of agents, established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references , that an administrative medical director may authorize for use based on the EMCT classification | X | X |
| 2. Sterile saline for irrigation | X | X |

Historical Note

New Table 10.2 made by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

ARTICLE 11. GROUND AMBULANCE SERVICE RATES AND CHARGES; CONTRACTS

R9-25-1101. Establishing Initial General Public Rates (Authorized by A.R.S. §§ 36-2232, 36-2239)

A. As provided in R9-25-902(A)(19), an applicant wanting to establish initial general public rates as part of an application for an initial certificate of necessity shall include the following in the application packet submitted to the Department according to R9-25-902(A):

1. A copy of the applicant's financial statements, covering the most recent consecutive 12-month period;
2. A copy of the purchase agreements or lease agreements listed according to R9-25-902(A)(17), if not already submitted according to R9-25-902(A)(28);
3. For all business organizations or governmental entities affiliated with the applicant listed according to R9-25-902(A)(1)(d), the methodology and calculations used in allocating costs among the applicant and government entities or profit or not-for-profit businesses;
4. Other documents, exhibits, or statements that may assist the Department in setting the general public rates; and
5. Any other information or documents requested by the Director to clarify or complete the application.

B. A certificate holder applying for initial general public rates shall submit to the Department:

1. The following information, in a Department-provided format:
 - a. The identifying number on the certificate holder's current certificate of necessity;
 - b. The legal business or corporate name, address, telephone number, and facsimile number of the ground ambulance service;
 - c. Any other names by which the certificate holder is known;
 - d. The names of all other business organizations or governmental entities operated by the certificate holder related to the ground ambulance service;
 - e. The name, title, address, email address, and telephone number of the following:
 - i. Each certificate holder and individual responsible for managing the ground ambulance service,

- ii. The individual acting for the certificate holder according to R9-25-102,
- iii. The individual to contact to access the ground ambulance service's records required in R9-25-908(B), and
- iv. The statutory agent for the ground ambulance service or the individual designated by the certificate holder to accept service of process and subpoenas for the ground ambulance service;

- f. The requested general public rates;
- g. Whether the certificate holder agrees to allow the Department to submit supplemental requests for information under R9-25-1201(C)(3);
- h. Attestation that the information or documents submitted to the Department are true and correct; and
- i. The signature of the individual acting for the certificate holder according to R9-25-102 and the date signed;

2. A copy of the certificate holder's financial statements, covering the most recent consecutive 12-month period;
3. A projected Ambulance Revenue and Cost Report covering the first consecutive 12 months of operation under the requested general public rates in subsection (B)(1)(f);
4. A copy of all actual or anticipated purchase agreements or lease agreements to be used in connection with the ground ambulance service, including the monetary amount and duration of each agreement, for:
 - a. Real estate,
 - b. Ground ambulance vehicles, or
 - c. Equipment exceeding \$10,000;
5. For all business organizations or governmental entities affiliated with the certificate holder listed according to subsection (B)(1)(d), the methodology and calculations used in allocating costs among the certificate holder and business organizations or governmental entities;
6. Other documents, exhibits, or statements that may assist the Department in setting the general public rates; and
7. Any other information or documents requested by the Director to clarify or complete the application.

C. Each certificate holder requesting to apply for a uniform general public rate under A.R.S. § 36-2232(E) shall submit to the Department:

1. The information required in subsection (B)(1);

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2. The documents required in subsections (B)(4) through (7);
 3. A copy of the certificate holder's financial statements, covering the most recent consecutive 24-month period;
 4. Projected Ambulance Revenue and Cost Reports covering the first consecutive 24 months of operation under the requested general public rates in subsection (B)(1)(f); and
 5. A document signed by each certificate holder requesting to apply for a uniform general public rate under A.R.S. § 36-2232(E).
- D.** The Department shall review an application under subsection (B) or (C) according to R9-25-1106, R9-25-1107, and R9-25-1201 and approve or deny the application according to A.R.S. § 36-2232 and Article 12 of this Chapter.
- Historical Note**
- New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).
Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).
- R9-25-1102. Application for Adjustment of General Public Rates (Authorized by A.R.S. §§ 36-2234, 36-2239)**
- A.** A certificate holder applying for an adjustment of general public rates not exceeding the monetary amount calculated according to A.R.S. § 36-2234(G) shall submit to the Department, in a Department-provided format:
1. The name of the certificate holder,
 2. The identifying number on the certificate holder's current certificate of necessity,
 3. A statement that the certificate holder is making the request according to A.R.S. § 36-2234(G),
 4. A statement that the certificate holder has not applied for an adjustment to the certificate holder's general public rates within the previous six months,
 5. The amount of the requested general public rate,
 6. The effective date of the requested general public rate adjustment,
 7. An attestation that the information provided by the certificate holder is true and correct, and
 8. The signature of the individual acting for the certificate holder according to R9-25-102 and the date signed.
- B.** A certificate holder requesting an adjustment of general public rates exceeding the monetary amount calculated according to A.R.S. § 36-2234(G) shall submit to the Department:
1. The following information in a Department-provided format:
 - a. The identifying number on the certificate holder's current certificate of necessity;
 - b. The legal business or corporate name, address, telephone number, and facsimile number of the ground ambulance service;
 - c. Any other names by which the certificate holder is known;
 - d. The names of all other business organizations or governmental entities operated by the certificate holder related to the ground ambulance service;
 - e. The name, title, address, email address, and telephone number of the following:
 - i. Each entity and individual responsible for managing the ground ambulance service,
 - ii. The individual acting for the certificate holder according to R9-25-102,
 - iii. The individual to contact to access the ground ambulance service's records required in R9-25-908(B), and
 - iv. The statutory agent for the ground ambulance service or the individual designated by the certificate holder to accept service of process and subpoenas for the ground ambulance service;
 - f. A statement that the certificate holder is making the request according to A.R.S. § 36-2234(C);
 - g. The reason for the general public rate adjustment request;
 - h. The requested general public rates;
 - i. A statement that the certificate holder has not applied for an adjustment to the certificate holder's general public rates within the previous six months;
 - j. The effective date of the requested general public rate adjustment;
 - k. Whether the certificate holder agrees to allow the Department to submit supplemental requests for information under R9-25-1201(C)(3);
 - l. An attestation that the information and documents provided by the certificate holder are true and correct, and
 - m. The signature of the individual acting for the certificate holder according to R9-25-102 and the date signed;
- 2.** A copy of the certificate holder's financial statements, covering at least:
- a. If applicable under A.R.S. § 36-2234(H), the most recent consecutive 24-month period; or
 - b. The most recent consecutive 12-month period;
- 3.** A copy of the certificate holder's most recent Ambulance Revenue and Cost Report;
- 4.** A projected Ambulance Revenue and Cost Report covering the first consecutive 12 months of operation under the requested general public rates in subsection (B)(1)(h);
- 5.** If the ground ambulance service has a contract with a federal or tribal entity, a copy of the certificate holder's contract with each federal or tribal entity unless the contract has been submitted to the Department and reviewed according to R9-25-1104;
- 6.** A copy of all actual or anticipated purchase agreements or lease agreements to be used in connection with the ground ambulance service, including the monetary amount and duration of each agreement, for:
- a. Real estate,
 - b. Ground ambulance vehicles, or
 - c. Equipment exceeding \$10,000;
- 7.** For all business organizations or governmental entities affiliated with the certificate holder listed according to subsection (B)(1)(d), the methodology and calculations used in allocating costs among the certificate holder and business organizations or governmental entities;
- 8.** Other documents, exhibits, or statements that support the reason for the general public rate adjustment request as specified in subsection (B)(1)(g) and may assist the Department in setting the general public rates; and
- 9.** Any other information or documents requested by the Director to clarify or complete the application.
- C.** An applicant under R9-25-902, requesting to join a group of certificate holders, with a uniform general public rate established according to A.R.S. § 36-2232(E) and R9-25-1101(C), shall submit to the Department:

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1. The information required in R9-25-902(A) and R9-25-1101(A)(1);
 2. The documents required in subsections (B)(5) through (9);
 3. A copy of the applicant's financial statements, covering the most recent consecutive 24-month period;
 4. Projected Ambulance Revenue and Cost Reports covering the first consecutive 24 months of operation under the uniform general public rate; and
 5. Documentation supporting the request, signed by each certificate holder with the uniform general public rate.
- D.** A certificate holder with a uniform general public rate, established according to A.R.S. § 36-2232(E) and R9-25-1101(C), that wants to establish a different general public rate shall submit to the Department:
1. A request according to subsection (A) or (B), as applicable; and
 2. Documentation that the certificate holder has notified the other certificate holders with the uniform public rate of the certificate holder's intention of establishing a different general public rate.
- E.** A certificate holder with a uniform general public rate, established according to A.R.S. § 36-2232(E) and R9-25-1101(C), that is notified according to subsection (D)(2) shall, within 60 calendar days after the date of notification of the Department's decision to grant the different general public rate:
1. Notify the Department of the intention to retain the rate currently on the certificate of necessity; or
 2. Submit to the Department the information and documentation required in subsection (B).
- F.** The Department shall review an application under this Section according to R9-25-1106, R9-25-1107, and R9-25-1201 and approve or deny the application according to A.R.S. §§ 36-2234 and 36-2239 and Article 12 of this Chapter.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-1103. Application for a Contract Rate or Range of Rates Less than General Public Rates (A.R.S. §§ 36-2234(I) and (K), 36-2239)

- A.** A certificate holder applying for approval of a contract rate or range of rates under A.R.S. § 36-2234(I) shall submit to the Department:
1. The following information, in a Department-provided format:
 - a. The name of the certificate holder;
 - b. The identifying number on the certificate holder's current certificate of necessity;
 - c. A statement that the certificate holder is making the request under A.R.S. § 36-2234(I);
 - d. The contract rate or range of rates being requested;
 - e. The effective date of the requested contract rate or range of rates;
 - f. An attestation that the information and documents provided by the certificate holder are true and correct; and
 - g. The signature of the individual acting for the certificate holder according to R9-25-102 and the date signed; and
 2. Information demonstrating the cost and economics of providing the transports for the requested contract rate or range of rates, such as:
 - a. A copy of the certificate holder's most recent Ambulance Revenue and Cost Report; and
 - b. A projected Ambulance Revenue and Cost Report covering the first consecutive 12 months of operation under the requested contract rate or range of rates in subsection (A)(1)(d).
- B.** A certificate holder applying for approval of a contract rate or range of contract rates under A.R.S. § 36-2234(K) shall submit to the Department:
1. The information in subsection (A)(1), in a Department-provided format; and
 2. The documents required in R9-25-1102(B)(2) through (8).
- C.** The Department shall review an application under this Section according to R9-25-1106, R9-25-1107, and R9-25-1201 and approve or deny the application according to A.R.S. §§ 36-2234 and 36-2239 and Article 12 of this Chapter.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-1104. Ground Ambulance Service Contracts (A.R.S. §§ 36-2232, 36-2234(M))

- A.** A certificate holder shall not institute a new service contract between the ground ambulance service and a political subdivision of this state except as provided in A.R.S. § 36-2234(M).
- B.** Before implementing a ground ambulance service contract, a certificate holder shall submit to the Department:
1. A cover letter from the certificate holder, including:
 - a. The name of the certificate holder;
 - b. The identifying number on the certificate holder's current certificate of necessity;
 - c. A statement that the certificate holder is submitting a copy of a ground ambulance service contract according to A.R.S. § 36-2234(M);
 - d. The name of the other party to the ground ambulance service contract, including, if applicable, the name of a political subdivision;
 - e. The name, title, address, email address, and telephone number of an individual representing the other party, as specified according to subsection (B)(1)(d), who the Department may contact about the proposed ground ambulance service contract if necessary;
 - f. The total number of pages of the proposed ground ambulance service contract; and
 - g. The signature of the individual acting for the certificate holder according to R9-25-102 and the date signed; and
 2. A copy of the proposed ground ambulance service contract that:
 - a. Includes the certificate holder's legal name and any other name listed on the certificate holder's current certificate of necessity;
 - b. Includes the name of the other party to the ground ambulance service contract, as specified according to subsection (B)(1)(d);

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- c. Identifies each type of service and level of service to be provided under the proposed ground ambulance service contract;
 - d. Lists the general public rates or contract rate or range of rates approved by the Director according to R9-25-1101, R9-25-1102, or R9-25-1103;
 - e. Complies with A.R.S. §§ 36-2201 through 36-2246 and this Chapter; and
 - f. Does not preclude use of the 9-1-1 system or a similar system.
- C. Except as provided in R9-25-904(A)(2), the Department shall not approve a proposed ground ambulance service contract between two certificate holders.
- D. The Department shall review a proposed ground ambulance service contract under this Section according to A.R.S. §§ 36-2232 and, if applicable, 36-2234(M) and Article 12 of this Chapter.
- E. The Department shall not enforce the provisions of a ground ambulance service contract unless the executed ground ambulance service contract has been approved by the Department and contains language authorizing the Department to enforce the provisions of the ground ambulance service contract.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).
Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-1105. Application for Provision of Subscription Service or to Establish a Subscription Service Rate (A.R.S. § 36-2232(A)(1))

- A. An applicant for an initial certificate of necessity or a certificate holder applying to provide subscription service, establish a subscription service rate, or request approval of a subscription service contract shall submit an application packet to the Department that includes:
1. The following information, in a Department-provided format:
 - a. The name of the applicant or certificate holder;
 - b. The identifying number on the certificate holder's current certificate of necessity, if applicable;
 - c. The number of estimated subscription service contracts;
 - d. An estimate of the number of annual subscription service transports for the service area;
 - e. The proposed subscription service rate;
 - f. An estimate of the cost of providing subscription service to the service area;
 - g. An attestation that the information and documents provided by the applicant or certificate holder are true and correct; and
 - h. The signature of the individual acting for the applicant or certificate holder according to R9-25-102 and the date signed;
 2. A copy of the proposed subscription service contract;
 3. Documents supporting the estimate in subsection (A)(1)(c), such as a survey of the service area;
 4. Documents supporting the estimate in subsection (A)(1)(f); and
 5. Any other information or documents that the certificate holder believes may assist the Department in setting a subscription service rate.

- B. The Department shall review an application under this Section according to R9-25-1106, R9-25-1107, and R9-25-1201 and approve or deny a subscription service rate according to Article 12 of this Chapter.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Section heading corrected at request of the Department, Office File No. M11-313, filed September 12, 2011 (Supp. 10-4). Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-1106. Rate of Return Setting Considerations (A.R.S. §§ 36-2232, 36-2239)

- A. In determining the rate of return on gross revenue in A.R.S. § 36-2239(I)(4), the Director shall consider a ground ambulance service's:
1. Direct costs for operating the ground ambulance service within its service area, including the costs of supplies and equipment;
 2. Indirect costs for operating the ground ambulance service within its service area, such as costs that do not include the costs of supplies or equipment;
 3. Financial statements;
 4. Ratio between variable and fixed costs on the financial statements;
 5. Method of indirect costs allocation to specific cost-center areas;
 6. Return on equity;
 7. Reimbursable and non-reimbursable charges;
 8. Type of business entity;
 9. Monetary amount and type of debt financing;
 10. Replacement and expansion costs;
 11. Number of calls, transports, and billable miles;
 12. Costs associated with rules, inspections, and audits;
 13. Substantiated prior reported losses;
 14. Medicare and AHCCCS settlements, the difference between the general public rate a ground ambulance service assesses a patient and what a ground ambulance service receives from Medicare or AHCCCS as an allowable rate; and
 15. Any other information or documents needed by the Director to clarify incomplete or ambiguous information or documents.
- B. In determining the rate of return on gross revenue in A.R.S. § 36-2239(I)(4), the Director shall not consider:
1. Depreciation of the portion of ground ambulance vehicles and equipment obtained through Department funding;
 2. The certificate holder's travel and entertainment expenses that do not directly relate to providing the EMS or transport;
 3. The monetary value of any goodwill accumulated by the certificate holder, that is, the difference between the purchase price of a ground ambulance service and the fair market value of the ground ambulance service's identifiable net assets;
 4. Any penalties or fines imposed on the certificate holder by a court or government agency; and
 5. Any financial contributions received by the certificate holder.
- C. In determining just, reasonable, and sufficient rates in A.R.S. § 36-2232(A)(1), the Director shall establish rates to provide for a rate of return that is at least 7% of gross revenue, calculated

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using the accrual method of accounting according to generally accepted accounting principles, unless the certificate holder requests a lower rate of return.

- D.** The Department shall calculate the rate of return on gross revenue by dividing net income, as specified according to R9-25-909(A)(16) or (C)(14) as applicable, by gross revenue, as specified according to R9-25-909(A)(3)(b) or (C)(3)(b) as applicable.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-1107. Rate Calculation Factors (A.R.S. § 36-2232)

- A.** When evaluating a proposed mileage rate, the Department shall consider the following factors:
1. The cost of licensure and registration of each ground ambulance vehicle;
 2. The cost of fuel;
 3. The cost of ground ambulance vehicle maintenance;
 4. The cost of ground ambulance vehicle repair;
 5. The cost of tires;
 6. The cost of ground ambulance vehicle insurance;
 7. The cost of mechanic wages, benefits, and payroll taxes;
 8. The cost of loan interest related to the ground ambulance vehicles;
 9. The cost of the weighted allocation of overhead;
 10. The cost of ground ambulance vehicle depreciation;
 11. The cost of reserves for replacement of ground ambulance vehicles and equipment; and
 12. Mileage reimbursement, as established by Medicare guidelines for EMS and transport provided by a ground ambulance service, including considerations to maximize Medicare reimbursement.
- B.** When evaluating a proposed BLS base rate, the Department shall consider the costs associated with providing EMS and transport.
- C.** When evaluating a proposed ALS base rate, the Department shall consider the factors in subsection (B) and the additional costs of ALS ambulance equipment, ALS personnel, and professional liability insurance for ALS personnel.
- D.** When evaluating a proposed critical care rate, the Department shall:
1. Consider the factors in subsections (B) and (C) and the additional costs of providing critical care services; and
 2. Ensure that the critical care rate is:
 - a. Equivalent to at least the amount for specialty care transport, as used in federal Medicare guidelines; and
 - b. Greater than an ALS base rate.
- E.** The Department shall determine the standby waiting rate as no higher than the BLS base rate divided by 4.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-1108. Implementation of Rates and Charges (A.R.S. §§ 36-2232, 36-2239)

- A.** Except as provided in A.R.S. § 36-2239(B) and (E), a certificate holder shall not institute a new general public rate, new contract rate or range of rates, or subscription service rate before receiving from the Department an approval of the new general public rate, new contract rate or range of rates, or subscription service rate.
- B.** Under A.R.S. § 36-2232(A)(1) and (4), the Department may periodically review and, if appropriate, adjust rates and charges for a ground ambulance service to ensure that the rates and charges are just, reasonable, and sufficient.
- C.** A certificate holder shall assess rates and charges as follows:
1. When calculating a rate or charge:
 - a. Omit fractions of less than 1/2 of 1 cent; or
 - b. Increase to the next whole cent, fractions of 1/2 of 1 cent or greater;
 2. When calculating the number of miles for a transport, use one of the following, with the number of miles rounded as specified in subsection (C)(1):
 - a. The ground ambulance vehicle's odometer reading,
 - b. Software designed to calculate mileage, or
 - c. A regional map;
 3. When calculating the reimbursement amount for mileage of a transport, multiply the number of miles for the transport by the mileage rate;
 4. When transporting two or more patients in the same ground ambulance vehicle, assess to each patient:
 - a. Fifty percent of the mileage rate and one hundred percent of the ALS or BLS base rate; and
 - b. One hundred percent of:
 - i. The charge for each disposable supply, medical supply, medication, and oxygen-related cost used on the patient; and
 - ii. Waiting time assessed according to subsection (E); and
 5. When agreed upon by prior arrangement to transport a patient to one destination and return to the point of pick-up or to one destination and then to a subsequent destination, assess only the ALS or BLS base rate, mileage rate, and standby waiting rate for the transport.
- D.** When a certificate holder transfers a patient to an air ambulance, the certificate holder shall assess the patient the rates and charges for EMS and transport provided to the patient before the transfer.
- E.** A certificate holder shall assess a standby waiting rate in quarter-hour increments, except for:
1. The first 15 minutes after arrival to load the patient at the point of pick-up;
 2. The time, exceeding the first 15 minutes, required by ambulance attendants to provide necessary medical treatment and stabilization of the patient at the point of pick-up; and
 3. The first 15 minutes to unload the patient at the point of destination.
- F.** When a certificate holder responds to a request outside the certificate holder's service area, the certificate holder shall assess the certificate holder's own rates and charges for EMS or transport provided to the patient.
- G.** When the Department or the certificate holder determines that a refund of a rate or a charge is required, the certificate holder shall refund the rate or charge within 90 days after the date of the determination.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

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Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-1109. Charges (A.R.S. §§ 36-2232, 36-2239(D))

- A.** A certificate holder that charges patients for disposable supplies, medical supplies, medications, and oxygen-related costs shall submit to the Department:
1. A list of the items and the proposed charges, and
 2. A non-retroactive effective date.
- B.** A certificate holder shall submit to the Department a new list, containing the information required in subsection (A), each time the certificate holder proposes a change in the items or the amount charged.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-1110. Invoices (A.R.S. §§ 36-2234, 36-2239)

- A.** A certificate holder shall ensure that:
1. Each invoice for rates and charges contains the following:
 - a. The patient's name;
 - b. The certificate holder's name, address, and telephone number;
 - c. The date of service;
 - d. An itemized list of the rates and charges assessed;
 - e. The total monetary amount owed the certificate holder; and
 - f. The payment due date; and
 2. Any subsequent invoice to the same patient for the same EMS or transport contains all the information in subsection (A) except the information in subsection (A)(1)(d).
- B.** A certificate holder may combine into one line item the charges for multiple items if:
1. The supplies are used together for a specific purpose, and
 2. The name of the combined item is included in the certificate holder's list provided to the Department according to R9-25-1109.
- C.** A certificate holder may combine rates and charges into one line item if required by a third-party payor.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

ARTICLE 12. TIME-FRAMES FOR DEPARTMENT APPROVALS**R9-25-1201. Time-frames (Authorized by A.R.S. §§ 36-2235, 41-1072 through 41-1079)**

- A.** The overall time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Department is listed in Table 12.1. The applicant and the Director may agree in writing to extend the overall time-frame. The substantive review time-frame shall not be extended by more than 25% of the overall time-frame.
- B.** The administrative completeness review time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Department is listed in Table 12.1. The administrative completeness review time-frame begins on the date that the

Department receives an application form or an application packet.

1. If the application packet is incomplete, the Department shall send to the applicant a written notice specifying the missing document or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the written request until the date the Department receives a complete application packet from the applicant.
 2. When an application packet is complete, the Department shall send a written notice of administrative completeness.
 3. If the Department grants an approval during the time provided to assess administrative completeness, the Department shall not issue a separate written notice of administrative completeness.
- C.** The substantive review time-frame described in A.R.S. § 41-1072 is listed in Table 12.1 and begins on the date of the notice of administrative completeness.
1. As part of the substantive review time-frame for an application for an approval other than renewal of an ambulance registration, the Department shall conduct inspections, conduct investigations, or hold hearings required by law.
 2. If required under R9-25-402, the Department shall fix the period and terms of probation as part of the substantive review.
 3. During the substantive review time-frame, the Department may make one comprehensive written request for additional documents or information and may make supplemental requests for additional information with the applicant's written consent.
 4. The substantive review time-frame and the overall time-frame are suspended from the date of the written request for additional information or documents until the Department receives the additional information or documents.
 5. The Department shall send a written notice of approval to an applicant:
 - a. Who:
 - i. Meets the qualifications in A.R.S. Title 36, Chapter 21.1 and this Chapter for the type of application submitted; or
 - ii. Is not in compliance with requirements in A.R.S. Title 36, Chapter 21.1 and this Chapter, for the type of application submitted, that do not directly affect the health or safety of a patient and submits to the Department a corrective action plan that is acceptable to the Department to address issues of compliance; and
 - b. For an application under R9-25-902 or R9-25-903, which may include special conditions or limitations, including a shorter renewal term, according to A.R.S. § 36-2235.
 6. The Department shall send a written notice of denial to an applicant who fails to meet the qualifications in A.R.S. Title 36, Chapter 21.1, and this Chapter for the type of application submitted.
- D.** If an applicant fails to supply the documents or information under subsections (B)(1) and (C)(3) within the number of days specified in Table 12.1 from the date of the written notice or comprehensive written request, the Department shall consider the application withdrawn.
- E.** An applicant that does not wish an application to be considered withdrawn may request a denial in writing within the

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number of days specified in Table 12.1 from the date of the written notice or comprehensive written request for documents or information under subsections (B)(1) and (C)(3).

- F. If a time-frame's last day falls on a Saturday, Sunday, or an official state holiday, the Department shall consider the next business day as the time-frame's last day.
- G. A person may appeal a decision according to A.R.S. § 36-2234 or Title 41, Chapter 6, Article 6.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

Amended by final rulemaking at 8 A.A.R. 2352, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

Table 12.1. Time-frames (in days)

| Type of Application | Statutory Authority | Overall Time-frame | Administrative Completeness Time-frame | Time to Respond to Written Notice | Substantive Review Time-frame | Time to Respond to Comprehensive Written Request |
|---------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|--------------------|----------------------------------------|-----------------------------------|-------------------------------|--------------------------------------------------|
| ALS Base Hospital Certification (R9-25-204) | A.R.S. §§ 36-2201, 36-2202(A)(3), and 36-2204(5) | 45 | 15 | 60 | 30 | 60 |
| Training Program Certification (R9-25-301) | A.R.S. §§ 36-2202(A)(3) and 36-2204(1) and (3) | 120 | 30 | 60 | 90 | 60 |
| Addition of a Course (R9-25-303) | A.R.S. §§ 36-2202(A)(3) and 36-2204(1) and (3) | 90 | 30 | 60 | 60 | 60 |
| EMCT Certification (R9-25-403) | A.R.S. §§ 36-2202(A)(2), (3), and (4), 36-2202(G), and 36-2204(1) | 120 | 30 | 90 | 90 | 270 |
| EMCT Recertification (R9-25-404) | A.R.S. §§ 36-2202(A)(2), (3), (4), and (6), 36-2202(G), and 36-2204(1) and (4) | 120 | 30 | 60 | 90 | 60 |
| Extension to File for EMCT Recertification (R9-25-405) | A.R.S. §§ 36-2202(A)(2), (3), (4), and (6), 36-2202(G), and 36-2204(1) and (7) | 30 | 15 | 60 | 15 | 60 |
| Downgrading of Certification (R9-25-406) | A.R.S. §§ 36-2202(A)(2), (3), and (4), 36-2202(G), and 36-2204(1) and (6) | 30 | 15 | 60 | 15 | 60 |
| Initial Air Ambulance Service License (R9-25-704) | A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2213, 36-2214, and 36-2215 | 150 | 30 | 60 | 120 | 60 |
| Renewal of an Air Ambulance Service License (R9-25-704) | A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2213, 36-2214, and 36-2215 | 90 | 30 | 60 | 60 | 60 |
| Initial Certificate of Registration for an Air Ambulance (R9-25-801) | A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2240(4) | 90 | 30 | 60 | 60 | 60 |
| Renewal of a Certificate of Registration for an Air Ambulance (R9-25-801) | A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2240(4) | 90 | 30 | 60 | 60 | 60 |
| Initial Certificate of Necessity (R9-25-902) | A.R.S. §§ 36-2204, 36-2232, 36-2233, 36-2240 | 180 | 30 | 60 | 120 | |
| Renewal of a Certificate of Necessity (R9-25-903) | A.R.S. §§ 36-2233, 36-2235, 36-2240 | 90 | 30 | 60 | 60 | 60 |
| Transfer of a Certificate of Necessity (R9-25-904) | A.R.S. §§ 36-2236(A) and (B), 36-2240 | 180 | 30 | 60 | 120 | 60 |
| Amendment of a Certificate of Necessity (R9-25-905) | A.R.S. §§ 36-2232(A)(4), 36-2240 | 180 | 30 | 60 | 120 | 60 |
| Initial Registration of a Ground Ambulance Vehicle (R9-25-1001) | A.R.S. §§ 36-2212, 36-2232, 36-2240 | 90 | 30 | 60 | 60 | 60 |
| Renewal of a Ground Ambulance Vehicle Registration (R9-25-1001) | A.R.S. §§ 36-2212, 36-2232, 36-2240 | 90 | 30 | 60 | 60 | 60 |

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|-----------------------------------------------------------------------------|-------------------------------|-----|----|----|-----|----------------|
| Establishment of Initial General Public Rates (R9-25-1101) | A.R.S. §§ 36-2232, 36-2239 | 180 | 30 | 60 | 120 | 60 |
| Adjustment of General Public Rates (R9-25-1102) | A.R.S. §§ 36-2234, 36-2239 | 450 | 30 | 60 | 420 | 60 |
| Contract Rate or Range of Rates Less than General Public Rates (R9-25-1103) | A.R.S. §§ 36-2234, 36-2239 | 450 | 30 | 60 | 420 | 60 |
| Ground Ambulance Service Contracts (R9-25-1104) | A.R.S. § 36-2232 | 450 | 30 | 60 | 420 | 60 |
| Ground Ambulance Service Contracts with Political Subdivisions (R9-25-1104) | A.R.S. §§ 36-2232, 36-2234(K) | 30 | 15 | 15 | 15 | Not Applicable |
| Subscription Service Rate (R9-25-1105) | A.R.S. § 36-2232(A)(1) | 450 | 30 | 60 | 420 | 60 |

Historical Note

Table 12.1 renumbered from Table 1 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1). Amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

Table 1. Renumbered**Historical Note**

New Table adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 2352, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Table 1 renumbered to Table 12.1 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit A. Recodified**Historical Note**

New Exhibit adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Exhibit A recodified to Article 9 at 12 A.A.R. 2243, effective June 2, 2006 (Supp. 06-2).

Exhibit B. Recodified**Historical Note**

New Table adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Exhibit B recodified to Article 9 at 12 A.A.R. 2243, effective June 2, 2006 (Supp. 06-2).

ARTICLE 13. TRAUMA CENTERS AND TRAUMA REGISTRIES**R9-25-1301. Definitions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**

In addition to the definitions in A.R.S. § 36-2201 and R9-25-101, the following definitions apply in this Article, unless otherwise specified:

1. "Admitted" means when a patient is either:
 - a. Held for observation of a trauma-related injury; or
 - b. Considered an inpatient, as defined in A.A.C. R9-10-201.

2. "Business day" means a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday.
3. "Designation" means a formal determination by the Department that a health care institution complies with requirements in A.R.S. § 36-2225 and this Article for providing a particular Level of trauma service.
4. "Emergency department" means a designated area of a hospital that provides emergency services, as defined in A.A.C. R9-10-101, as an organized service, 24 hours per day, seven days per week, to individuals who present for immediate medical services.
5. "ICD-code" means an International Classification of Diseases code, a set of numbers or letters or a combination of letters and numbers that specify a disease, condition, or injury; the location of the disease, condition, or injury; or the circumstances under which a patient may have incurred the disease, condition, or injury, which is used by a health care institution for billing purposes.
6. "Level I Pediatric trauma center" means a Level I trauma center that has a trauma service specifically intended to meet the needs of children requiring trauma care.
7. "Level II Pediatric trauma center" means a Level II trauma center that has a trauma service specifically intended to meet the needs of children requiring trauma care.
8. "Medical services" means the services pertaining to the "practice of medicine," as defined in A.R.S. § 32-1401, or "medicine," as defined in A.R.S. § 32-1800, performed at the direction of a physician.
9. "National verification organization" has the same meaning as in A.R.S. § 36-2225.
10. "Nursing services" means services that pertain to the curative, restorative, and preventive aspects of "registered nursing," as defined in A.R.S. § 32-1601, performed:
 - a. At the direction of a physician; and
 - b. By or under the supervision of a registered nurse licensed:
 - i. According to Title 32, Chapter 15; or

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- ii. When performed in a health care institution operating under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation, by a similar licensing board in another state.
- 11. "On-call" means assigned to respond and, if necessary, come to a health care institution when notified by a personnel member of the health care institution.
- 12. "Organized service" has the same meaning as in A.A.C. R9-10-201.
- 13. "Owner" means one of the following:
 - a. For a health care institution licensed under 9 A.A.C. 10, the licensee;
 - b. For a health care institution operated under federal or tribal laws, the administrative unit of the U.S. government or sovereign tribal nation operating the health care institution.
- 14. "Personnel member" means an individual providing medical services, nursing services, or health-related services, as defined in A.R.S. § 36-401, to a patient.
- 15. "Physician" means an individual licensed:
 - a. According to A.R.S. Title 32, Chapter 13 or 17; or
 - b. When working in a health care institution operating under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation, by a similar licensing board in another state.
- 16. "Signature" means:
 - a. A handwritten or stamped representation of an individual's name or a symbol intended to represent an individual's name, or
 - b. An "electronic signature" as defined in A.R.S. § 44-7002.
- 17. "Substantial compliance" has the same meaning as in A.R.S. § 36-401.
- 18. "Transport" means the conveyance of a patient by ground ambulance or air ambulance from one location to another location.
- 19. "Trauma care" means medical services and nursing services provided to a patient suffering from a sudden physical injury.
- 20. "Trauma center" has the same meaning as in A.R.S. § 36-2225.
- 21. "Trauma critical care course" means a multidisciplinary class or series of classes consisting of interactive tutorials, skills teaching, and simulated patient management scenarios of trauma care, consistent with training recognized by the American College of Surgeons.
- 22. "Trauma facility" means a health care institution that provides trauma care to a patient as an organized trauma service.
- 23. "Trauma service" means designated personnel members, equipment, and area within a health care institution and the associated policies and procedures for the personnel members to follow when providing trauma care to a patient.
- 24. "Trauma team" means a group of personnel members with defined roles and responsibilities in providing trauma care to a patient.
- 25. "Trauma team activation" means a notification to respond that is sent to trauma team personnel members in reaction to triage information received concerning a patient with injury or suspected injury.
- 26. "Verification" means formal confirmation by a national verification organization that a health care institution

meets the national verification organization's standards for providing trauma care at a specific Level of trauma service.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3). Amended by final expedited rulemaking at 29 A.A.R. 2321 (October 6, 2023), with an immediate effective date of September 18, 2023 (Supp. 23-3).

R9-25-1302. Eligibility for Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

- A. A health care institution is eligible for designation as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, Level II Pediatric trauma center, or Level III trauma center if the health care institution:
 - 1. Is either:
 - a. Licensed by the Department under 9 A.A.C. 10 to operate as a hospital; or
 - b. Operating as a hospital under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation; and
 - 2. For designation as a:
 - a. Level I trauma center:
 - i. Holds verification, issued within the six months before the date of designation, as a Level I trauma facility;
 - ii. Has documentation issued by a national verification organization, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level I trauma center; or
 - iii. Meets the requirements in subsection (C);
 - b. Level I Pediatric trauma center:
 - i. Holds verification, issued within the six months before the date of designation, as a Level I Pediatric trauma facility;
 - ii. Has documentation issued by a national verification organization, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level I Pediatric trauma center; or
 - iii. Meets the requirements in subsection (C);
 - c. Level II trauma center:
 - i. Holds verification, issued within the six months before the date of designation, as a Level II trauma facility; or
 - ii. Has documentation issued by a national verification organization, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level II trauma center; or
 - iii. Meets the requirements in subsection (C);
 - d. Level II Pediatric trauma center:
 - i. Holds verification, issued within the six months before the date of designation, as a Level II Pediatric trauma facility;
 - ii. Has documentation issued by a national verification organization, within the six months before the date of designation, stating that the

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- health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level II Pediatric trauma center; or
- iii. Meets the requirements in subsection (C); or
 - e. Level III trauma center:
 - i. Holds verification, issued within the six months before the date of designation, as a Level III trauma facility; or
 - ii. Has documentation issued by a national verification organization or the Department, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level III trauma center.
- B.** A health care institution is eligible for designation as a Level IV trauma center if the health care institution:
- 1. Is either:
 - a. Licensed by the Department under 9 A.A.C. 10 to operate as:
 - i. A hospital; or
 - ii. An outpatient treatment center authorized to provide emergency room services, as defined in A.A.C. R9-10-1001, according to A.A.C. R9-10-1019; or
 - b. Operating as a hospital or an outpatient treatment center providing emergency services under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation; and
 - 2. Either:
 - a. Holds verification, issued within the six months before the date of designation, as a Level IV trauma facility; or
 - b. Has documentation issued by a national verification organization or the Department, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level IV trauma center.
- C.** A health care institution is eligible for designation as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center based on assessment by the Department that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for the Level of trauma center for which designation is requested if the health care institution:
- 1. Applies for verification from a national verification organization;
 - 2. Informs the Department, at least 30 calendar days before, of the dates the national verification organization will be on the premises of the health care institution to assess the health care institution for compliance with the national verification organization's standards for verification;
 - 3. Invites the Department to review the facility and documentation of capabilities of the health care institution during the national verification organization's assessment in subsection (C)(2);
 - 4. Is not issued verification from the national verification organization at the Level of designation sought;
 - 5. Does not receive the documentation required in subsection (A)(2)(a)(ii), (b)(ii), (c)(ii), or (d)(ii), as applicable; and
 - 6. Receives the documentation specified in R9-25-1306(G) and, if applicable, submits to the Department a written plan in R9-25-1306(H), acceptable to the Department, to correct instances of non-compliance.
- D.** A health care institution is eligible to retain designation as a specific Level of trauma center if the health care institution complies with the applicable requirements in this Article for the specific Level of trauma center.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1303. Application and Designation Process (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

- A.** An owner applying for initial designation or to renew designation for a health care institution shall submit to the Department an application including:
- 1. The following information, in a Department-provided format:
 - a. The name, address, and telephone number of the health care institution for which the owner is requesting designation;
 - b. The owner's name, address, email address, telephone number, and, if available, fax number;
 - c. The name, email address, telephone number, and, if available, fax number of the chief administrative officer, as defined in A.A.C. R9-10-101, for the health care institution for which the owner is requesting designation;
 - d. The designation Level for which the owner is applying;
 - e. Whether the owner is requesting designation for the health care institution based on:
 - i. Verification, or
 - ii. Meeting the applicable standards specified in R9-25-1308 and Table 13.1;
 - f. If the owner is requesting designation for the health care institution based on verification:
 - i. The name of the national verification organization;
 - ii. The name, telephone number, and email address for a representative of the national verification organization;
 - iii. The Level of verification held;
 - iv. The effective date of the verification, and
 - v. The expiration date of the verification;
 - g. If the owner is requesting designation for the health care institution based on the health care institution meeting the applicable standards specified in R9-25-1308 and Table 13.1:
 - i. Whether:
 - (1) A national verification organization has assessed the health care institution, or
 - (2) The Department will be assessing the health care institution;
 - ii. If a national verification organization has assessed the health care institution:
 - (1) The name of the national verification organization;
 - (2) The name, telephone number, and email address for a representative of the national verification organization; and
 - (3) The date the national verification organization assessed the health care institution;

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- and
- iii. If the Department will be assessing the health care institution, the date the health care institution will be ready for the Department to assess the health care institution;
 - h. Unless the owner is an administrative unit of the U.S. government or a sovereign tribal nation, the license number, issued by the Department, for the health care institution for which designation is being requested;
 - i. The name, email address, telephone number, and, if available, fax number of the health care institution's trauma program manager;
 - j. Whether the health care institution's trauma registry will be located at the health care institution or be part of a centralized trauma registry;
 - k. The name, email address, telephone number, and, if available, fax number of the health care institution's trauma registrar;
 - l. If applying for designation as a Level IV trauma center, whether the health care institution plans to submit, in addition to the information required in R9-25-1309(A), the information specified in R9-25-1309(B);
 - m. If not already submitting trauma registry information to the Department, the time period for which the health care institution plans to begin submitting trauma registry information;
 - n. Except for a health care institution applying for designation as a Level IV trauma center, the name, email address, telephone number, and, if available, fax number of the health care institution's trauma medical director;
 - o. The name, title, address, and telephone number of the owner's statutory agent or the individual designated by the owner to accept service of process and subpoenas;
 - p. Attestation that:
 - i. The owner will comply with all applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article; and
 - ii. The information and documents provided as part of the application are accurate and complete; and
 - q. The dated signature of the applicable individual according to R9-25-102;
2. If applicable, documentation demonstrating that the health care institution is operating as a hospital or an outpatient treatment center providing emergency services under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation; and
 3. One of the following:
 - a. Documentation from the national verification organization, identified according to subsection (A)(1)(f)(i), establishing that the owner holds verification for the health care institution at the Level of designation being requested and showing the effective date and expiration date of the verification;
 - b. Documentation from the national verification organization, identified according to subsection (A)(1)(g)(ii)(1), demonstrating that the health care institution meets the applicable standards specified in R9-25-1308 and Table 13.1; or
 - c. The information and documents required in R9-25-1307(C), (D), or (F), as applicable.
- B.** An owner applying to renew designation for a health care institution shall submit the application in subsection (A) to the Department at least 60 calendar days and no more than 90 calendar days before the expiration of the current designation.
 - C.** Within 30 calendar days after receiving an application submitted according to subsection (A), the Department shall review the application submitted for completeness, and, if the application is:
 1. Incomplete, provide to the owner a written notice listing each missing item and the information or items needed to complete the application; and
 2. Complete and based on:
 - a. Verification, comply with R9-25-1307(A);
 - b. A national verification organization assessing the health care institution's meeting the applicable standards specified in R9-25-1308 and Table 13.1, comply with R9-25-1307(B); or
 - c. The Department assessing the health care institution's meeting the applicable standards specified in R9-25-1308 and Table 13.1, assess compliance with applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article according to R9-25-1307(E) or (G).
 - D.** The Department shall consider an application withdrawn if an owner:
 1. Fails to submit to the Department all of the information or items listed in a notice of missing items within 60 calendar days after the date on the notice of missing items, unless the Department and the owner agree to an extension of this time; or
 2. Submits a written request withdrawing the application.
 - E.** If an owner submits an application for renewal of designation for a health care institution according to subsection (A) before the expiration date of the current designation, the designation of the health care institution remains in effect until the:
 1. Department has determined whether or not to issue a renewal of the designation, or
 2. Application is withdrawn.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (Supp. 12-3). New Section R9-25-1303 renumbered from R9-25-1304 and amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1303.01. Expired**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. 41-1056(J) at 29 A.A.R. 421 (January 27, 2023), with an immediate effective date of January 4, 2023 (Supp. 23-1).

R9-25-1304. Changes Affecting Designation Status (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

- A.** An owner of a trauma center shall:
 1. Notify the Department, in writing or in a Department-provided format, no later than 60 calendar days after the date of a change in the health care institution's:
 - a. Name,

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- b. Trauma program manager, or
 - c. If applicable, trauma medical director; and
- 2. Provide the effective date of the change and, as applicable, the:
 - a. Current and new name of the health care institution, or
 - b. Name of the new trauma program manager or trauma medical director.
- B.** An owner of a trauma center shall notify the Department in writing within three business days after:
 - 1. The trauma center's health care institution license expires or is suspended or revoked;
 - 2. The trauma center's health care institution license is changed to a provisional license under A.R.S. § 36-425;
 - 3. The trauma center no longer holds verification; or
 - 4. A change, which is expected to last for more than seven consecutive calendar days, in the trauma center's ability to meet:
 - a. The applicable standards specified in R9-25-1308 and Table 13.1; or
 - b. If designation is based on verification, the national verification organization's standards for verification.
- C.** At least 90 calendar days before a trauma center ceases to provide a trauma service, the owner of the trauma center shall notify the Department, in writing or in a Department-provided format, of the owner's intention to cease providing the trauma service and to relinquish designation, including the effective date.
- D.** The Department shall, upon receiving a notice described in:
 - 1. Subsection (A), issue an amended designation that incorporates the name change but retains the expiration date of the current designation;
 - 2. Subsection (B)(1), send the owner a written notice stating that the health care institution no longer meets the definition of a trauma center and that the Department intends to dedesignate the health care institution, according to R9-25-1307(J)(2);
 - 3. Subsection (B)(2), evaluate the restrictions on the provisional license to determine if the trauma service was affected and may send the owner a written notice of the Department's intention to:
 - a. Dedesignate the health care institution, according to R9-25-1307(J) through (M);
 - b. Require a modification of the health care institution's designation within 15 calendar days after the date of the notice, according to R9-25-1305; or
 - c. Require a corrective action plan to address issues of compliance with the applicable standards specified in R9-25-1308 and Table 13.1, according to R9-25-1306(E);
 - 4. Subsection (B)(3), send the owner written notice that the owner is required, within 15 calendar days after the date of the notice, to submit to the Department:
 - a. An application for designation at a specific Level of trauma center, according to R9-25-1303, based on meeting the applicable standards specified in R9-25-1308 and Table 13.1; or
 - b. Written notification of the owner's intention to relinquish designation;
 - 5. Subsection (B)(4), send the owner written notice that the owner is required, within 15 calendar days after the date of the notice, to submit to the Department:
 - a. An application for modification of the health care institution's designation, according to R9-25-1305;
 - b. A corrective action plan to address issues of compliance with the applicable standards specified in R9-25-1308 and Table 13.1, according to R9-25-1306(E); or
 - c. Written notification of the owner's intention to relinquish designation; or
- E.** An owner of a trauma center, who obtains verification for the trauma center during a term of designation that was based on the trauma center meeting the applicable standards specified in R9-25-1308 and Table 13.1, may obtain a new initial designation based on verification, with a designation term based on the dates of the verification, by submitting an application according to R9-25-1303.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1304 renumbered to R9-25-1303; new Section R9-25-1304 renumbered from R9-25-1308 and amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3). Amended by final expedited rulemaking at 29 A.A.R. 2321 (October 6, 2023), with an immediate effective date of September 18, 2023 (Supp. 23-3).

R9-25-1305. Modification of Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

- A.** Except as provided in R9-25-1304(D)(3)(b) and (5)(a), at least 30 calendar days before ceasing to provide a trauma service consistent with a trauma center's current designation, an owner of a trauma center may request a designation that requires fewer resources and capabilities than the trauma center's current designation by submitting to the Department an application for modification of the trauma center's designation, in a Department-provided format, that includes:
 - 1. The name and address of the trauma center for which the owner is requesting modification of designation;
 - 2. A list of the criteria for the current designation with which the owner no longer intends to comply;
 - 3. An explanation of the changes being made in the trauma center's resources or operations, related to each criterion specified according to subsection (A)(2), to ensure the health and safety of a patient;
 - 4. The Level of designation being requested;
 - 5. An attestation that:
 - a. The owner will be in compliance with all applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article for the Level of designation requested if modified designation is issued; and
 - b. The information provided in the application is accurate and complete; and
 - 6. The dated signature of the applicable individual according to R9-25-102.
- B.** The Department shall review the application submitted according to R9-25-1307(I) to determine whether, with the changes being made in the trauma center's resources and operations, the trauma center will be in substantial compliance based the applicable standards specified in R9-25-1308 and Table 13.1 for the Level of designation requested.
- C.** To retain trauma center designation for a health care institution, an owner who holds modified designation shall, before the expiration date of the modified designation:

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1. Apply for renewal of designation according to R9-25-1303, based on the health care institution's meeting the applicable standards specified in R9-25-1308 and Table 13.1, for the Level of the modified designation; or
2. Apply for initial designation according to R9-25-1303, based on the health care institution meeting the applicable standards specified in R9-25-1308 and Table 13.1, for a Level other than the Level of the modified designation.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1305 repealed; new Section R9-25-1305 renumbered from R9-25-1309 and amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1306. Inspections (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

- A. When the Department inspects a health care institution applying for a trauma center designation or a health care institution designated as a trauma center to determine compliance with the applicable requirements in this Article, the Department:
 1. Shall use criteria for assessing compliance developed using recommendations from the State Trauma Advisory Board, according to A.R.S. § 36-2222(E)(1); and
 2. May:
 - a. Evaluate the health care institution's equipment and physical plant;
 - b. Interview the health care institution's personnel members, including any individuals providing trauma care; and
 - c. Review any of the following:
 - i. Medical records;
 - ii. Patient discharge summaries;
 - iii. Patient care logs;
 - iv. Rosters and schedules of personnel members and individuals who provide trauma care as part of the trauma service;
 - v. Performance-improvement-related documents, including quality management program documents required in A.A.C. R9-10-204 or R9-10-1004 as applicable; and
 - vi. Other documents relevant to the provision of trauma care as part of the trauma service.
- B. The Department shall determine whether there is a need for an inspection of a health care institution and which components in subsection (A)(2) to include in an inspection, based on the health care institution's application; previous inspections, if applicable; and the operating history of the health care institution and may conduct an announced inspection of the identified components:
 1. Before issuing an initial, renewal, or modified designation to an owner applying for designation of a health care institution as a trauma center;
 2. If an owner of a health care institution designated as a trauma center has submitted a corrective action plan under subsection (E); or
 3. A health care institution designated as a trauma center is randomly selected to receive an inspection.
- C. If the Department has reason to believe that a trauma center is not complying with applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article, the Department may conduct an announced or unannounced inspection of the trauma center according to subsection (A).

- D. Within 30 calendar days after completing an inspection, the Department shall send to an owner a written report of the Department's findings, including, if applicable, a list of any instances of non-compliance identified during the inspection and a request for a written corrective action plan.
- E. Within 15 calendar days after receiving a request for a written corrective action plan, an owner shall submit to the Department a written corrective action plan that includes for each identified instance of non-compliance:
 1. A description of how the instance of non-compliance will be corrected and reoccurrence prevented, and
 2. A date of correction for the instance of non-compliance.
- F. The Department shall accept a written corrective action plan if the corrective action plan:
 1. Describes how each identified instance of non-compliance will be corrected and reoccurrence prevented, and
 2. Includes a date for correcting each instance of non-compliance that is appropriate to the actions necessary to correct the instance of non-compliance.
- G. If the Department reviews a health care institution's facility and documentation of capabilities during a national verification organization's assessment according to R9-25-1302(C)(3) and the health care institution is not issued verification from the national verification organization at the Level of designation sought, the Department shall send to an owner of the health care institution, within 30 calendar days after the review, a written report of the Department's findings, including, if applicable, a list of any instances of non-compliance with requirements in R9-25-1308 and Table 13.1 identified during the review.
- H. A health care institution receiving a written report in subsection (G), containing a list of instances of non-compliance with requirements in R9-25-1308 and Table 13.1 identified during a review of the health care institution's facility and documentation of capabilities, may submit to the Department a written plan to correct instances of non-compliance that includes:
 1. A description of how the health care institution will correct each instance of non-compliance and prevent the reoccurrence, and
 2. A date by which the health care institution plans to correct each instance of non-compliance.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1306 repealed; new Section R9-25-1306 made by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3). Amended by final expedited rulemaking at 29 A.A.R. 2321 (October 6, 2023), with an immediate effective date of September 18, 2023 (Supp. 23-3).

R9-25-1307. Designation and Dedications (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

- A. For initial designation or renewal of designation of a health care institution based on verification, the Department shall, within 45 calendar days after receiving a complete application from an owner:
 1. Except as provided in subsection (H)(2), if the application complies with the applicable requirements in this Article, issue a designation for the health care institution that is valid for the duration of the verification; or
 2. If the application does not comply with the applicable requirements in this Article, provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10, that

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the Department intends to decline to issue a designation for the health care institution.

- B.** Except as provided in subsection (F) specifying requirements for renewal of a one-year designation, for initial designation or renewal of designation of a health care institution based on an assessment by a national verification organization, the Department shall, within 60 calendar days after receiving a complete application from an owner, review the application and, if the Department determines that:

1. The application and the health care institution comply with the applicable requirements in this Article, except as provided in subsection (H)(1), issue a designation for the health care institution that is valid for three years from the issue date;
2. The application complies with the applicable requirements in this Article, the health care institution is in substantial compliance with the applicable requirements in this Article, and the Department has accepted a written corrective action plan submitted according to R9-25-1306(E), issue a designation for the health care institution that is valid for one year from the issue date; or
3. The application or the health care institution does not comply with the applicable requirements in this Article, provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10, that the Department intends to decline to issue a designation for the health care institution.

- C.** Except as provided in subsection (F) specifying requirements for renewal of a one-year designation, for initial designation or renewal of designation of a health care institution as a Level III trauma center or a Level IV trauma center based on an assessment by the Department, an owner shall include as part of the application required in R9-25-1303(A):

1. The following information in a Department-provided format:
 - a. The name of the health care institution for which the owner is requesting designation;
 - b. The services the health care institution is providing or plans to provide as part of the trauma service;
 - c. The name and title of the liaison to the trauma service from each of the services listed according to subsection (C)(1)(b);
 - d. If applicable, the name, email address, telephone number, and, if available, fax number of the health care institution's emergency department physician director;
 - e. If applicable, the name, email address, telephone number, and, if available, fax number of the health care institution's surgical director or co-director;
 - f. If a multidisciplinary peer review committee is required according to Table 13.1 for the Level of the trauma center, the name and title of each member of the multidisciplinary peer review committee;
 - g. If the health care institution's trauma registry will be part of a centralized trauma registry, a description of the training provided to the trauma program manager to enable the trauma program manager to comply with R9-25-1308(D)(2);
 - h. If applicable, for an application for initial designation, a description of the health care institution's plans for the continuing education activities related to trauma care, required in R9-25-1308(G)(4);

- i. For renewal of designation, a description of the continuing education activities conducted during the term of the designation;
 - j. If applicable, the name, email address, telephone number, and, if available, fax number of the health care institution's injury prevention coordinator;
 - k. A description of the methods by which trauma team personnel members communicate with EMS personnel;
 - l. A description of the trauma-related training received by registered nurses in the intensive care unit;
 - m. An attestation that the owner of the health care institution will prohibit:
 - i. The trauma medical director from serving as trauma medical director for another health care institution; and
 - ii. A physician on-call for general surgery, neurosurgery, or orthopedic surgery to be on-call or on a back-up call list at another health care institution; and
 - n. The dated signature of the applicable individual according to R9-25-102;
2. A copy of the policies and procedures required in R9-25-1308(B)(6) for the health care institution's trauma registry;
 3. A copy of the policies and procedures required in R9-25-1308(B)(7) for the health care institution's performance improvement program;
 4. A copy of the policies and procedures required in R9-25-1308(F)(2) for the health care institution's trauma service;
 5. If applicable, a copy of the policies and procedures required in R9-25-1308(F)(9) for operating rooms;
 6. A copy of the applicable policies and procedures required in R9-25-1308(H)(4);
 7. A copy of the health care institution's clinical practice guidelines, describing the health care institution's capability to resuscitate, stabilize, and transfer pediatric patients;
 8. If applicable, a copy of the bylaws of the health care institution's multidisciplinary peer review committee;
 9. Copies of the job descriptions for the health care institution's:
 - a. Trauma program manager;
 - b. Trauma registrar; and
 - c. If applicable, injury prevention coordinator;
 10. A list of the trauma care parameters the health care institution is or will be monitoring as part of the performance improvement program;
 11. A list of trauma team members, including:
 - a. Name,
 - b. Title, and
 - c. Role on the trauma team;
 12. If required for an individual listed according to subsection (C)(11), a copy of documentation of the individual's:
 - a. Board certification or board eligibility,
 - b. Most recent certification in a trauma critical care course,
 - c. Pediatric-specific credentials, and
 - d. Other trauma-related training; and
 13. If the trauma medical director is not a member of the trauma team, the applicable documentation required in subsection (C)(12) for the trauma medical director.

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- D.** Except as provided in subsection (F) specifying requirements for renewal of a one-year designation, for initial designation or renewal of designation of a health care institution as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center based on an assessment by the Department under R9-25-1302(C), an owner shall include as part of the application required in R9-25-1303(A):
1. A copy of the documentation submitted to the national verification organization as part of an application for verification;
 2. If not included in the documentation in subsection (D)(1):
 - a. Any information or documents required in subsection (C);
 - b. For an application for initial designation, a description of the health care institution's plans for:
 - i. Injury prevention activities, required in R9-25-1308(G)(5)(a); and
 - ii. Educational outreach activities, required in R9-25-1308(G)(5)(b); and
 - c. For an application for renewal of designation, a description of the injury prevention activities and educational outreach activities conducted during the term of the designation;
 3. A copy of the national verification's organization's written report to the health care institution describing the results of the national verification organization's assessment of the health care organization;
 4. A copy of the written report in R9-25-1306(G); and
 5. If applicable, the written plan to correct instances of non-compliance in R9-25-1306(H).
- E.** Except for renewal of a one-year designation as provided in subsection (G), for initial designation or renewal of designation of a health care institution based on an assessment by the Department according to subsection (C) or (D), the Department shall, within 90 calendar days after receiving a complete application from an owner, review the application, inspect the health care institution, if applicable, and, if the Department determines that:
1. The application and the health care institution comply with the applicable requirements in this Article, except as provided in subsection (H)(1), issue a designation for the health care institution that is valid for three years from the issue date;
 2. The application complies with the applicable requirements in this Article, the health care institution is in substantial compliance with the applicable requirements in this Article, and the Department has accepted the document submitted according to R9-25-1306(E) or subsection (D)(5), issue a designation for the health care institution that is valid for one year from the issue date; or
 3. The application or the health care institution does not comply with the applicable requirements in this Article, provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10, that the Department intends to decline to issue a designation for the health care institution.
- F.** For renewal, at the same Level of trauma center, of a one-year designation issued according to subsection (B)(2) or (E)(2), an owner shall include, as part of the application required in R9-25-1303(A), documentation related to the completion of the plan specified in the document accepted by the Department in subsection (B)(2) or (E)(2).
- G.** The Department shall, within 60 calendar days after receiving from an owner an application submitted according to subsection (F), review the information and documentation, inspect the health care institution if applicable, and:
1. Issue a designation for the health care institution that is valid for two years from the issue date if the Department determines that:
 - a. The application and the health care institution comply with the applicable requirements in this Article; and
 - b. The owner has completed the plan specified in the document accepted by the Department in subsection (B)(2) or (E)(2), as applicable; or
 2. Provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10, that the Department intends to decline to issue a designation for the health care institution if the Department determines that:
 - a. The application or the health care institution do not comply with the applicable requirements in this Article; or
 - b. The owner has not completed all of the components of the plan specified in the document accepted by the Department in subsection (B)(2) or (E)(2), as applicable.
- H.** The Department may:
1. Issue or extend a designation to a health care institution that is longer than three years if:
 - a. The health care institution would be eligible for designation under R9-25-1302(A)(2)(a)(ii) or (iii), (A)(2)(b)(ii) or (iii), (A)(2)(c)(ii) or (iii), (A)(2)(d)(ii) or (iii), or (A)(2)(e)(ii) with assessment from a national verification organization;
 - b. The national verification organization either:
 - i. Will not allow the health care institution to apply for verification within the time-frame necessary to comply with R9-25-1302(C), or
 - ii. Does not schedule an assessment visit to the health care institution within six months after the date of the health care institution's request;
 - c. The health care institution and, if applicable, the application comply with the applicable requirements in this Article; and
 - d. The health care institution provides to the Department documentation supporting subsection (H)(1)(b); or
 2. Issue a designation based on verification to a health care institution, according to subsection (A)(1), that is shorter than the duration of the verification if the expiration of the verification is more than five years after the date of issuance.
- I.** For modification of a designation according to R9-25-1305, the Department shall, within 30 calendar days after receiving a complete application for modification in R9-25-1305(A) from an owner, review the application, inspect the health care institution, if applicable, and:
1. Issue a modified designation for the Level of designation requested for the health care institution that is valid for the duration of the original designation or one year from the issue date, whichever is longer, if the Department determines that:
 - a. The application and the health care institution comply with the applicable requirements in this Article for the Level of designation requested; or
 - b. The application complies with the applicable requirements in this Article, the health care institution is in substantial compliance with the applicable

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requirements in this Article for the Level of designation requested, and the Department has accepted a written corrective action plan submitted according to R9-25-1306(E);

2. Issue a modified designation for a lower Level of designation than the Level of designation requested for the health care institution that is valid for the duration of the original designation or one year from the issue date, whichever is longer, if the Department determines that:
 - a. The application and the health care institution comply with the applicable requirements in this Article for the lower Level of designation and the health care institution:
 - i. Does not comply with the applicable requirements in this Article for the Level of designation requested; or
 - ii. Is in substantial compliance with the applicable requirements in this Article for the Level of designation requested, and the Department has not accepted a written corrective action plan submitted according to R9-25-1306(E); or
 - b. The application complies with the applicable requirements in this Article, the health care institution is in substantial compliance with the applicable requirements in this Article for the lower Level of designation, and the Department has accepted a written corrective action plan according to R9-25-1306(E); or
3. Provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10 that the Department intends to decline to issue a modified designation for the health care institution if the Department determines that the application or the health care institution does not comply with the applicable requirements in this Article.

J. The Department may dedesignate a health care institution as a trauma center if an owner:

1. Has provided false or misleading information to the Department;
2. Is not eligible for designation under R9-25-1302(A) or (B); or
3. Fails to comply with an applicable requirement in A.R.S. Title 36, Chapter 21.1 or this Article.

K. In determining whether to dedesignate a health care institution as a trauma center, the Department shall consider:

1. The severity of each instance relative to public health and safety;
2. The number of instances;
3. The nature and circumstances of each instance;
4. Whether each instance was corrected, the manner of correction, and the duration of the instance; and
5. Whether the instances indicate a lack of commitment to having the trauma center meet the verification standards of a national verification organization or, if applicable, the standards specified in R9-25-1308 and Table 13.1.

L. If the Department intends to dedesignate a health care institution, the Department shall send to the owner a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10.

M. An owner who receives a written notice in subsection (A)(2), (B)(3), (E)(3), (G)(2), (I)(3), or (J) may file a written notice of appeal with the Department that complies with A.R.S. Title 41, Chapter 6, Article 10.

1307 repealed; new Section R9-25-1307 renumbered from R9-25-1312 and amended by final rulemaking at 23

A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

Amended by final expedited rulemaking at 29 A.A.R. 2321 (October 6, 2023), with an immediate effective date of September 18, 2023 (Supp. 23-3).

R9-25-1308. Trauma Center Responsibilities (A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(4), (5), and (6))

A. The owner of a trauma center shall ensure that:

1. If designation is based on:
 - a. Verification, the trauma center meets the applicable standards of the verifying national verification organization; or
 - b. Meeting the applicable standards specified in this Section and Table 13.1, the trauma center meets the applicable standards for the Level of trauma center for which designation has been issued;
2. The trauma center complies with a written corrective action plan accepted by the Department according to R9-25-1306(F); and
3. The Department has access to:
 - a. The trauma center and to personnel members present in the trauma center; and
 - b. Documents that are requested by the Department and not confidential under A.R.S. Title 36, Chapter 4, Article 4 or 5, within two hours after the Department's request.

B. The owner of a trauma center shall ensure that the trauma center:

1. Except as provided in subsection (D), establishes a trauma registry of patients receiving trauma care who meet the criteria specified in subsection (C)(1) that contains the information required in R9-25-1309, as applicable for the specific Level of the trauma center;
2. Appoints an individual to act as trauma registrar to coordinate trauma registry activities;
3. If necessary to comply with subsections (C)(2) and (3), provides sufficient additional individuals to assist with trauma registry activities;
4. Establishes a performance improvement program for the trauma service to develop and implement processes to improve trauma care parameters;
5. If required according to Table 13.1 for the Level of the trauma center, establishes as part of the performance improvement program, established according to subsection (B)(4), a multidisciplinary peer review committee to review the quality of trauma care provided by the trauma center, including information from the trauma registry, and suggest methods to improve the quality of trauma care;
6. Establishes, documents, and implements policies and procedures for the trauma registry established according to subsection (B)(1) that include:
 - a. Ensuring that individuals responsible for collecting, entering, or reviewing information in the trauma registry have received training in gaining access to, and retrieving information from, the trauma registry;
 - b. Collection of the information required in R9-25-1309 about the patients specified in subsection (C)(1) receiving trauma care;
 - c. Submission to the Department of the information required in subsection (C)(2);

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-

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- d. Review of information in the trauma center's trauma registry; and
- e. Performance improvement activities required in R9-25-1310; and
- 7. Establishes, documents, and implements policies and procedures for the performance improvement program established according to subsection (B)(4), including:
 - a. A list of the positions of personnel members who have defined roles in the performance improvement program and, if applicable, a list of positions that are dedicated to performance improvement activities for patients receiving trauma care from the trauma center;
 - b. The qualifications, skills, and knowledge required of the personnel members in the positions specified according to subsection (B)(7)(a);
 - c. The role each personnel member specified according to subsection (B)(7)(a) plays in the performance improvement program;
 - d. The trauma care parameters to be reviewed as part of the performance improvement program;
 - e. The frequency of review of trauma care parameters;
 - f. If an issue related to trauma care or to trauma care parameters is identified:
 - i. How a plan to address the issue is developed to reduce the chance of the issue recurring in the future;
 - ii. How the plan is documented;
 - iii. The mechanism and criteria by which the plan is reviewed and approved;
 - iv. How the plan is implemented; and
 - v. How implementation of the plan and future recurrences are monitored;
 - g. If applicable, the composition, duties, responsibilities, and frequency of meetings of the multidisciplinary peer review committee established according to subsection (B)(5);
 - h. If applicable, how the multidisciplinary peer review committee collaborates with the trauma center's quality management program; and
 - i. How changes proposed by the performance improvement program are reviewed by the trauma center's quality management program.
- C. The owner of a trauma center shall ensure that:
 - 1. The trauma registry, established according to subsection (B)(1), includes the information required in R9-25-1309 for each patient with whom the trauma center had contact who meets one or more of the following criteria:
 - a. A patient with injury or suspected injury who is:
 - i. Transported from a scene to a trauma center or an emergency department based on the responding emergency medical services provider's or ambulance service's triage protocol required in R9-25-201(E)(2)(b), or
 - ii. Transferred from one health care institution to another health care institution by an emergency medical services provider or ambulance service;
 - b. A patient with injury or suspected injury for whom a trauma team activation occurs; or
 - c. A patient with injury, who is admitted as a result of the injury or who dies as a result of the injury, and whose medical record includes one or more of specific ICD-codes indicating that:
 - i. At the initial encounter with the patient, the patient had:
 - (1) An injury or injuries to specific body parts,
 - (2) Unspecified multiple injuries,
 - (3) Injury of an unspecified body region,
 - (4) A burn or burns to specific body parts,
 - (5) Burns assessed through Total Body Surface Area percentages, or
 - (6) Traumatic Compartment Syndrome; and
 - ii. The patient's injuries or burns were not only:
 - (1) An isolated distal extremity fracture from a same-level fall,
 - (2) An isolated femoral neck fracture from a same-level fall,
 - (3) Effects resulting from an injury or burn that developed after the initial encounter,
 - (4) A superficial injury or contusion, or
 - (5) A foreign body entering through an orifice;
 - 2. The following information is submitted to the Department, in a Department-provided format, according to subsection (C)(3):
 - a. The name and physical address of the trauma center;
 - b. The date the trauma registry information is being submitted to the Department;
 - c. The total number of patients whose trauma registry information is being submitted;
 - d. The quarter and year for which the trauma registry information is being submitted;
 - e. The range of emergency department or hospital arrival dates for the patients for whom trauma registry information is being submitted;
 - f. The name, title, email address, telephone number, and, if available, fax number of the trauma center's point of contact for the trauma registry information;
 - g. Any special instructions or comments to the Department from the trauma center's point of contact;
 - h. The information from the trauma registry for patients identified during the quarter specified according to subsection (C)(2)(d); and
 - i. Updated information for any patients identified during the previous quarter, including the patient's name, medical record number, and admission date; and
 - 3. The information required in subsection (C)(2) is submitted:
 - a. For patients identified between January 1 and March 31, so that the information in subsections (C)(2)(a) through (h) is received by the Department by July 1 of the same calendar year;
 - b. For patients identified between April 1 and June 30, so that the information in subsections (C)(2)(a) through (h) is received by the Department by October 1 of the same calendar year;
 - c. For patients identified between July 1 and September 30, so that the information in subsections (C)(2)(a) through (h) is received by the Department by January 2 of the following calendar year; and
 - d. For patients identified between October 1 and December 31, so that the information in subsections (C)(2)(a) through (h) is received by the Department by April 1 of the following calendar year.

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- D.** Trauma centers under the same governing authority, as defined in A.R.S. § 36-401, may establish a single, centralized trauma registry and submit to the Department consolidated information from the trauma registry, according to subsections (C)(2) and (3), if:
1. The information submitted to the Department specifies for each patient in the trauma registry the trauma center that had contact with the patient; and
 2. Each trauma center contributing information to the centralized trauma registry is able to:
 - a. Access, edit, and update the information contributed by the trauma center to the centralized trauma registry; and
 - b. Use the information contributed by the trauma center to the centralized trauma registry when complying with performance improvement program requirements in this Section.
- E.** As part of the performance improvement program, the owner of a trauma center shall ensure that the trauma program manager and, if applicable, trauma medical director periodically, according to policies and procedures:
1. Review the information in the trauma center's trauma registry; and
 2. Monitor at least the following trauma care parameters, as applicable, for patients in the trauma registry:
 - a. EMS received by a patient;
 - b. Length of stay longer than two hours in the emergency department before transfer;
 - c. Instances of trauma team activation to determine if trauma team activation was timely and appropriate;
 - d. Instances where trauma care was provided to a patient but trauma team activation did not occur;
 - e. Time from notification of a surgeon on the trauma team that a patient described in subsection (H)(6)(b)(i) is in the emergency department to when the surgeon arrives in the emergency department;
 - f. Documentation of the nursing services provided to a patient;
 - g. Instances and reasons for transfer of a patient;
 - h. Instances and reasons for transfer to a hospital not designated as a trauma center;
 - i. For a hospital designated as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, instances and reasons for diversion, as defined in A.A.C. R9-10-201, of a patient requiring trauma care;
 - j. Instances of and circumstances related to the death of a patient;
 - k. Instances related to the assessment of child maltreatment;
 - l. Other patient outcomes;
 - m. Trauma care parameters for pediatric patients, including pediatric-specific measures; and
 - n. The completeness and timeliness of trauma data submission.
- F.** In addition to the requirements in subsections (A) through (E), the owner of a trauma center designated based on meeting the applicable standards specified in this Section and Table 13.1 shall:
1. Ensure that a trauma service is established if required by Table 13.1;
 2. Ensure that policies and procedures for the trauma service are established, documented, and implemented that include:
 - a. The composition of the trauma team;
 - b. The qualifications, skills, and knowledge required of each personnel member of the trauma team;
 - c. Continuing education or continuing medical education requirements for each personnel member of the trauma team;
 - d. The roles and responsibilities of each personnel member of the trauma team;
 - e. Under what circumstances the trauma team is activated; and
 - f. How the trauma team is activated;
 3. Ensure that the personnel members on the trauma team have the qualifications, skills, and knowledge required in the policies and procedures;
 4. If the trauma center is required according to Table 13.1 to have a trauma medical director, appoint a board-certified or board-eligible surgeon as trauma medical director;
 5. Prohibit a physician from serving as trauma medical director for the trauma center if the physician is serving as trauma medical director for another health care institution;
 6. Ensure that the trauma medical director completes:
 - a. If the trauma center's designation is for a three-year period, at least 48 hours of external trauma-related continuing medical education during the term of the designation;
 - b. If the trauma center's designation is for a one-year period, at least 16 hours of external trauma-related continuing medical education during the term of the designation; and
 - c. If the trauma center is designated as a Level I Pediatric trauma center or Level II Pediatric trauma center, at least 12 of the 48 hours required in subsection (F)(6)(a) or four of the 16 hours required in subsection (F)(6)(b) in pediatric trauma-related continuing medical education;
 7. Appoint an individual to act as trauma program manager to coordinate trauma service activities;
 8. If the trauma center is required by Table 13.1 to have a multidisciplinary peer review committee, ensure that each surgeon on the trauma team designated according to subsection (F)(3) attends at least 50% of the meetings of the multidisciplinary peer review committee;
 9. If the trauma center provides surgical services, ensure that policies and procedures for operating rooms and an operating room team are established, documented, and implemented that include:
 - a. The availability of an operating room for trauma care;
 - b. The composition of an operating room team;
 - c. The qualifications, skills, and knowledge required of each personnel member of an operating room team;
 - d. The roles and responsibilities of each personnel member of an operating room team;
 - e. If an operating room team is not on the premises of the health care institution 24 hours a day, under what circumstances the operating room team is notified to come to the trauma center; and
 - f. How the operating room team is notified;
 10. Ensure that the following personnel members on the trauma team:
 - a. Hold current certification in a trauma critical care course:
 - i. Trauma medical director, if applicable;

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- ii. Each emergency medicine physician who is not board-certified or board-eligible; and
 - iii. Each physician assistant or registered nurse practitioner who is responsible for providing trauma care to patients in an emergency department in the absence of an emergency physician; or
 - b. Have held certification in a trauma critical care course:
 - i. Each general surgeon other than the trauma medical director, and
 - ii. Each emergency medicine physician who is board-certified or board-eligible;
 - 11. If the trauma center is designated as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, ensure that each of the trauma team personnel members required in Table 13.1(C)(2) and (C)(3)(a) through (f) are board-certified or board-eligible;
 - 12. If the trauma center is designated as a Level I Pediatric trauma center, ensure that the following trauma team members are fellowship-trained:
 - a. The surgeon credentialed for pediatric trauma care required in Table 13.1(C)(2)(a)(iii),
 - b. The pediatric emergency medicine physician required in Table 13.1(C)(2)(c),
 - c. The pediatric-credentialed orthopedic surgeon required in Table 13.1(C)(3)(b),
 - d. The pediatric-credentialed neurosurgeon required in Table 13.1(C)(3)(d), and
 - e. The pediatric-credentialed critical care medicine physician required in Table 13.1(C)(3)(f);
 - 13. If the trauma center is designated as a Level II Pediatric trauma center, ensure that:
 - a. The pediatric-credentialed critical care medicine physician required in Table 13.1(C)(3)(f) is fellowship-trained, and
 - b. A fellowship-trained pediatric emergency medicine physician:
 - i. Provides direction for pediatric emergency trauma care and oversight of the treatment of pediatric patients as part of the performance improvement program, and
 - ii. Is appointed as a liaison to the multidisciplinary peer review committee established according to subsection (B)(5); and
 - 14. If the trauma center is not designated as a Level I Pediatric trauma center or Level II Pediatric trauma center and annually provides trauma care to 100 or more injured children younger than 15 years of age who meet one or more of the criteria in subsection (C)(1)(c), ensure that the trauma center:
 - a. Complies with subsection (F)(13) and Table 13.1(C)(2)(a)(iii), (3)(b), (3)(d), and (3)(f) and (F)(2); and
 - b. Has a:
 - i. Pediatric emergency department area,
 - ii. Pediatric intensive care area, and
 - iii. Pediatric-specific trauma performance improvement program.
- G.** In addition to the requirements in subsections (A) through (E), the owner of a trauma center designated based on meeting the applicable standards specified in this Section and Table 13.1 shall ensure that the trauma center:
- 1. Establishes, documents, and implements a patient transfer plan, consistent with A.A.C. R9-10-211, that includes:
 - a. The criteria for transferring a patient,
 - b. The health care institution to which a patient meeting specific criteria will be transferred,
 - c. The personnel members who are responsible for coordinating the transfer of a patient, and
 - d. The process for transferring a patient;
 - 2. Participates in state, local, or regional trauma-related activities such as:
 - a. The State Trauma Advisory Board, established by A.R.S. § 36-2222;
 - b. A regional emergency medical services coordinating council described in A.R.S. § 36-2222(A)(3);
 - c. Trauma Registry Users Group, established by the Department;
 - d. Trauma Managers Workgroup, established by the Department; or
 - e. Injury Prevention Council;
 - 3. Participates in injury prevention programs specific to the trauma center's patient population at the national, regional, state, or local levels;
 - 4. Except for a Level IV trauma center, conducts trauma care continuing education activities for physicians, trauma center personnel members, and EMCTs;
 - 5. If required for the trauma center according to Table 13.1, establishes and maintains:
 - a. An injury prevention program:
 - i. Independently or in collaboration with other health care institutions, health advocacy groups, or the Department; and
 - ii. That includes:
 - (1) Designating a prevention coordinator who serves as the trauma center's representative for injury prevention and injury control activities;
 - (2) Carrying out injury prevention and injury control activities, including activities specific to the patient population;
 - (3) Conducting injury control studies;
 - (4) Monitoring the progress and effect of the injury prevention program; and
 - (5) Providing injury prevention and injury control information resources for the public; and
 - b. An educational outreach program:
 - i. Independently or in collaboration with other health care institutions, health advocacy groups, or the Department;
 - ii. That includes providing education to physicians, trauma center personnel members, EMCTs, and the general public; and
 - iii. That may include education about:
 - (1) Injury prevention,
 - (2) Trauma care,
 - (3) Other topics specific to the patient population,
 - (4) Criteria for assessing a patient who may require trauma care, and
 - (5) Criteria for the transfer of a patient requiring trauma care; and
 - 6. If the trauma center holds a designation as a Level I trauma center or Level I Pediatric trauma center:

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- a. Establishes and maintains, either independently or in collaboration with other hospitals, a residency program or fellowship program that provides advanced medical training in emergency medicine, general surgery, orthopedic surgery, or neurosurgery;
 - b. Participates in the provision of a trauma critical care course;
 - c. Conducts or participates in research related to trauma and trauma care; and
 - d. Maintains an Institutional Review Board, established consistent with 45 CFR Part 46, to review biomedical and behavioral research related to trauma and trauma care involving human subjects, conducted, funded, or sponsored by the trauma center, in order to protect the rights of the human subjects of such research.
- H.** In addition to the requirements in subsections (A) through (E), the owner of a trauma center designated based on meeting the applicable standards specified in this Section and Table 13.1 shall:
- 1. Ensure the presence of a surgeon at all operative procedures;
 - 2. If the trauma center provides emergency medicine, neurosurgery, orthopedic surgery, anesthesiology, critical care, or radiology as an organized service, ensure that:
 - a. A physician from the organized service is appointed to act as a liaison between the organized service and the trauma center's trauma service;
 - b. The physician in subsection (H)(2)(a) completes:
 - i. If the trauma center's designation is for a three-year period, at least 48 hours of trauma-related continuing medical education during the term of the designation;
 - ii. If the trauma center's designation is for a one-year period, at least 16 hours of trauma-related continuing medical education during the term of the designation; and
 - iii. If the trauma center is designated as a Level I Pediatric trauma center or Level II Pediatric trauma center, at least 12 of the 48 hours required in subsection (H)(2)(b)(i) or four of the 16 hours required in subsection (H)(2)(b)(ii) in pediatric trauma-related continuing medical education; and
 - c. If the trauma center is required by Table 13.1 to have a multidisciplinary peer review committee, ensure the physician in subsection (H)(2)(a) attends at least 50% of the meetings of the multidisciplinary peer review committee;
 - 3. Ensure that, when a physician is on-call for general surgery, neurosurgery, or orthopedic surgery, the physician is not on-call or on a back-up call list at another health care institution;
 - 4. Ensure that policies and procedures are established, documented, and implemented for:
 - a. Except for a Level IV trauma center, the formulation of blood products to be available during an event requiring multiple blood transfusions for a patient or patients; and
 - b. For a Level IV trauma center, the expedited release of blood products during an event requiring multiple blood transfusions for a patient or patients;
 - 5. Ensure that the patient transfer plan required in subsection (G)(1) includes processes for transferring a patient needing:
 - a. Acute hemodialysis or pediatric trauma care to a hospital providing the required service if the trauma center is designated as a:
 - i. Level III or Level IV trauma center; or
 - ii. Level II trauma center and does not provide, as applicable, acute hemodialysis or pediatric trauma care;
 - b. Burn care as an organized service, acute spinal cord management, microvascular surgery, or replant surgery to a hospital providing the required service if the trauma center is designated as a:
 - i. Level III or Level IV trauma center; or
 - ii. Level I or Level II trauma center and does not provide, as applicable, burn care as an organized service, acute spinal cord management, microvascular surgery, or replant surgery; or
 - c. Another service that the trauma center is not authorized or not able to provide to a hospital providing the required service;
 - 6. Except for a Level IV trauma center or as provided in subsection (I), require that:
 - a. An emergency medicine physician is present in the emergency department at all times;
 - b. A surgeon on the trauma team is present in the emergency department:
 - i. For a patient:
 - (1) If an adult, with a systolic blood pressure less than 90 mm Hg or, if a child, with confirmed age-specific hypotension;
 - (2) With respiratory compromise, respiratory obstruction, or intubation;
 - (3) Who is transferred from another hospital and is receiving blood to maintain vital signs;
 - (4) Who has a gunshot wound to the abdomen, neck, or chest;
 - (5) Who has a Glasgow Coma Scale score less than 8 associated with an injury attributed to trauma; or
 - (6) Who is determined by an emergency department physician to have an injury that has the potential to cause prolonged disability or death; and
 - ii. No later than the following times:
 - (1) For a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, within 15 minutes after notification or at the time the patient arrives in the emergency department, whichever is later; or
 - (2) For a Level III trauma center, within 30 minutes after notification or at the time the patient arrives in the emergency department, whichever is later; and
 - c. One of the following anesthesia personnel members is available for an operative procedure on a patient at the indicated time point:
 - i. For a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, an anesthesiologist, anesthesiology chief resident, or certified regis-

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- tered nurse anesthetist is present in the emergency department or in an operating room area awaiting the patient no later than 15 minutes after patient arrival in the emergency department; and
- ii. For a Level III trauma center, an anesthesiologist, anesthesiology chief resident, or certified registered nurse anesthetist is present in the emergency department or in an operating room area awaiting the patient no later than 30 minutes after patient arrival in the emergency department;
7. For a clinical capability required for the trauma center according to Table 13.1(C)(3), require that the on-call radiologist, critical care medicine physician, or surgical specialist is available to provide medical services, as applicable to the specialist, for a patient requiring trauma care within 45 minutes after notification; and
 8. For personnel members assigned to an operating room team according to subsection (F)(9), require that the personnel members on the operating room team are on the premises of the trauma center while on duty or:
 - a. For a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, Level II Pediatric trauma center:
 - i. Are available to provide operative services for a patient requiring trauma care within 15 minutes after notification or patient arrival at the trauma center, whichever is later; and
 - ii. Have response times and patient outcomes monitored through the performance improvement program; and
 - b. For a Level III trauma center or Level IV trauma center, if the Level IV trauma center provides surgical services:
 - i. Are available to provide operative services for a patient requiring trauma care within 30 minutes after notification or patient arrival at the trauma center, whichever is later; and
 - ii. Have response times and patient outcomes monitored through the performance improvement program.
- I. The Department shall consider a trauma center designated based on meeting the applicable standards specified in this Section and Table 13.1 to be in compliance with subsection (H)(6)(a), (b), or (c), as applicable, if the trauma center has documentation showing that:
 1. The individual required to be present at the indicated location and within the indicated time period was present 80% or more of the time, and
 2. The trauma center monitors the rate of compliance with subsection (H)(6) and patient outcomes through the performance improvement program.
 - J. The requirement in subsection (H)(6)(b) applies whether or not the owner of a trauma center allows a surgery resident in the fourth or fifth year of residency training to begin treating a patient described in subsection (H)(6)(b)(i) while awaiting the arrival of the surgeon on the trauma team, as required in subsection (H)(6)(b)(ii)(1) or (2).
 - K. An ALS base hospital certificate holder that chooses to submit trauma registry information to the Department, as allowed by A.R.S. § 36-2221(A), shall:
 1. Include in the ALS base hospital's trauma registry at least the information required in R9-25-1309(A) for each patient who meets one or more of the criteria in subsections (C)(1)(a) through (c), and
 2. Comply with the submission requirements in subsections (C)(2) and (3).

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1308 renumbered to R9-25-1304; new Section R9-25-1308 renumbered from R9-25-1313 and amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3). Incomplete citations to Table 13.1(C)(3)(f) under subsections (F)(12)(e) and (F)(13)(a) corrected at the request of the Department (Supp. 18-4). Amended by final expedited rulemaking at 29 A.A.R. 2321 (October 6, 2023), with an immediate effective date of September 18, 2023 (Supp. 23-3).

R9-25-1309. Trauma Registry Data (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))

- A. A trauma registry established according to R9-25-1308(B)(1) includes the following in the record of a patient's episode of care, as defined in A.A.C. R9-11-101, for each patient meeting the criteria in R9-25-1308(C)(1):
 1. An identification code specific to the health care institution that had contact with the patient during the episode of care;
 2. Demographic information about the patient:
 - a. The unique number assigned by the health care institution to the patient;
 - b. A code indicating whether the patient's record will be submitted to the Department as required in R9-25-1308(C)(2);
 - c. The unique number assigned by the health care institution for the episode of care;
 - d. The date the patient arrived at the health care institution for the episode of care;
 - e. For the episode of care, a code indicating whether the patient:
 - i. Was directly admitted to the health care institution,
 - ii. Was admitted to the health care institution through the emergency department,
 - iii. Was seen in the emergency department then transferred to another health care institution by an ambulance service or emergency medical services provider,
 - iv. Was seen in the emergency department and discharged, or
 - v. Died in the emergency department or was dead on arrival;
 - f. The patient's first name, middle initial, and last name;
 - g. The patient's Social Security Number;
 - h. The patient's date of birth and age;
 - i. Codes indicating the patient's gender, race, and ethnicity;
 - j. The zip code of the patient's residence or, if applicable, an indication of why no zip code was reported; and
 - k. The city, state, and county of the patient's residence;
 3. Information about the occurrence of the patient's injury:
 - a. The date and time the injury occurred;

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- b. The ICD-code describing the type of location where the injury occurred;
 - c. The zip code of the location where the injury occurred;
 - d. The city, state, and county where the injury occurred;
 - e. A code indicating whether the patient's injury resulted from blunt force trauma, a penetrating wound, or a burn;
 - f. The ICD-code indicating the primary mechanism or cause of the patient's injury resulting in the episode of care and the manner or intent through which the injury occurred;
 - g. A description of the cause and circumstances leading to the patient's injury;
 - h. Whether the patient was using a protective device or safety equipment at the time of the injury and, if so, the type or types of protective device or safety equipment being used;
 - i. If the patient was subject to the requirements in A.R.S. § 28-907 at the time of the injury, whether the patient was using a child restraint system, as defined in A.R.S. § 28-907, at the time of the injury and, if so, the type of child restraint system being used; and
 - j. If the patient's injury resulted from a motor vehicle crash, a code describing the status of airbag deployment;
4. Information about the patient's arrival at the health care institution:
- a. A code identifying the mode of transportation by which the patient arrived at the health care institution; and
 - b. If applicable:
 - i. The ambulance service or emergency medical services provider that transported the patient to the health care institution;
 - ii. The unique identifier given by the ambulance service or emergency medical services provider to the incident during which the patient received EMS;
 - iii. The date the ambulance service or emergency medical services provider transported the patient to the trauma center; and
 - iv. If the patient was transferred from another health care institution, the name of the other health care institution;
5. Information about the health care institution's assessment or treatment of the patient in the emergency department:
- a. A code indicating which of the criteria in R9-25-1308(C)(1) the patient met;
 - b. A code indicating whether an ambulance service or emergency medical services provider transported the patient to the health care institution and, if so, the criteria used by the transporting ambulance service or emergency medical services provider for transporting the patient to the health care institution;
 - c. The date and time the patient arrived at the emergency department of the health care institution for the episode of care;
 - d. The date and time the patient died or left the emergency department of the health care institution for the episode of care;
 - e. The length of time in hours and in minutes that the patient remained in the emergency department of the health care institution during the episode of care;
 - f. If trauma team activation occurred, the time when the last trauma team personnel member arrived at their assigned location in the health care institution;
 - g. Whether the patient showed signs of life when the patient arrived at the health care institution;
 - h. The values of the following for the patient at the time of their first assessment at the health care institution:
 - i. Pulse rate;
 - ii. Respiratory rate;
 - iii. Oxygen saturation;
 - iv. Systolic blood pressure; and
 - v. Temperature, including the units of temperature and the route used to measure the patient's temperature;
 - i. A code indicating whether the patient was receiving respiratory assistance at the time the patient's respiratory rate was assessed;
 - j. A code indicating whether the patient was receiving supplemental oxygen at the time the patient's oxygen saturation was assessed;
 - k. Codes indicating the Glasgow Coma Score for:
 - i. Eye opening,
 - ii. Verbal response to stimulus, and
 - iii. Motor response to stimulus;
 - l. The patient's total Glasgow Coma Score;
 - m. Whether the patient was intubated at the time of the patient's assessments in subsections (A)(5)(h)(ii), (k)(ii), and (l);
 - n. A code indicating whether a paralytic agent or sedative had been administered to the patient at the time the patient's Glasgow Coma Score was measured;
 - o. A code indicating another factor that may have affected the patient's Glasgow Coma Score;
 - p. A revised trauma score for the patient, auto-calculated based on the patient's systolic blood pressure, respiratory rate, and Glasgow Coma Score;
 - q. A code indicating the status of alcohol use by the patient and, if applicable, the blood alcohol concentration in the patient's blood;
 - r. A code indicating the status of drug use by the patient and, if applicable, the code for each drug class detected in the patient's blood;
 - s. A code indicating the disposition of the patient at the time the patient was discharged from the emergency department; and
 - t. If the patient was transferred to another health care institution upon discharge from the emergency department:
 - i. The name of the health care institution to which the patient was transferred;
 - ii. The name of the ambulance service or emergency medical services provider providing the interfacility transport;
 - iii. A code indicating the reason for transfer; and
 - iv. If there was a delay in transferring the patient to another health care institution, a code indicating the reason for the delay;
6. Information about the patient's discharge from the health care institution:

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- a. The date and time the patient was discharged from the health care institution;
 - b. The length of time the patient remained as an inpatient, as defined in A.A.C. R9-10-201, in the health care institution;
 - c. The length of time the patient remained in the health care institution's intensive care unit;
 - d. A code indicating whether the patient was alive or dead at the time of discharge from the health care institution;
 - e. The ICD-code for each injury identified in the patient, including an indication of whether the ICD-code is for:
 - i. The principle diagnosis, the reason believed by the health care institution to be chiefly responsible for the patient's need for the episode of care; or
 - ii. A secondary diagnosis, another reason believed by the health care institution to have contributed to the patient's need for the episode of care;
 - f. The patient's Injury Severity Score;
 - g. A code indicating the disposition of the patient at the time the patient was discharged from the health care institution;
 - h. Whether a report of suspected physical abuse was reported to law enforcement or as required by A.R.S. § 13-3620 or 46-454, if applicable, and, if so:
 - i. Whether an investigation into the suspected physical abuse was initiated by an entity to which the suspected physical abuse was reported; and
 - ii. If the patient is a child, whether the patient was discharged in the care of a person other than the person responsible for the care of the patient at the time the patient arrived at the health care institution; and
 - i. If the patient was transferred to a hospital upon discharge from the health care institution:
 - i. The name of the hospital to which the patient was transferred,
 - ii. The name of the ambulance service or emergency medical services provider providing the interfacility transport, and
 - iii. A code indicating the reason for transfer; and
7. Financial information about the episode of care:
- a. A code for the primary source of payment for the episode of care;
 - b. A code for a secondary source of payment for the episode of care, if applicable;
 - c. The total amount of charges for the episode of care; and
 - d. The total amount collected by the health care institution for the episode of care.
- B.** In addition to the information required in subsection (A), a trauma registry established according to R9-25-1308(B)(1) by a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, Level II Pediatric trauma center, or Level III trauma center includes the following in the record of a patient's episode of care, as defined in A.A.C. R9-11-101, for each patient meeting the criteria in R9-25-1308(C)(1):
1. Demographic information about the patient:
 - a. The country of the patient's residence;
 - b. The country where the patient was found or from which an ambulance service or emergency medical services provider transported the patient; and
 - c. Any pre-existing medical conditions diagnosed for the patient, unrelated to the reason for the episode of care;
2. Information about the occurrence of the patient's injury:
- a. Whether the time specified according to subsection (A)(3)(a) is the actual time of occurrence or an estimate;
 - b. The street address of the location where the injury occurred or, if the location at which the injury occurred does not have a street address, another indicator of the location at which the injury occurred;
 - c. Any additional ICD-code describing the mechanism or cause of the patient's injury resulting in the episode of care and the manner or intent through which the injury occurred;
 - d. The ICD-code indicating the activity the patient was engaged in that resulted in the patient's injury;
 - e. If the patient's injury resulted from a crash involving a means of transportation, including a motor vehicle, other motorized means of transportation, watercraft, bicycle, or aircraft, a code describing the type of vehicle in use at the time of the injury and the patient's location in the vehicle;
 - f. A description of any issues related to a protective device or safety equipment in use at the time of the patient's injury; and
 - g. Whether the patient's injury occurred during the patient's paid employment and, if so, a code indicating:
 - i. The type of occupation associated with the patient's employment, and
 - ii. The patient's occupation;
3. A code indicating whether EMS was provided to the patient and, if applicable, the type of transport provided to the patient;
4. If EMS was provided to the patient, whether a prehospital incident history report was provided to the trauma center and, if so:
- a. The date on the prehospital incident history report;
 - b. The identifying number on the prehospital incident history report assigned by the ambulance service or emergency medical services provider;
 - c. The date and time the ambulance service or emergency medical services provider was dispatched, as defined in R9-25-901, to the scene;
 - d. The date and time the ambulance service or emergency medical services provider responded to the dispatch;
 - e. The date and time the ambulance service or emergency medical services provider arrived at the scene;
 - f. The date and time the ambulance service or emergency medical services provider established contact with the patient;
 - g. The date and time the ambulance service or emergency medical services provider left the scene;
 - h. The date and time the ambulance service or emergency medical services provider arrived at the health care institution that was the transport destination;

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- i. The date and time the patient's pulse, respiration, oxygen saturation, and systolic blood pressure were first measured;
 - j. At the date and time the patient's pulse, respiration, oxygen saturation, and systolic blood pressure were first measured, the patient's:
 - i. Pulse rate,
 - ii. Respiratory rate,
 - iii. Oxygen saturation, and
 - iv. Systolic blood pressure;
 - k. Whether the patient was intubated at the date and time the patient's pulse, respiration, and oxygen saturation were first measured;
 - l. Codes indicating the Glasgow Coma Score for:
 - i. Eye opening,
 - ii. Verbal response to stimulus, and
 - iii. Motor response to stimulus;
 - m. The patient's total Glasgow Coma Score;
 - n. A code indicating whether a paralytic agent or sedative had been administered to the patient at the date and time the patient's Glasgow Coma Score was measured;
 - o. A revised trauma score for the patient, auto-calculated based on the patient's systolic blood pressure, respiratory rate, and Glasgow Coma Score;
 - p. Codes indicating all airway management procedures performed on the patient by an ambulance service or emergency medical services provider before the patient's arrival at the first health care institution; and
 - q. Whether the patient experienced cardiac arrest subsequent to the injury before the patient's arrival at the first health care institution;
5. The amount of time that elapsed from the date and time the ambulance service or emergency medical services provider:
 - a. Was dispatched and the date and time the ambulance service or emergency medical services provider arrived at the scene,
 - b. Arrived at the scene and the date and time the ambulance service or emergency medical services provider left the scene,
 - c. Left the scene and the date and time the ambulance service or emergency medical services provider arrived at the transport destination, and
 - d. Was dispatched and the date and time the ambulance service or emergency medical services provider arrived at the transport destination;
 6. Whether the patient arrived at the trauma center for treatment of the injury resulting in the episode of care through an interfacility transport;
 7. If the patient arrived at the trauma center through an interfacility transport, the following information about the health care institution at which the patient was seen immediately before arriving at the trauma center:
 - a. The name of the health care institution;
 - b. The date and time the patient arrived at the health care institution in subsection (B)(7)(a); and
 - c. The date and time the patient left the health care institution in subsection (B)(7)(a);
 8. If the patient arrived at the health care institution in subsection (B)(7)(a) through an interfacility transport, the information in subsections (B)(7)(a) through (c) about each health care institution at which the patient was seen for the injury resulting in the episode of care before arriving at the health care institution in subsection (B)(7)(a);
 9. If the patient arrived at the trauma center through an interfacility transport, for each health care institution at which the patient was seen for the injury resulting in the episode of care before arriving at the trauma center, information for the first instance of assessing the patient's:
 - a. Respiratory rate,
 - b. Systolic blood pressure,
 - c. The patient's total Glasgow Coma Score, and
 - d. Revised trauma score; and
 10. Information about the patient's episode of care at the trauma center and the patient's discharge from the trauma center:
 - a. The patient's height and weight when the patient arrived at the trauma center;
 - b. The number of days the patient spent on a mechanical ventilator;
 - c. If applicable, the identification number assigned by a medical examiner or alternate medical examiner, as defined in A.R.S. § 11-591, to the documentation of the patient's autopsy;
 - d. The total length of time the patient remained at the trauma center before discharge;
 - e. For each ICD-code identified according to subsection (A)(6)(e), a code that reflects the severity of the injury to which the ICD-code refers;
 - f. For each ICD-code identified according to subsection (A)(6)(e) that does not include an indication of the part of the patient's body that was injured, a code supplementing the ICD-code that indicates the part of the body that was injured;
 - g. For each procedure performed on the patient:
 - i. The ICD-code for the procedure,
 - ii. The health care institution at which the procedure was performed,
 - iii. A code indicating the organized service unit within the health care institution in which the procedure was performed, and
 - iv. The date and time the procedure was begun;
 - h. Any complications experienced by the patient while the patient remained at the trauma center;
 - i. The Abbreviated Injury Scale code indicating the severity of each of the patient's injuries;
 - j. The Abbreviated Injury Scale code indicating the body region affected by each of the patient's injuries;
 - k. If the trauma center is designated as a Level I trauma center or Level I Pediatric trauma center, the six-digit Abbreviated Injury Scale code and the software version used to calculate the six-digit Abbreviated Injury Scale code; and
 - l. The patient's probability of survival.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1309 renumbered to R9-25-1305; new Section R9-25-1309 made by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1310. Trauma Registry Data Quality Assurance (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, and 36-2225(A)(5) and (6))

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- A. To ensure the completeness and accuracy of trauma registry reporting, a health care institution submitting trauma registry information to the Department shall allow the Department to review the following, upon prior notice from the Department of at least five business days:
1. The health care institution's trauma registry or other database containing trauma registry information;
 2. Patient medical records; and
 3. Any record, other than those specified in subsections (A)(1) and (2), that may contain information about diagnostic evaluation or treatment provided to a patient receiving trauma care.
- B. Upon prior notice from the Department of at least five business days, a health care institution submitting trauma registry information to the Department shall provide the Department with all patient medical records for a time period specified by the Department, to allow the Department to determine the accuracy and completeness of the information submitted to the trauma registry for patients receiving trauma care during the period.
- C. For purposes of subsection (B), the Department considers a health care institution to be in compliance with R9-25-1308(C)(2) if the health care institution submitted to the Department trauma registry information for 97% of the patients receiving trauma care during the period.
- D. If trauma registry information submitted to the Department by a health care institution according to R9-25-1308(C)(2) and (3) is not in compliance with requirements in R9-25-1308 or R9-25-1309, the Department shall:
1. Notify the health care institution that the trauma registry information submitted to the Department is not in compliance with requirements in R9-25-1308 or R9-25-1309, and
 2. Identify the revisions or actions that are needed to bring the data into compliance with R9-25-1308 and R9-25-1309.
- E. A health care institution that has trauma registry information returned, as provided in subsection (D), shall:
1. Revise the trauma registry information as identified by the Department, and
 2. Submit the revised data to the Department within 15 business days after the date the Department notified the health care institution according to subsection (D)(1) or within a longer period agreed upon between the Department and the health care institution.
- F. Within 15 business days after receiving a written request from the Department that includes a simulated patient medical record, a health care institution submitting trauma registry information to the Department shall prepare and submit to the Department the information required in R9-25-1309, applicable to the Level of health care institution, for the patient described in the simulated patient medical record.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-

1310 repealed; new Section R9-25-1310 renumbered from R9-25-1406 and amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1311. Repealed**Historical Note**

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1311 repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1312. Renumbered**Historical Note**

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1312 renumbered to R9-25-1307 by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1313. Renumbered**Historical Note**

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1313 renumbered to R9-25-1308 by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1314. Expired**Historical Note**

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (Supp. 12-3).

R9-25-1315. Repealed**Historical Note**

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

Table 1. Repealed**Historical Note**

New Table made by final rulemaking at 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Table 1 Application Processing Time Periods repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

Exhibit I. Repealed**Historical Note**

New Exhibit made by final rulemaking at 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Exhibit 1 Arizona Trauma Center Standards repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

Table 13.1. Arizona Trauma Center Standards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**Key:**

E = Essential and required

I(P) = Level I Pediatric trauma center

II(P) = Level II Pediatric trauma center

ICU = Intensive care unit

In-house = On the premises of the health care institution

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ISS = Injury severity score, the sum of the squares of the abbreviated injury scale scores of the three most severely injured body regions

Child life = A program of support to injured children and their families to reduce stress and anxiety by:

- a. Explaining medical equipment and procedures to children in a non-threatening and age-appropriate manner,
- b. Explaining a diagnosis to a child in an age-appropriate manner, and
- c. Helping children and their families develop strategies to cope with the diagnosis and expected outcome

| Trauma Facilities Criteria | Levels | | | | | |
|-------------------------------------------------------------------------------------------------------|--------|------|----|-------|-----|----|
| | I | I(P) | II | II(P) | III | IV |
| A. Institutional Organization | | | | | | |
| 1. Trauma service | E | E | E | E | E | - |
| 2. Trauma medical director | E | E | E | E | E | - |
| 3. Trauma multidisciplinary peer review committee | E | E | E | E | E | - |
| 4. Injury prevention program (R9-25-1308(G)(5)(a)) | E | E | E | E | - | - |
| 5. Injury prevention activities (R9-25-1308(G)(3)) | E | E | E | E | E | E |
| 6. Educational outreach program (R9-25-1308(G)(5)(b)) | E | E | E | E | - | - |
| 7. Educational outreach activities (R9-25-1308(G)(4)) | E | E | E | E | E | - |
| 8. Child maltreatment assessment capability | E | E | E | E | E | E |
| B. Hospital Departments/Divisions/Sections | | | | | | |
| 1. Surgery | E | E | E | E | E | - |
| 2. Neurosurgery | E | E | E | E | - | - |
| 3. Orthopedic surgery | E | E | E | E | E | - |
| 4. Emergency medicine | E | E | E | E | E | - |
| 5. Pediatric emergency department area | - | E | - | E | - | - |
| 6. Anesthesia | E | E | E | E | E | - |
| C. Clinical Capabilities | | | | | | |
| 1. Written on-call schedule for each component of the trauma service if a team member is not in-house | E | E | E | E | E | E |
| 2. Physician specialist available 24 hours/day | | | | | | |
| a. General surgeon | E | E | E | E | E | - |
| i. Published back-up schedule | E | E | E | E | - | - |
| ii. Dedicated to single hospital when on-call | E | E | E | E | - | - |
| iii. Surgeon credentialed for pediatric trauma care | - | E | - | E | - | - |
| b. Emergency medicine physician | E | E | E | E | E | - |
| c. Pediatric emergency medicine physician | - | E | - | - | - | - |
| 3. Specialist on-call and available 24 hours/day | | | | | | |
| a. Orthopedic surgeon | E | E | E | E | E | - |
| b. Pediatric-credentialed orthopedic surgeon | - | E | - | E | - | - |
| c. Neurosurgeon | E | E | E | E | - | - |
| d. Pediatric-credentialed neurosurgeon | - | E | - | E | - | - |
| e. Critical care medicine physician | E | E | E | E | - | - |
| f. Pediatric-credentialed critical care medicine physician | - | E | - | E | - | - |
| g. Radiologist | E | E | E | E | E | |
| h. Hand surgeon | E | E | E | E | - | - |
| i. Ophthalmic surgeon | E | E | E | E | - | - |
| j. Plastic surgeon | E | E | E | E | - | - |
| k. Thoracic surgeon | E | E | E | E | - | - |
| l. Cardiac surgeon | E | E | - | - | - | - |
| m. Obstetrics/gynecologic surgeon | E | E | - | - | - | - |
| n. Oral/maxillofacial surgeon (plastic surgeon, otolaryngologist, or oral/maxillofacial surgeon) | E | E | E | E | - | - |
| 4. Qualified anesthesia personnel member on-call and available 24 hours/day | | | | | | |
| a. Physician or certified nurse anesthetist | E | E | E | E | E | - |
| b. Physician or certified nurse anesthetist with a pediatric credential | - | E | - | E | - | - |
| 5. Volume performance standards: | | | | | | |
| a. 1200 trauma admissions per year, | E | - | - | - | - | - |
| b. 240 admissions with ISS > 15 per year, or | | | | | | |
| c. Average of 35 patients with ISS > 15 for each trauma team surgeon per year | | | | | | |

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| | | | | | | |
|---------------------------------------------------------------------------------------------------------|---|---|---|---|---|---|
| d. 200 trauma admissions < 15 years of age per year, | - | E | - | - | - | - |
| D. Facilities/Resources/Capabilities | | | | | | |
| 1. Emergency department | | | | | | |
| a. Designated physician director | E | E | E | E | E | - |
| b. Personnel members with pediatric-specific trauma-related training | - | E | - | E | - | - |
| c. Resuscitation equipment for patients of all sizes | | | | | | |
| i. Airway control and ventilation equipment | E | E | E | E | E | E |
| ii. Pulse oximetry | E | E | E | E | E | E |
| iii. Suction devices | E | E | E | E | E | E |
| iv. Electrocardiograph-oscilloscope-defibrillator | E | E | E | E | E | E |
| v. Color-coded, length-based tool to assist with medication dosing and equipment selection for children | E | E | E | E | E | E |
| vi. Central venous pressure monitoring equipment | E | E | E | E | E | - |
| vii. Standard intravenous fluids and administration sets | E | E | E | E | E | E |
| viii. Large-bore intravenous catheters | E | E | E | E | E | E |
| ix. Sterile surgical sets for: | | | | | | |
| (1) Airway control/cricothyrotomy | E | E | E | E | E | E |
| (2) Thoracostomy | E | E | E | E | E | E |
| (3) Central line insertion | E | E | E | E | E | - |
| (4) Thoracotomy | E | E | E | E | E | - |
| x. Arterial catheters | E | E | E | E | - | - |
| xi. X-ray availability 24 hours/day | E | E | E | E | E | - |
| xii. Thermal control equipment | | | | | | |
| (1) For patient | E | E | E | E | E | E |
| (2) For fluids and blood | E | E | E | E | E | E |
| xiii. Rapid infusion system/capability | E | E | E | E | E | E |
| xiv. Qualitative end-tidal CO ₂ monitoring | E | E | E | E | E | E |
| d. Communication with EMS personnel | E | E | E | E | E | E |
| e. Capability to resuscitate, stabilize, and transfer pediatric patients | E | E | E | E | E | E |
| 2. Operating room | | | | | | |
| a. Immediately available 24 hours/day | E | E | E | E | - | - |
| b. Size-specific equipment | | | | | | |
| i. Cardiopulmonary bypass | E | E | - | - | - | - |
| ii. Operating microscope | E | E | - | - | - | - |
| c. Thermal control equipment | | | | | | |
| i. For patient | E | E | E | E | E | E |
| ii. For fluids and blood | E | E | E | E | E | E |
| d. X-ray capability including C-arm image intensifier | E | E | E | E | E | - |
| e. Endoscopes, bronchoscope | E | E | E | E | E | - |
| f. Craniotomy instruments | E | E | E | E | - | - |
| g. Equipment for long bone and pelvic fixation | E | E | E | E | E | - |
| h. Rapid infusion system/capability | E | E | E | E | E | E |
| 3. Postanesthesia recovery room or surgical ICU | | | | | | |
| a. Registered nurses available 24 hours/day | E | E | E | E | E | E |
| b. Equipment for monitoring and resuscitation | E | E | E | E | E | E |
| c. Intracranial pressure monitoring equipment | E | E | E | E | - | - |
| d. Pulse oximetry | E | E | E | E | E | E |
| e. Thermal control equipment | | | | | | |
| i. For patient | E | E | E | E | E | E |
| ii. For fluids and blood | E | E | E | E | E | E |
| 4. ICU or critical care unit for injured patients | | | | | | |
| a. Pediatric ICU | - | E | - | E | - | - |
| b. Registered nurses with trauma-related training | E | E | E | E | E | - |
| c. Registered nurses with pediatric-specific trauma-related training | - | E | - | E | - | - |
| d. Designated surgical director or surgical co-director | E | E | E | E | E | - |

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

| | | | | | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|---|---|---|
| e. Physician (fourth year of residency training or higher) assigned to surgical ICU service and in-house 24 hours/day | E | E | - | - | - | - |
| f. Physician (fourth year of residency training or higher) with a pediatric credential assigned to surgical ICU service and in-house 24 hours/day | - | E | - | - | - | - |
| g. Surgically directed and staffed ICU service | E | E | E | E | - | - |
| h. Equipment for monitoring and resuscitation | E | E | E | E | E | - |
| i. Intracranial pressure monitoring equipment | E | E | E | E | - | - |
| 5. Respiratory therapy services (Available 24 hours/day) | | | | | | |
| a. Available in-house | E | E | E | E | - | - |
| b. On-call and available within 45 minutes after notification | - | - | - | - | E | - |
| 6. Radiological services (Available 24 hours/day) | | | | | | |
| a. In-house radiology technologist | E | E | E | E | E | - |
| b. Radiology technologist on-call and available within 45 minutes after notification | - | - | - | - | - | E |
| c. Resuscitation equipment for patients of all sizes, as specified in subsection (D)(1)(c)(i) to (v) | E | E | E | E | E | E |
| d. Angiography | E | E | E | E | - | - |
| e. Sonography | E | E | E | E | E | - |
| f. Computed tomography (CT) | E | E | E | E | E | - |
| i. In-house CT technician | E | E | E | E | - | - |
| ii. CT technician on-call and available within 45 minutes after notification | - | - | - | - | E | - |
| g. Magnetic resonance imaging | E | E | E | E | - | - |
| 7. Clinical laboratory service (Available 24 hours/day) | | | | | | |
| a. Standard analyses of blood, urine, and other body fluids | E | E | E | E | E | E |
| b. Blood typing and cross-matching | E | E | E | E | E | - |
| c. Coagulation studies | E | E | E | E | E | E |
| d. Comprehensive blood bank or access to a community central blood bank and adequate storage facilities | E | E | E | E | E | - |
| e. Blood gases and pH determinations | E | E | E | E | E | E |
| f. Microbiology | E | E | E | E | E | - |
| E. Rehabilitation Services Specific to the Patient Population | | | | | | |
| 1. Physical therapy | E | E | E | E | E | - |
| 2. Occupational therapy | E | E | E | E | - | - |
| 3. Speech therapy | E | E | E | E | - | - |
| F. Social Services Specific to the Patient Population | | | | | | |
| 1. Social services | E | E | E | E | E | - |
| 2. Child life program | - | E | - | E | - | - |
| G. Performance Improvement | | | | | | |
| 1. Multidisciplinary peer review committee | E | E | E | E | E | - |
| 2. Performance improvement personnel dedicated to the trauma service | E | E | E | E | - | - |

Historical Note

Table 13.1, Arizona Trauma Center Standards, made by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3). Subsections under (D)(2) were incorrectly labeled at 23 A.A.R. 2656; clerical error corrected and labeled as f through h (Supp. 22-2). Amended by final expedited rulemaking at 29 A.A.R. 2321 (October 6, 2023), with an immediate effective date of September 18, 2023 (Supp. 23-3).

ARTICLE 14. REPEALED

January 1, 2018 (Supp. 17-3).

R9-25-1401. Repealed**Table 1. Repealed****Historical Note**

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Section repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

Historical Note

New Table 1 made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Table 1 Trauma Registry Data Set, repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1402. Repealed**R9-25-1403. Repealed****Historical Note**

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Section repealed by final rulemaking at 23 A.A.R. 2656, effective

Historical Note

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Section

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repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1404. Expired**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (Supp. 12-3).

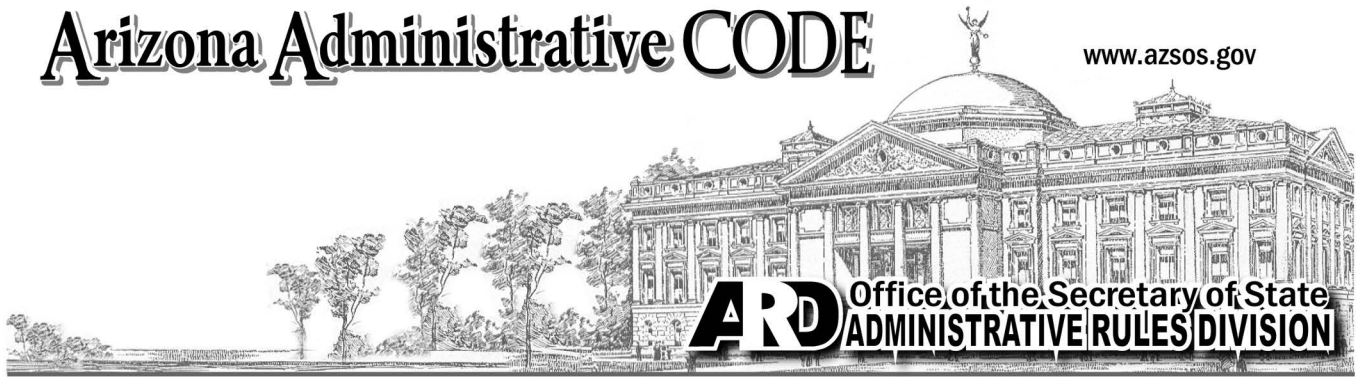
R9-25-1405. Repealed**Historical Note**

New Section made by final rulemaking at 13 A.A.R.

4301, effective January 12, 2008 (Supp. 07-4). Section heading corrected at request of the Department, Office File No. M12-82, filed March 5, 2012 (Supp. 11-4). Section repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1406. Renumbered**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Section R9-25-1406 renumbered to R9-25-1310, effective January 1, 2018 (Supp. 17-3).



10 A.A.C. 4

Supp. 24-1

TITLE 10. LAW

CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

The table of contents on page one contains links to the referenced page numbers in this Chapter.

Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
January 1, 2024 through March 31, 2024

Editor's Note: A clerical error of the release year in the footer of this Chapter has been corrected to 2024.

Editor's note: This Chapter contains rules that were made under a renewal of emergency rulemaking. Since an emergency rulemaking - renewal is effective for an additional 180 days, the "Expired" Article and Section headings shall remain before the emergency rule text until the commission either:

- 1. Makes, amends, repeals, or renumbers the emergency rules under the regular rulemaking process; or*
- 2. Lets the emergency rulemaking expire after the additional 180 days, in which case the Article and Section headings revert back to "Expired."*

Questions about these rules? Contact:

Commission: Arizona Criminal Justice Commission
Address: 1110 W. Washington St., Suite 230
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Website: www.azcjc.gov

Name: Dorinda Johns, Program Manager

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The release of this Chapter in Supp. 24-1 replaces Supp. 23-3, 1-18 pages.

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

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

PERSONAL USE/COMMERCIAL USE

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division

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TITLE 10. LAW

CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

Authority: A.R.S. § 41-2405(A)(8)

Supp. 24-1

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Article 1, consisting of Sections R10-4-101 through R10-4-111, adopted effective December 31, 1986.

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Article 1, consisting of Sections R10-4-101 through R10-4-111 made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1).

Article 1, consisting of Sections R10-4-101 through R10-4-111 made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3).

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ARTICLE 2. CRIME VICTIM ASSISTANCE PROGRAM

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ARTICLE 1. EXPIRED**R10-4-101. Expired****Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Section repealed; new Section R10-4-101 renumbered from R10-4-103 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Amended by final rulemaking at 24 A.A.R. 377, effective April 7, 2018 (Supp. 18-1). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3).

EMERGENCY RULEMAKING - RENEWAL**ARTICLE 1. CRIME VICTIM COMPENSATION PROGRAM****EMERGENCY RULEMAKING - RENEWAL****R10-4-101. Definitions**

In this Article:

1. "Board" means the Crime Victim Compensation Board of an operational unit.
2. "Claim" means an application for compensation submitted under this Article.
3. "Claimant" means a natural person who files a claim.
4. "Collateral source" means a source of compensation for economic loss that a claimant received or is accessible to and obtainable by the claimant or that is payable to or on behalf of the victim. Collateral source includes the following sources of compensation:
 - a. The perpetrator or a third party responsible for the perpetrator's actions;
 - b. The United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, unless:
 - i. The law providing for the compensation makes the compensation excess or secondary to benefits under this Article, or
 - ii. The compensation is made with federal funds granted under 42 U.S.C. 10602;
 - c. Social Security, Medicare, or Arizona Health Care Cost Containment System payments;
 - d. State-required, insurance for a temporary, non-occupational disability;
 - e. Worker's compensation insurance;
 - f. Wage continuation program of any employer;
 - g. Insurance proceeds payable to cover a specific compensable cost due to criminally injurious conduct;
 - h. A contract providing for prepaid hospital and other health care services or disability benefits; and
 - i. A gift, devise, or bequest to cover a specific compensable cost.
5. "Commission" means the Arizona Criminal Justice Commission, as established by A.R.S. § 41-2404.
6. "Compensable cost" means an economic loss for which a compensation award is allowed under this Article.
7. "Compensation award" means a payment made to a claimant under the standards at R10-4-108.
8. "Crime scene cleanup expense" means the reasonable and customary cost for:
 - a. Removing or attempting to remove bodily fluids, dirt, stains, and other debris that result from criminally injurious conduct occurring within a residence or the surrounding curtilage;
 - b. Repairing or replacing exterior doors, locks, or windows damaged as a direct result of criminally injurious conduct occurring within a residence or the surrounding curtilage.
9. "Criminally injurious conduct" means conduct that:
 - a. Constitutes a crime as defined by state or federal law regardless of whether the perpetrator of the conduct is apprehended, charged, or convicted;
 - b. Poses a substantial threat of physical injury, mental distress, or death; and
 - c. Is punishable by fine, imprisonment, or death, or would be punishable but the perpetrator of the conduct lacked the capacity to commit the crime under applicable laws.
10. "Derivative victim" means:
 - a. The spouse, child, parent, stepparent, stepchild, sibling, grandparent, grandchild, or guardian of a victim who died as a result of criminally injurious conduct;
 - b. A child born to a victim after the victim's death;
 - c. A person living in the household of a victim who died as a result of criminally injurious conduct, in a relationship determined by the Board to be substantially similar to a relationship listed in subsection (10)(a);
 - d. A member of the victim's family who witnessed the criminally injurious conduct or who discovered the scene of the criminally injurious conduct;
 - e. A natural person who is not related to the victim but who witnessed the criminally injurious conduct or discovered the scene of the criminally injurious conduct; or
 - f. A natural person whose own mental health counseling and care or presence during the victim's mental health counseling and care is recommended for the successful treatment of the victim.
11. "Durable medical equipment" means an appliance, apparatus, device, or product that:
 - a. Is medically necessary to treat an injury or condition resulting from criminally injurious conduct;
 - b. Improves the function of an injured body part or delays deterioration of a patient's physical condition;
 - c. Is primarily and customarily used to serve a medical purpose rather than primarily for transportation, comfort, or convenience; and
 - d. Provides the medically appropriate level of performance and quality for the medical injury or condition present.
12. "Economic loss" means financial detriment resulting from medical expense, mental health counseling and care expense, crime scene cleanup expense, funeral expense, or work loss.
13. "Fund" means all State, Federal, and jurisdiction financial resources dedicated to the compensation program through statute, this chapter, or federal grant award.
14. "Funeral expense" means a reasonable and customary cost, such as those listed on the Statement of Funeral Goods and Services Selected required under A.A.C. R4-12-307, incurred as a direct result of a victim's funeral, cremation, Native American ceremony, or burial.

TITLE 10. LAW

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15. "Good cause" means a reason that the Board determines is substantial enough to afford a legal excuse.
16. "Inactive claim" means a claim for which no compensation award is made for 12 consecutive months.
17. "Incident of criminally injurious conduct" means all criminal actions that are related to or dependent upon each other regardless of the time involved in perpetrating the actions, number of persons perpetrating the actions, or the number of crimes with which the perpetrator is or could be charged.
18. "Jurisdiction" means any county in this state.
19. "Medical expense" means a reasonable and customary cost for medical care provided to a victim due to a physical injury, mental health condition, or medical condition that is a direct result of criminally injurious conduct.
20. "Mental distress" means a substantial disorder of emotional processes, thought, or cognition that impairs judgment, behavior, or ability to cope with the ordinary demands of life.
21. "Mental health counseling and care expense" means a reasonable and customary cost to assess, diagnose, and treat a victim's or derivative victim's mental distress resulting from criminally injurious conduct.
22. "Minimum wage standard" means the uniform minimum wage payable in Arizona under federal or state law, whichever is greater.
23. "Operational unit" means a public or private agency authorized by the Commission to receive, evaluate, and present to the Board a claim.
24. "Program" means the Crime Victim Compensation Program.
25. "Proximate cause" means an event sufficiently related to criminally injurious conduct to be held the cause of the criminally injurious conduct.
26. "Reasonable and customary" means the normal charge within a specific geographic area for a specific service by a provider of a particular level of experience or expertise.
27. "Resident" means a natural person who is domiciled in Arizona or is in Arizona for other than a temporary or transitory purpose.
28. "Subrogation" means the substitution of the state or an operational unit in place of a claimant to enforce a lawful claim against a collateral source to recover any part of a compensation award made to the claimant using funds of the state or operational unit.
29. "Total and permanent disability" means a physical or mental condition that the Board finds is a proximate result of criminally injurious conduct and:
 - a. Produces a significant and sustained reduction in the victim's former mental or physical abilities dramatically altering the victim's ability to interact with others and carry on normal functions of life;
 - b. Lessens the victim's ability to work to a material degree; or
 - c. Causes a physical or neurophysical impairment from which no fundamental or marked improvement in the victim's crime-related condition can reasonably be expected.
30. "Transportation costs" means a travel expense that may be reimbursed to a claimant as follows:
 - a. Mileage, calculated at the rate established by:
 - i. The operational unit, or
 - ii. The state if the operational unit has not established a mileage rate;
 - b. Fare or fee expenses; and
 - c. Vehicle rental at the cost specified in the rental agreement.
31. "Victim" means a natural person who suffers a physical injury or medical condition, mental distress, or death as a direct result of:
 - a. Criminally injurious conduct,
 - b. The person's good faith effort to prevent criminally injurious conduct, or
 - c. The person's good faith effort to apprehend a person suspected of engaging in criminally injurious conduct.
32. "Work loss" means a reduction in income from:
 - a. Work that a victim or derivative victim would have performed if the victim had not been a victim; and
 - b. Social Security or Supplemental Security Income that a victim would have received or from which a derivative victim would have benefitted if the victim had not been killed.

Historical Note

New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1).

R10-4-102. Expired**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Section repealed; new Section R10-4-102 renumbered from R10-4-104 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Amended by final rulemaking at 24 A.A.R. 377, effective April 7, 2018 (Supp. 18-1). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3).

EMERGENCY RULEMAKING - RENEWAL**R10-4-102. Administration of the Fund**

- A. The Commission shall include in the Fund all funds received for compensating a claimant under this Chapter.
- B. The Commission shall designate one operational unit for a jurisdiction or jurisdictions to receive an allocation from the Fund each state fiscal year.
- C. The Commission shall distribute a portion of the Fund to each operational unit for expenditure by the Board. The Commission shall distribute the funds using an allocation formula approved by the Commission.
- D. The Commission shall reserve the lesser of \$50,000 or 10 percent of the Fund to be used in the event of an unforeseen increase of victimization that causes an operational unit for a particular jurisdiction to lack the funds needed to provide compensation.
- E. If there is an unforeseen increase in victimization in a particular jurisdiction, the Commission shall designate an additional operational unit to accept claims from that jurisdiction or make a compensation award based on the criteria established by R10-4-108.

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- F. If, at the end of a fiscal year, an operational unit has unexpended funds received from the Commission, the operational unit shall return the funds to the Commission within 90 days after the end of the fiscal year. The Commission shall deposit the returned funds in the Fund for use in the next fiscal year.
- G. Funds collected by an operational unit through subrogation or restitution may be retained by the operational unit to the extent authorized by the Commission and shall be used to pay compensation awards based on the criteria established by R10-4-108.
- H. An operational unit shall use funds to pay administrative costs only to the extent authorized by the Commission.
- I. An operational unit shall pay approved compensation program benefit expenses using benefit category cost rate schedules approved by the Commission. If the Commission has not approved a cost rate schedule for a benefit category, or if an eligible benefit cost is not covered by the approved rate schedule, the operational unit may negotiate a reasonable and customary cost with the service provider for the approved benefit expense.

Historical Note

New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1).

R10-4-103. Expired**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Amended effective June 12, 1997 (Supp. 97-2). Former Section R10-4-103 renumbered to R10-4-101; new Section R10-4-103 renumbered from R10-4-105 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Amended by final rulemaking at 24 A.A.R. 377, effective April 7, 2018 (Supp. 18-1). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3).

EMERGENCY RULEMAKING - RENEWAL**R10-4-103. Statewide Operation**

For any jurisdiction not served by an operational unit, the Commission shall operate a program in accordance with this Article, designate another operational unit as described in R10-4-104, or provide for a program by contract.

Historical Note

New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1).

R10-4-104. Expired**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Amended effective June 12, 1997 (Supp. 97-2). Former Section R10-4-104 renumbered to R10-4-102; new Section R10-4-104 renumbered from R10-4-106 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Amended by final rulemaking at 24 A.A.R. 377, effective April 7, 2018 (Supp. 18-1). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3).

EMERGENCY RULEMAKING - RENEWAL**R10-4-104. Operational Unit Requirements**

- A. To be designated by the Commission as an operational unit for a jurisdiction, a public or private agency shall submit to the Commission a written request for designation.
- B. The Commission shall designate a public or private agency as the operational unit for a jurisdiction or jurisdictions:
 1. Only if the public or private agency agrees not to:
 - a. Use Commission funds or federal funds to supplant funds otherwise available to compensate a victim or claimant;
 - b. Make a distinction between a resident and a non-resident in evaluating a claim; and
 - c. Make a distinction in evaluating a claim relating to a federal crime that occurs in Arizona and one relating to a state crime; and
 2. Only if the public or private agency agrees to:
 - a. Forward to the Board a claim relating to an incident of criminally injurious conduct occurring in the public or private agency's jurisdiction or jurisdictions;
 - b. Forward to the Board a claim made by or on behalf of a resident of the public or private agency's jurisdiction or jurisdictions who is a victim or derivative victim of an incident of criminally injurious conduct occurring in another state, the District of Columbia, Puerto Rico, or any other possession or territory of the United States that does not have a crime victim compensation program that meets the requirements of 42 U.S.C. 10602(b);
 - c. Forward to the Board a claim made by or on behalf of a resident of the public or private agency's jurisdiction or jurisdictions who is a victim or derivative victim of an incident of criminally injurious conduct occurring outside of the United States in an area without an accessible crime compensation program;
 - d. Notify the Commission of any change in the public or private agency's program procedures or program policies before the change takes effect and if the change is material, obtain written approval from the Commission before instituting the change;
 - e. Submit financial and program activity reports to the Commission, in a format required by the Commission, and at a frequency established annually by the Commission;
 - f. Provide an application form to a claimant;
 - g. Comply with all civil rights requirements;

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- h. Ensure that each claim is investigated and substantiated before forwarding the claim to the Board for a compensation award; and
 - i. Monitor a compensation award to ensure that amounts paid are consistent with this Article.
- C. If more than one agency requests to be designated by the Commission as an operational unit for a jurisdiction, the Commission shall designate the agency that it determines is better able to evaluate claims and manage the expenditure of public funds. The Commission shall give preference to a public agency if both a public and private agency request designation.

Historical Note

New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1).

R10-4-105. Expired**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Former Section R10-4-105 renumbered to R10-4-103; new Section R10-4-105 renumbered from R10-4-107 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3).

EMERGENCY RULEMAKING - RENEWAL**R10-4-105. Crime Victim Compensation Board**

- A. Each operational unit shall establish a Crime Victim Compensation Board that consists of an odd number of members with at least three members. Members of the Board shall not receive compensation for their services but are eligible for travel reimbursement under A.R.S. § 38-621.
- B. Board members serve a three-year term and are eligible for reappointment.
- C. When a Board is first established, approximately one-third of the members shall be appointed for a three-year term, one-third for a two-year term, and one-third for a one-year term. If a Board member is unable to complete the term of the Board member's appointment, the Commission Chairman shall appoint a new Board member for the unexpired term only.
- D. When a Board is first established and when a new member is appointed to an existing Board, the Commission Chairman shall choose the individual to be appointed from a list submitted by the operational unit.
- E. A majority of the Board membership constitutes a quorum that may transact the business of the Board.
- F. The Board shall elect from its membership a chairman and other necessary officers to serve terms determined by the Board.
- G. The Board shall make a compensation award according to this Article and perform other acts necessary for operation of the program.
- H. As required by A.R.S. Title 38, Chapter 3, Article 8, a Board member shall not participate in making any decision regarding a claim or compensation award if the Board member or a rela-

tive of the Board member, as defined at A.R.S. § 38-502, has a substantial interest in the decision.

- I. An employee of an operational unit shall not serve as a Board member.
- J. A newly appointed Board member shall meet all training requirements established by the Commission for new Board members within six months of the Board member's date of appointment.
- K. A Board member who is reappointed shall meet all training requirements established by the Commission for reappointed Board members within six months of the Board member's date of reappointment.
- L. A Board member shall not miss more than one-third of Board meetings in a year due to unexcused absence.

Historical Note

New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1).

R10-4-106. Expired**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective December 12, 1990 (Supp. 90-4). Amended effective October 28, 1994 (Supp. 94-4). Amended effective June 12, 1997 (Supp. 97-2). Former Section R10-4-106 renumbered to R10-4-104; new Section R10-4-106 renumbered from R10-4-108 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Former R10-4-106 renumbered to R10-4-108; new R10-4-106 made by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Amended by final rulemaking at 24 A.A.R. 377, effective April 7, 2018 (Supp. 18-1). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3).

EMERGENCY RULEMAKING - RENEWAL**R10-4-106. Prerequisites for a Compensation Award**

- A. The Board shall make a compensation award only if it determines that:
 - 1. Criminally injurious conduct:
 - a. Occurred in Arizona; or
 - b. Occurred outside of Arizona in an area without an accessible crime compensation program and affected a resident;
 - 2. The criminally injurious conduct directly resulted in the victim's physical injury, mental distress, medical condition, or death;
 - 3. The victim of the criminally injurious conduct or a person who submits a claim regarding criminally injurious conduct was not:
 - a. The perpetrator, an accomplice of the perpetrator, or a person who encouraged or in any way participated in or facilitated the criminally injurious conduct that is the subject of the claim;
 - b. At the time of the criminally injurious conduct that is the subject of the claim;

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- i. Serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough; or
 - ii. Incarcerated in any detention facility awaiting criminal sentencing or disposition.
- c. At the time of claim submission to the operational unit for a jurisdiction:
 - i. Escaped from serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough;
 - ii. Convicted of a federal crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the offense if the U.S. Attorney General and the Director of the Administrative Office of the U.S. Courts have issued a written determination that the entities administering federal victim compensation programs have access to an accurate and efficient criminal debt payment tracking system; or
 - iii. Convicted of a state crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the crime if the delinquency is identified by the Arizona Administrative Office of the Courts or the Clerk of the Superior Court.
- d. Wanted in Arizona on an active warrant, if warrant status is discovered anytime following submission of the claim.
- 4. The criminally injurious conduct was reported to an appropriate law enforcement authority within 72 hours after its discovery;
- 5. The victim, derivative victim, or claimant cooperated with law enforcement agencies;
- 6. The victim, derivative victim, or claimant incurred economic loss as a direct result of the criminally injurious conduct that is not compensable by a collateral source; and
- 7. A claim, as described in R10-4-107, was submitted to the operational unit within two years after discovery of the criminally injurious conduct.
- B.** The Board shall extend the time limits under subsections (A)(4) and (A)(7) if the Board determines there is good cause for a delay.
- C.** If a victim died as a result of criminally injurious conduct, the requirements under subsections (A)(3)(c)(ii), (A)(3)(c)(iii), and (A)(3)(d) are waived for the deceased victim. Expenses incurred by the deceased victim and eligible claimants may be covered.
- D.** If the Board determines that a compensation award does not solely benefit a claimant who is delinquent under subsections (A)(3)(c)(ii) and (A)(3)(c)(iii), the requirements under subsections (A)(3)(c)(ii) and (A)(3)(c)(iii) may be waived for:
 - 1. A claimant who is the parent or legal guardian of a minor victim of criminally injurious; or
 - 2. A compensation award for expenses under R10-4-108(C)(3).

Historical Note

New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1).

R10-4-107. Expired**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Former Section R10-4-107 renumbered to R10-4-105; new Section R10-4-107 renumbered from R10-4-109 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Former R10-4-107 renumbered to R10-4-109; new R10-4-107 made by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Amended by final rulemaking at 24 A.A.R. 377, effective April 7, 2018 (Supp. 18-1). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3).

EMERGENCY RULEMAKING - RENEWAL**R10-4-107. Submitting a Claim**

- A.** If the prerequisites in R10-4-106 are met, a natural person is eligible to submit a claim if the person is:
 - 1. A victim;
 - 2. A derivative victim;
 - 3. A person authorized to act on behalf of a victim or a deceased victim's dependent; or
 - 4. A person who assumed an obligation for or paid an expense directly related to a victim's economic loss.
- B.** If a person is eligible under subsection (A) to submit a claim regarding more than one incident of criminally injurious conduct, the person shall submit a separate claim regarding each incident of criminally injurious conduct.
- C.** If more than one person is eligible under subsection (A) to submit a claim regarding an incident of criminally injurious conduct, each person shall submit a separate claim.
- D.** To apply for a compensation award, a person who is eligible under subsection (A) shall submit a claim, using a form that is available from the Commission, to the operational unit for the jurisdiction in which the incident of criminally injurious conduct occurred or to the operational unit for the jurisdiction in which a victim lives if the incident of criminally injurious conduct occurred in an area without an accessible victim compensation program. The claimant shall provide the following:
 - 1. About the victim:
 - a. Full name,
 - b. Residential address,
 - c. Gender,
 - d. Date of birth,
 - e. Residential and work telephone numbers,
 - f. Statement of whether the victim is deceased,
 - g. Ethnicity,
 - h. Statement of whether the victim is a resident, and
 - i. Statement of whether the victim is disabled;
 - 2. About the claimant if the claimant is not the victim:
 - a. Full name;
 - b. Residential address;
 - c. Gender;
 - d. Date of birth;
 - e. Residential and work telephone numbers;
 - f. Relationship to the victim; and
 - g. If there are multiple victims or derivative victims of an incident of criminally injurious conduct, the name, residential address, and date of birth of each, and for derivative victims, the relationship to the victim;
 - 3. About the crime:
 - a. Type of crime;

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- b. Statement of whether the crime was related to domestic violence;
- c. Statement of whether the crime was a federal crime;
- d. Date on which crime was committed;
- e. Date on which crime was reported to law enforcement authorities;
- f. Name of law enforcement agency to which the crime was reported;
- g. Name of law enforcement officer to whom the crime was reported;
- h. Law enforcement report number;
- i. Location of crime;
- j. Name of perpetrator, if known; and
- k. Brief description of the crime and resulting injuries;
- 4. About a civil lawsuit:
 - a. Statement of whether the claimant has or will file a civil lawsuit related to the crime; and
 - b. If the answer to subsection (D)(4)(a) is yes, the name, address, and telephone number of the claimant's attorney;
- 5. About benefits from collateral sources:
 - a. List of the benefits the claimant has received since the incident of criminally injurious conduct or is entitled to receive; and
 - b. For each benefit identified:
 - i. Type of benefit,
 - ii. Contact address and telephone number; and
 - iii. Claimant's identification or policy number;
- 6. About the economic loss for which compensation is requested:
 - a. Medical expenses. A statement of whether the claim includes medical expenses and if so, the name, address, telephone number, account number, and date of service for each provider;
 - b. Mental health counseling and care expenses. A statement of whether the claim includes mental health counseling and care expenses and if so, the name, address, telephone number, account number, and date of service for each provider;
 - c. Work loss expenses. A statement of whether the claim includes work loss expenses and if so, the date on which the claimant was first unable to work, date on which the claimant returned to work, total time lost from work, hourly rate of pay, number of hours worked each week, number of hours worked each day, name, address, and telephone number of employer, and name of supervisor;
 - d. Funeral expenses. A statement of whether the claim includes funeral expenses and if so, the name, address, and telephone number of the provider and the amount paid; and
 - e. Crime scene cleanup expenses. A statement of whether the claim includes crime scene cleanup expenses and if so, the name, address, and telephone number of the provider and the amount paid;
 - f. Transportation costs. A statement of whether the claim includes transportation costs and if so, the reason for travel as listed under R10-4-108(C)(6) and if mileage is claimed, the date and mileage of each trip; and
- 7. The claimant's dated signature:
 - a. Certifying that the claimant is eligible to submit a claim and that the information provided is true and correct to the best of the claimant's knowledge;
 - b. Subrogating to the state and operational unit the claimant's right to receive benefits from a collateral source;
 - c. Authorizing the release of confidential information necessary to administer the claim; and
 - d. Authorizing the release to the Program of protected health information that relates to care provided as a result of the criminally injurious conduct and is necessary to verify the claim.
- E. A claimant shall submit the following in addition to the claim form submitted under subsection (D):
 - 1. A copy of all bills, contracts, receipts, and insurance statements relating to each expense claimed under subsection (D)(6);
 - 2. If work loss expenses are claimed, a signed statement on official letterhead:
 - a. From the claimant's employer verifying the information provided under subsection (D)(6)(c); and
 - b. If applicable, from the physician or mental health care provider indicating the claimant:
 - i. Was unable to work as a result of being a victim or derivative victim, the length of time the claimant was unable to work, and the date on which the claimant was or will be able to return to work; or
 - ii. Is totally and permanently disabled.
 - 3. Any documentation required by the operational unit to fully investigate and substantiate claimant eligibility and all claim expense requests.

Historical Note

New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1).

R10-4-108. Expired**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Amended effective June 12, 1997 (Supp. 97-2). Former Section R10-4-108 renumbered to R10-4-106; new Section R10-4-108 renumbered from R10-4-110 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Former R10-4-108 renumbered to R10-4-110; new R10-4-108 renumbered from R10-4-106 and amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Amended by final rulemaking at 24 A.A.R. 377, effective April 7, 2018 (Supp. 18-1). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3).

EMERGENCY RULEMAKING - RENEWAL**R10-4-108. Compensation Award Criteria**

- A. The Board shall meet at least every 60 days to decide, based on the findings made by the operational unit, the eligibility of the claimant, whether to make a compensation award, and the terms and amount of any compensation award. The Board shall make a decision within 60 days after the operational unit

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receives a complete and actionable claim under R10-4-107 unless good cause for delay exists. The Board shall inform the claimant in writing within 10 business days of the Board's decision.

- B.** The Board shall not make a compensation award unless it determines that the prerequisites in R10-4-106 are met.
- C.** The Board shall make a compensation award only for the following:
 - 1. Reasonable and customary medical expenses due to the victim's physical injury, medical condition, mental health condition, or death.
 - a. The Board shall include the following as a medical expense:
 - i. Repair of damage to a victim's prosthetic device, eyeglasses or other corrective lenses, or a dental device; and
 - ii. Durable medical equipment required for treatment of the victim.
 - b. The Board shall not include as a medical expense:
 - i. A charge for a private room in a hospital, clinic, convalescent home, nursing care facility, or other institution that provides medical services unless the Board determines that the private room is medically necessary; and
 - ii. Any drug, substance, or chemical included under Schedule I of the Federal Controlled Substances Act 21 U.S.C. § 812(c).
 - 2. Reasonable and customary work loss expenses for:
 - a. A victim whose ability to work is reduced due to physical injury, mental distress, or medical condition resulting from the criminally injurious conduct;
 - b. A victim or derivative victim to:
 - i. Make a medical or mental health counseling and care visit; or
 - ii. Attend a criminal court proceeding, clemency hearing, parole hearing, or execution directly related to the criminally injurious conduct.
 - c. A derivative victim listed in R10-4-101(10)(a) through (c) if the Board determines the death resulted in a loss of support from the victim to the derivative victim;
 - d. A parent or guardian of a minor victim to transport or accompany the minor victim to:
 - i. A medical or mental health counseling and care visit; or
 - ii. A criminal court proceeding, clemency hearing, parole hearing, or execution directly related to the criminally injurious conduct.
 - e. A derivative victim to make funeral arrangements for a deceased victim, or tend to the affairs of a deceased victim; or
 - f. A family member or guardian or a person living in the victim's household in a relationship similar to those listed in R10-4-101(10)(a) to provide non-skilled nursing care for the victim that is medically necessary as a result of the criminally injurious conduct;
 - 3. Reasonable and customary funeral expenses. Personal attendee expenses for clothing, travel, lodging, food, or per diem to attend a victim's funeral, Native American ceremony, or burial are not reasonable and customary funeral expenses and shall not be included in a claim for a compensation award;

- 4. Reasonable and customary mental health counseling and care expenses due to a victim's or derivative victim's mental distress resulting from the criminally injurious conduct if:
 - a. The mental health counseling and care is provided by an individual who:
 - i. Is licensed for independent practice by the Board of Behavioral Health Examiners,
 - ii. Is a behavioral health professional as defined at A.A.C. R9-20-101, or
 - iii. Is authorized to perform mental health counseling and care by the laws of a federally recognized tribe; and
 - b. The mental health counseling and care expenses do not include a charge for a private room in a hospital, clinic, convalescent home, nursing care facility, or any other institution that provides medical services unless the Board determines that the private room is medically necessary;

- 5. Reasonable and customary crime scene cleanup expenses due to a victim's homicide, aggravated assault, or sexual assault; and
- 6. Reasonable and customary transportation costs related to:
 - a. Obtaining medical care as defined in subsection (C)(1),
 - b. Obtaining mental health counseling and care as defined in subsection (C)(4),
 - c. A victim or derivative victim attending a criminal court proceeding, clemency hearing, parole hearing, or execution directly related to the incident of criminally injurious conduct,
 - d. The victim obtaining a medical forensic examination or participating in a medical forensic interview, and
 - e. Responding to a substantiated threat to the safety or well-being of the victim or a derivative victim listed in R10-4-101(10)(d).

- D.** The Board shall not make a compensation award to a claimant that exceeds:
 - 1. Twenty-five thousand dollars for all economic loss submitted under a claim as a result of an incident of criminally injurious conduct;
 - 2. The amount available to the operational unit and not committed to other compensation awards at the time the Board makes the compensation award determination;
 - 3. For medical expenses for a victim, the maximum amount specified in subsections (D)(1) and (D)(2).
 - 4. For work loss expenses:
 - a. Work loss expenses under subsections (C)(2)(a), (C)(2)(b), (C)(2)(d), (C)(2)(e), and (C)(2)(f), are limited to an amount per calendar week equal to 40 hours at the current minimum wage and the maximum amount specified in subsections (D)(1) and (D)(2),
 - b. Loss of support under subsection (C)(2)(c) may be awarded to the maximum allowed under subsections (D)(1) and (D)(2) in a lump sum or periodic payments;
 - 5. For mental health counseling and care expenses, \$5,000 per victim or derivative victim;
 - 6. For funeral expenses, \$10,000;
 - 7. For crime scene cleanup expenses, \$2,000 for cleanup provided by a professional service, of which \$500 may be for crime scene cleanup not provided by a professional

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- service to include only repair or cleanup material costs for one-time use items; and
8. For transportation costs, \$2,000 per victim or derivative victim paid as reimbursement of actual transportation expenses.
- E.** If the Board determines a victim is totally and permanently disabled, the Board may expedite a compensation award for the victim. The Board shall determine the amount of the expedited compensation award to the maximum allowed under subsection (D) and determine whether to provide the amount awarded in a lump sum or periodic payments.
- F.** The Board shall deny or reduce a compensation award to a claimant if:
1. The victim or claimant has recouped or is eligible to recoup the economic loss from an obtainable and accessible collateral source, including benefits from a federal or federally financed program;
 2. The Board determines that the victim or claimant earned income from substitute work or unreasonably failed to perform available substitute work; or
 3. The Board determines that the incident of criminally injurious conduct that is the subject of the claim was due in substantial part to the victim's:
 - a. Negligence,
 - b. Intentional unlawful conduct that was the proximate cause of the incident of criminally injurious conduct, or
 - c. Conduct intended to provoke or aggravate that was the proximate cause of the incident of criminally injurious conduct.
- G.** The Board shall deny or reduce a compensation award under subsection (F)(3) in proportion to the degree to which the Board determines the victim is responsible for the incident of criminally injurious conduct that is the subject of the claim.
- H.** The Board shall deny a compensation award to a claimant if:
1. The Board determines that the victim or claimant did not cooperate fully with the appropriate law enforcement agency and the failure to cooperate fully was not due to a substantial medical, mental health, or safety risk. The Board shall use the following criteria to determine whether failure to cooperate fully with law enforcement warrants that a claim be denied:
 - a. The victim or claimant failed to assist in the prosecution of a person who engaged in the criminally injurious conduct or failed to appear as a witness for the prosecution;
 - b. The victim or claimant delayed assisting in the prosecution of a suspect and as a result, the suspect of the criminally injurious conduct escaped prosecution or the prosecution of the suspect was negatively affected; or
 - c. A law enforcement authority indicates to the Board that the victim or claimant delayed giving information pertaining to the criminally injurious conduct, failed to appear when requested without good cause, gave false or misleading information, or attempted to avoid law enforcement authorities.
 2. The Board determines that the victim or claimant knowingly made a false or misleading statement on the claim or in writing on supporting documents submitted to the Board or operational unit.
- I.** If there are insufficient funds to make a compensation award, the Board may;
1. Deny the claim,
 2. Make a partial award and reconsider the claim later during the fiscal year, or
 3. Extend the claim into a subsequent fiscal year.
- J.** The Board shall not make a compensation award to pay attorney's fees incurred by a victim or claimant.
- K.** The operational unit, in its discretion, may pay a compensation award directly to a claimant or to a provider.

Historical Note

New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1).

R10-4-109. Expired**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Former Section R10-4-109 renumbered to R10-4-107 by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Section R10-4-109 renumbered from R10-4-107 and amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Amended by final rulemaking at 24 A.A.R. 377, effective April 7, 2018 (Supp. 18-1). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3).

EMERGENCY RULEMAKING - RENEWAL**R10-4-109. Hearing; Request for Rehearing**

- A.** If the prerequisites in R10-4-106 are met, the Board shall conduct a hearing regarding a claim submitted under this Article.
- B.** The Board shall provide a claimant with at least 10 business days' notice of a hearing or rehearing.
- C.** The Board shall provide written notice of its decision to the claimant within 10 business days after a hearing or rehearing.
- D.** The Board shall serve notice of a compensation-award denial or reduction by personal delivery or certified mail to the last known residence or place of business of the person being served. Service is complete upon personal delivery or five days after mailing by certified mail.
- E.** The operational unit may request a rehearing of a decision by the Board at any time and for any reason under this Article.
- F.** A claimant who is aggrieved by a decision of the Board made at a hearing may request a rehearing of the decision within 30 days after the Board serves notice of the decision. A claimant shall request a rehearing in writing and specify the grounds for the request.
- G.** A claimant may amend a request for a rehearing of a Board decision at any time before it is ruled on by the Board.
- H.** The Board may require additional written explanation of an issue raised in a request for rehearing of a Board decision and may provide for oral argument.
- I.** The Board shall grant a rehearing for any of the following reasons materially affecting a claimant's rights:
 1. Irregularity in the proceedings of the Board or its operational unit or any order or abuse of discretion that deprived the claimant of a fair Board decision;
 2. Misconduct of the Board, the operational unit, or staff of the operational unit;

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3. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the original Board meeting;
 4. Error in the admission or rejection of evidence or other error of law occurring at the Board meeting; and
 5. The decision is not justified by the evidence or is contrary to law.
- J.** When a rehearing is granted, the Board shall ensure that the rehearing covers only the matters specified under subsection (I) that materially affect a claimant's rights.
- K.** The Board may affirm or modify a decision on all or part of the issues for any of the reasons listed in subsection (I). An order modifying a decision shall specify with particularity the grounds for the order.
- D.** A claimant may amend a request for a state-level claim review of a Board decision at any time before it is ruled on by the State Claim Review Panel.
- E.** When a state-level claim review is granted, the State Claim Review Panel shall ensure that the review:
1. Considers only evidence previously presented to the Board, and
 2. Decides only whether the Board's decision was consistent with the standards in this Article.
- F.** The State Claim Review Panel may affirm or overturn a decision made by a Board.
- G.** A decision by the State Claim Review Panel is final. If the Panel overturns a decision made by a Board related to:
1. Eligibility, the operational unit where the claim originated shall proceed with any further action related to the claim; or
 2. An economic loss, the operational unit where the claim originated shall pay the economic loss using compensation funds available to the operational unit.
- H.** The State Claim Review Panel shall provide written notice of the Panel's decision to the claimant and the operational unit that originally heard the claim within 10 business days after the state-level claim review.

Historical Note

New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1).

R10-4-110. Expired**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Former Section R10-4-110 renumbered to R10-4-108 by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Section R10-4-110 renumbered from R10-4-108 and amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Section R10-4-110 renumbered to R10-4-111; new Section R10-4-110 made by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Amended by final rulemaking at 24 A.A.R. 377, effective April 7, 2018 (Supp. 18-1). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3).

EMERGENCY RULEMAKING - RENEWAL**R10-4-110. State-level Claim Review**

- A.** A claimant who is aggrieved by a decision of a Board made at a rehearing under R10-4-109 may request a state-level claim review of the decision within 30 calendar days after the Board serves notice of the decision. The claimant shall request a state-level claim review in writing, specify the grounds for the request, and submit the request directly to the Commission.
- B.** The State Claim Review Panel shall serve as the decision-making body for state-level claim reviews. The State Claim Review Panel shall consist of the following members:
1. The Arizona Criminal Justice Commission Crime Victim Services Program Manager,
 2. A representative of the Office of the Attorney General, and
 3. A Board chair from an operational unit that is not the operational unit that originally heard the claim being reviewed.
- C.** The State Claim Review Panel shall meet as needed to hear claimant requests for a state-level claim review. The State Claim Review Panel shall complete a state-level claim review within 30 calendar days after receiving the written request required under subsection (A).

Historical Note

New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1).

R10-4-111. Expired**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Section repealed by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). New Section R10-4-111 renumbered from R10-4-110 and amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3).

EMERGENCY RULEMAKING - RENEWAL**R10-4-111. Emergency Compensation Award**

- A.** After receiving a claim submitted under R10-4-107, an operational unit may grant one emergency compensation award for a claim if the operational unit determines there is a reasonable likelihood that:
1. The person to whom the emergency compensation award is made is or will be an eligible claimant, and
 2. Serious hardship will result to the person if an immediate compensation award is not made.
- B.** An operational unit that makes an emergency compensation award shall ensure that the emergency compensation award does not exceed \$1,000.
- C.** If the Board decides under R10-4-108 to make a compensation award to the claimant, the Board shall ensure that the amount of the emergency compensation award is deducted from the final compensation award made to the claimant.

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New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1).

ARTICLE 2. EXPIRED**EMERGENCY RULEMAKING - RENEWAL****ARTICLE 2. CRIME VICTIM ASSISTANCE PROGRAM****R10-4-201. Expired****Historical Note**

Adopted effective December 22, 1986 (Supp. 86-6). Section repealed; new Section R10-4-201 renumbered from R10-4-203 and amended by final rulemaking at 6 A.A.R. 4660, effective November 20, 2000 (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Amended by final rulemaking at 24 A.A.R. 377, effective April 7, 2018 (Supp. 18-1). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3).

EMERGENCY RULEMAKING**R10-4-201. Definitions**

In this Article:

1. "Commission" means the Arizona Criminal Justice Commission, established by A.R.S. § 41-2404.
2. "Crime" means conduct, completed or preparatory, committed in Arizona that is a misdemeanor or felony under state law regardless of whether the perpetrator of the conduct is convicted. Conduct arising out of owning, maintaining, or operating a motor vehicle, aircraft, or water vehicle is not a crime unless the person engaged in the conduct acts intentionally, knowingly, recklessly, or with criminal negligence, to cause physical injury, threat of physical injury, or death.
3. "Financial support from other sources" means that at least one-fifth of the budget for a victim assistance program is from sources, including in-kind contributions, other than the Fund.
4. "Fund" means the Victim Compensation and Assistance Fund established by A.R.S. § 41-2407.
5. "Immediate family" means spouse, child, stepchild, parent, stepparent, sibling, stepbrother, stepsister, grandparent, grandchild, or guardian.
6. "In-kind contribution" means a non-cash source of program support to which a cash value can be given.
7. "Subrogation" means the substitution of the state or a victim assistance program in the place of a victim to enforce a lawful claim against a third party to recover the cost of services to the victim paid for with financial support from the Fund or other sources.
8. "Victim" means a natural person against whom a crime is perpetrated and the victim's immediate family.

Historical Note

New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp.

23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1).

R10-4-202. Expired**Historical Note**

Adopted effective December 22, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Section repealed; new Section R10-4-202 renumbered from R10-4-204 and amended by final rulemaking at 6 A.A.R. 4660, effective November 20, 2000 (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Amended by final rulemaking at 24 A.A.R. 377, effective April 7, 2018 (Supp. 18-1). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3).

EMERGENCY RULEMAKING**R10-4-202. Administration of the Fund**

- A. The Commission shall deposit in the Fund all funds received for victim assistance under this Chapter.
- B. The Commission shall make distributions from the Fund through a competitive grant process that complies with A.R.S. § 41-2701 et seq. and ensures statewide distribution when possible and effective and efficient use of the funds.
- C. At least six weeks before an application for a grant from the Fund is due, the Commission shall make a grant application form and instructions available on its web site, which is www.azcjc.gov.
- D. To apply for a grant from the Fund, an authorized official of a public agency or private nonprofit organization that operates a program that meets the standards in R10-4-203 shall complete and submit to the Commission the application form referenced in subsection (C).
- E. The Commission's grant period coincides with the state's fiscal year. If funds received from the Commission are unexpended at the end of the grant period, the public agency or private nonprofit organization that received the funds shall return them to the Commission within 30 days after receiving a written request from the Commission. The Commission shall redeposit the unexpended funds in the Fund for use in the next fiscal year.

Historical Note

New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1).

R10-4-203. Expired**Historical Note**

Adopted effective December 22, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Former Section R10-4-203 renumbered to R10-4-201; new Section R10-4-203 renumbered from R10-4-205 and amended by final rulemaking at 6 A.A.R. 4660, effective November 20, 2000 (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008

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(Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Amended by final rulemaking at 24 A.A.R. 377, effective April 7, 2018 (Supp. 18-1). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3).

EMERGENCY RULEMAKING**R10-4-203. Grant Eligibility Requirements**

- A.** A public agency or private nonprofit organization may apply for and receive a grant from the Commission if, in addition to the other requirements in this Section, the public agency or private nonprofit organization operates a project that:
1. Provides services described in R10-4-204 benefiting victims or addressing victimization;
 2. Does not use Commission funds or federal funds to supplant funds otherwise available to the project for victim assistance;
 3. Uses volunteers effectively and efficiently to provide services;
 4. Promotes coordinated public and private efforts to assist victims or address victimization within the community served;
 5. Increases awareness of, and facilitates access to, available victim compensation benefits; and
 6. Complies with all applicable civil rights laws.
- B.** To receive a grant from the Commission, a public agency or private nonprofit organization that operates a project shall demonstrate to the Commission that the project:
1. Has financial support from other sources; and
 2. Has a history of providing effective services in accordance with subsection (A). The Commission shall determine whether the project's services are effective based on:
 - a. Evidence-based outcomes demonstrating project services are benefiting victims or addressing victimization, and
 - b. Whether data indicate program results are achieved in a cost-effective manner.
- C.** To receive a grant from the Commission, a public agency or private nonprofit organization shall agree to:
1. Submit to the Commission financial reports, on a form provided by the Commission, at a frequency established by the Commission, containing detailed expenditures of funds received from the Commission and matching funds;
 2. Report project activity to the Commission, on a form provided by the Commission, at a frequency established annually by the Commission.

Historical Note

New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1).

R10-4-204. Expired**Historical Note**

Adopted effective December 22, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Former Section R10-4-204 renumbered to R10-4-202; new Section R10-4-204 renumbered from R10-4-206 and

amended by final rulemaking at 6 A.A.R. 4660, effective November 20, 2000 (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Amended by final rulemaking at 24 A.A.R. 377, effective April 7, 2018 (Supp. 18-1). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3).

EMERGENCY RULEMAKING**R10-4-204. Services**

- A.** A public agency or private nonprofit organization that receives a grant from the Commission shall ensure that the funds are used to provide only the following victim services or services addressing victimization:
1. Crisis intervention services to meet the urgent emotional or physical needs of a victim;
 2. Emergency services such as:
 - a. Temporary shelter or relocation for a victim who cannot safely remain in current lodgings;
 - b. Emergency financial assistance for immediate needs related to transportation, food, shelter, and other necessities; and
 - c. Temporary repairs to doors, locks, and windows damaged as a result of a crime to prevent further victimization;
 3. Support services, such as:
 - a. Assistance dealing with the effects of victimization;
 - b. Assistance dealing with other social services and criminal justice agencies;
 - c. Assistance in replacing, or obtaining the return of property kept as evidence;
 - d. Assistance in dealing with the victim's landlord or employer; and
 - e. Referral to other sources of assistance as needed;
 4. Court-related services, such as:
 - a. Direct services or financial assistance that helps a victim participate in criminal justice proceedings, such as child care, meals, and parking expenses; and
 - b. Advocate services such as escorting a victim to criminal justice-related interviews, court proceedings, and assistance in accessing temporary protection services; and
 5. Notification services, such as those found in A.R.S. Title 13, Chapter 40, Crime Victims' Rights.
- B.** A public agency or private nonprofit organization that receives a grant from the Commission may use the funds to:
1. Provide training for paid or volunteer staff of agencies who provide services directly benefitting victims;
 2. Produce educational or outreach materials describing the services available, how to obtain program assistance, and volunteer opportunities; and
 3. Provide training or services focused on preventing initial victimization or further victimization connected to violent crime.
- C.** A public agency or private nonprofit organization that receives a grant from the Commission shall ensure that funds are not used for the following:
1. Broad crime prevention efforts, other than those aimed at providing specific services addressing victimization;
 2. General public relations programs;
 3. Advocacy for a particular legislative or administrative reform;

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4. General criminal justice agency improvement; or
5. A project in which victims are not the primary beneficiaries, or a project not directly addressing victimization.

Historical Note

New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1).

R10-4-205. Expired**Historical Note**

Adopted effective December 22, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Former Section R10-4-205 renumbered to R10-4-203 by final rulemaking at 6 A.A.R. 4660, effective November 20, 2000 (Supp. 00-4). Renumbered Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3).

R10-4-206. Expired**Historical Note**

Adopted effective December 22, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Former Section R10-4-206 renumbered to R10-4-204 by final rulemaking at 6 A.A.R. 4660, effective November 20, 2000 (Supp. 00-4). Renumbered Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3).

R10-4-207. Expired**Historical Note**

Adopted effective December 22, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Section repealed by final rulemaking at 6 A.A.R. 4660, effective November 20, 2000 (Supp. 00-4). Repealed Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3).

ARTICLE 3. CRIMINAL JUSTICE ENHANCEMENT FUND**R10-4-301. Definitions**

In this Article:

1. "Commission" means the Arizona Criminal Justice Commission.
2. "Contact" means the individual representative of a recipient or the Arizona Sheriffs' Association, on behalf of the various county sheriffs' offices, who communicates with the Commission regarding the Fund.
3. "Enhance" or "enhancing," as used in A.R.S. § 41-2401(D), means to supplement rather than replace monies from other sources.
4. "Fund" means the Criminal Justice Enhancement Fund established by A.R.S. § 41-2401(A).
5. "Head" means:
 - a. The Director of the Arizona Department of Public Safety,
 - b. The Arizona Attorney General,
 - c. The Director of the Administrative Office of the Courts, and
 - d. The sheriff of each Arizona county.

6. "Recipient" means the Arizona Department of Public Safety, Arizona Department of Law, the Supreme Court, and each Arizona county sheriff's office.

Historical Note

Adopted effective September 11, 1986 (Supp. 86-5). R10-4-301 repealed by summary action with an interim effective date of November 28, 1997; filed in the Office of the Secretary of State November 3, 1997 (Supp. 97-4). Adopted summary rules filed March 16, 1998; interim effective date of November 28, 1997, now the permanent effective date (Supp. 98-1). New Section made by final rulemaking at 17 A.A.R. 1469, effective September 10, 2011 (Supp. 11-3).

R10-4-302. Contact Information Required

- A. Within 60 days after this Article takes effect, each Head and the President of the Arizona Sheriffs' Association shall submit to the Commission the name, address, telephone and fax numbers, and e-mail of the contact.
- B. If any of the information submitted under subsection (A) changes, the Head or the President of the Arizona Sheriffs' Association shall provide immediate notice of the change to the Commission.

Historical Note

Adopted effective September 11, 1986 (Supp. 86-5). R10-4-302 repealed by summary action with an interim effective date of November 28, 1997; filed in the Office of the Secretary of State November 3, 1997 (Supp. 97-4). Adopted summary rules filed March 16, 1998; interim effective date of November 28, 1997, now the permanent effective date (Supp. 98-1). New Section made by final rulemaking at 17 A.A.R. 1469, effective September 10, 2011 (Supp. 11-3).

R10-4-303. Fund Guidelines Required

- A. Within 60 days after this Article takes effect, the contact within the Arizona Department of Public Safety, Arizona Department of Law, and the Administrative Office of the Courts shall submit to the Commission the recipient's guidelines regarding the following:
 1. The procedure for handling Fund monies until they are allocated for expenditure,
 2. The procedure used to allocate Fund monies,
 3. The procedure used to ensure that Fund monies are expended as specified in A.R.S. § 41-2401(D), and
 4. The procedure used to assess the impact of the Fund monies on enhancing criminal justice in the manner specified in A.R.S. § 41-2401(D).
- B. Within 60 days after this Article takes effect, the contact for each county Sheriff's Office or the Arizona Sheriffs' Association shall submit to the Commission guidelines that meet the standard described in subsections (A)(3) and (4);
- C. Within 60 days after the guidelines submitted under subsections (A) and (B) are received, the Commission shall review the guidelines and assist the contact to make any changes necessary to protect Fund monies and ensure that Fund monies are expended as specified in A.R.S. § 41-2401.
- D. A recipient or the Arizona Sheriffs' Association shall review and, if necessary, update the guidelines. By October 1 of each year, the contact for each recipient or the Arizona Sheriffs' Association shall provide to the Commission the guidelines as revised or inform the Commission that no revision is necessary. Within 60 days after revised guidelines submitted under this subsection are received, the Commission shall review the

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revised guidelines and assist the contact to make any changes necessary to protect Fund monies and ensure that Fund monies are expended as specified in A.R.S. § 41-2401.

Historical Note

Adopted effective September 11, 1986 (Supp. 86-5). R10-4-303 repealed by summary action with an interim effective date of November 28, 1997; filed in the Office of the Secretary of State November 3, 1997 (Supp. 97-4). Adopted summary rules filed March 16, 1998; interim effective date of November 28, 1997, now the permanent effective date (Supp. 98-1). New Section made by final rulemaking at 17 A.A.R. 1469, effective September 10, 2011 (Supp. 11-3).

R10-4-304. Records Required

- A. A Head shall ensure that the following records are maintained for the recipient:
 1. The amount of Fund monies available to the recipient,
 2. To whom Fund monies were disbursed and the amount of Fund monies disbursed,
 3. A detailed description of the manner in which the Fund monies are expended, and
 4. An assessment of the impact of the Fund monies on enhancing criminal justice.
- B. A Head shall ensure that the records required under subsection (A) are:
 1. Maintained for three years; and
 2. Made available, upon request, for review by the Commission and the Arizona Auditor General.
- C. All reports required of a recipient by statute to be submitted to the Commission are subject to review and verification by the Commission.

Historical Note

Adopted effective September 11, 1986 (Supp. 86-5). R10-4-304 repealed by summary action with an interim effective date of November 28, 1997; filed in the Office of the Secretary of State November 3, 1997 (Supp. 97-4). Adopted summary rules filed March 16, 1998; interim effective date of November 28, 1997, now the permanent effective date (Supp. 98-1). New Section made by final rulemaking at 17 A.A.R. 1469, effective September 10, 2011 (Supp. 11-3).

R10-4-305. Complaints

- A. An individual who believes that Fund monies are being expended in a manner that is inconsistent with A.R.S. § 41-2401(D) may:
 1. Submit a written complaint to the Commission; and
 2. If the complaint relates to an expenditure by a court, shall submit the complaint to the Director of the Administrative Office of the Courts.
- B. An individual who submits a complaint shall ensure that the complaint includes sufficient information to enable the Commission to investigate the expenditure alleged to be inconsistent with A.R.S. § 41-2401(D).
- C. Except as specified in subsection (E), if the Commission determines that an expenditure about which a complaint is submitted appears to be inconsistent with A.R.S. § 41-2401(D), the Commission shall ask the Head to explain the expenditure.
- D. If the Commission determines that the expenditure is inconsistent with A.R.S. § 41-2401(D), the Commission shall take action allowed by law to remedy the expenditure.
- E. The Director of the Administrative Office of the Courts shall:

1. Investigate an expenditure about which a complaint is submitted under subsection (A)(2),
2. Determine whether the expenditure is inconsistent with A.R.S. § 41-2401(D), and
3. Notify the Commission of the determination and any action taken to remedy the expenditure.

Historical Note

Adopted effective September 11, 1986 (Supp. 86-5). R10-4-305 repealed by summary action with an interim effective date of November 28, 1997; filed in the Office of the Secretary of State November 3, 1997 (Supp. 97-4). Adopted summary rules filed March 16, 1998; interim effective date of November 28, 1997, now the permanent effective date (Supp. 98-1). New Section made by final rulemaking at 17 A.A.R. 1469, effective September 10, 2011 (Supp. 11-3).

ARTICLE 4. DRUG AND GANG ENFORCEMENT ACCOUNT GRANTS**R10-4-401. Definitions**

In this Article:

“A-133 audit report” means a report on an audit conducted in accordance with the standards for obtaining consistency and uniformity among federal agencies for the audit of non-federal entities expending federal awards established by the Office of Management and Budget in Circular A-133.

“Account” means the Drug and Gang Enforcement Account established by A.R.S. § 41-2402.

“Applicant” means an approved agency or task force that submits an application for a grant from the Account.

“Approved agency” means a unit of state, county, local, or tribal government working to accomplish one or more of the goals established at A.R.S. § 41-2402(A).

“Approved project” means a planned endeavor to accomplish one or more of the goals established at A.R.S. § 41-2402(A) for which a grant is made from the Account.

“Commission” means the Arizona Criminal Justice Commission established by A.R.S. § 41-2404.

“Committee” means the Drug, Gang, and Violent Crime Committee of the Commission.

“Host agency” means an approved agency that submits a grant application and required reports on behalf of a task force.

“Matching funds” means non-federal and non-Account money or program income that a grant recipient adds to a grant from the Account and spends to accomplish the goals of an approved project.

“Program income” means funds generated as a result of the activities funded by a grant from the Account.

“Task force” means multiple approved agencies from different jurisdictions that collaborate to accomplish multiple goals established at A.R.S. § 41-2402(A).

Historical Note

Adopted as an emergency effective February 22, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Adopted without change as a permanent rule effective July 18, 1988 (Supp. 88-3). Amended effective October 28, 1994 (Supp. 94-4).

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Amended by final rulemaking at 7 A.A.R. 1007, effective February 8, 2001 (Supp. 01-1). Amended by final rulemaking at 14 A.A.R. 4654, effective January 31, 2009 (Supp. 08-4).

R10-4-402. General Information Regarding Grants

- A. The Commission may annually request grant applications and make grant awards of Account funds.
- B. The Commission's ability to make grant awards is contingent upon the availability of Account funds.
- C. The Commission shall publish its priorities for grant awards in a report of the state's strategy for combating drugs, gangs, and violent crime.
- D. The Commission shall make all information regarding grants, including the request for grant applications and application and report forms, available on its web site.
- E. The Commission shall ensure that training regarding grant application procedures and grant management are made available to interested approved agencies.
- F. The Commission shall provide oversight of all grants awarded, which may include conducting a financial review or audit of a grant recipient, to ensure that Account funds are expended in compliance with all terms of the grant agreement and all applicable state and federal laws.
- G. The Commission may require that a grant recipient provide matching funds in the amount specified in the request for grant applications.
- H. The Commission shall not require a grant recipient to provide matching funds that exceed 25% of the total project budget.

Historical Note

Adopted as an emergency effective February 22, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Adopted without change as a permanent rule effective July 18, 1988 (Supp. 88-3). Amended effective October 28, 1994 (Supp. 94-4). Amended by final rulemaking at 7 A.A.R. 1007, effective February 8, 2001 (Supp. 01-1). Former Section R10-4-402 renumbered to R10-4-403; new Section made by final rulemaking 14 A.A.R. 4654, effective January 31, 2009 (Supp. 08-4). Section amended by final rulemaking at 24 A.A.R. 3425 effective December 4, 2018 (Supp. 18-4).

R10-4-403. Grant Application

- A. An approved agency or task force may submit an application for a grant from the Account. If application is made by a task force, members of the task force shall identify a host agency.
- B. An applicant shall access, complete, and submit to the Commission the application form that is available on the Commission's web site. The applicant shall provide the following information:
 1. Title of the application and proposed project;
 2. Purpose specified in A.R.S. § 41-2402(A) that the proposed project will address;
 3. Statement of whether the application is a request to continue a previously approved project;
 4. Name and address of the applicant;
 5. List of member agencies of the task force if the applicant is a task force;
 6. Name of the individual authorized to submit the application;
 7. Name of the individual responsible for administering and supervising the proposed project;
 8. Statement of the mission of the proposed project;

9. Statement of the problem addressed by the proposed project including data reflecting:
 - a. The scope of the problem, and
 - b. The absence or inadequacy of current resources to address the problem;
 10. Summary of the proposed project that explains how the proposed project seeks to address the problem identified;
 11. Description of collaborative efforts among law enforcement, prosecution, community organizations, social service agencies, and others that will be involved with the proposed project;
 12. Description of the methodology that will be used to evaluate the effectiveness of the proposed project;
 13. Goals of the proposed project stating what the proposed project is intended to accomplish;
 14. Objectives that are specific, measurable, and directly correlated to the goals of the proposed project;
 15. Detailed budget that includes:
 - a. Total amount to be expended on the proposed project including both Account and matching funds;
 - b. Estimated amount to be expended for various allowable expenses and the manner in which the estimate was determined;
 - c. Sources of the required matching funds; and
 - d. Statement of whether Account funds received will be used as matching funds for another grant program and if so, the name of the grant program and funding agency;
 16. Date of the jurisdiction's current A-133 audit report;
 17. Description of the internal controls the applicant will use to ensure compliance with all terms of the grant agreement;
 18. Description of plan to sustain the project if Account funds are no longer available; and
 19. Signature of the individual identified in subsection (B)(6) certifying that the information presented is correct and that if a grant is received, the applicant will comply with the terms of the grant agreement and all applicable state and federal laws.
- C. In addition to submitting the application form required under subsection (B), an applicant shall submit to the Commission:
1. A copy of the jurisdiction's current A-133 audit report or if the jurisdiction does not have a current A-133 audit report, a copy of all correspondence relating to an extension of time to have an audit completed;
 2. If the applicant is a task force, a letter on agency letterhead or another document from each member agency of the task force describing the manner in which the member intends to contribute to the proposed project; and
 3. If the applicant's jurisdiction applied directly for federal criminal justice grant funding:
 - a. Each applicant must disclose whether it has, or is proposed as a subrecipient under, any pending application for federally-funded grants or cooperative agreements that:
 - i. Include requests for funding to support the same project being proposed in the application for a grant from the Account; and
 - ii. Would cover identical cost items outlined in the budget submitted to the Commission as part of the application for a grant from the Account.
 - b. The applicant is to disclose applications made directly to federal awarding agencies, and also applications for subawards of federal funds (e.g. applica-

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tions to state agencies that will subaward federal funds).

Historical Note

Adopted as an emergency effective February 22, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Adopted without change as a permanent rule effective July 18, 1988 (Supp. 88-3). Amended by final rulemaking at 7 A.A.R. 1007, effective February 8, 2001 (Supp. 01-1). Former Section R10-4-403 renumbered to R10-4-404; new Section R10-4-403 renumbered from R10-4-402 and amended by final rulemaking at 14 A.A.C. 4654, effective January 31, 2009 (Supp. 08-4). Section amended by final rulemaking at 24 A.A.R. 3425 effective December 4, 2018 (Supp. 18-4).

R10-4-404. Application Evaluation; Standards for Award

- A. The Commission shall ensure that each application that is submitted timely and proposes a project eligible for funding from the Account is evaluated. After the applications are evaluated, the Committee shall forward a recommended allocation plan to the Commission. The Commission shall grant or deny funding within 90 days after the application deadline.
- B. If the Commission determines that it needs additional information to facilitate its review of an application, the Commission shall:
 1. Request the additional information from the applicant, or
 2. Request the applicant to amend the application.
- C. The Commission shall approve grant funding, in whole or in part, or deny funding using standards referenced under A.R.S. § 41-2402 and R10-4-402(C).
- D. The standards referenced in subsection (C) include an assessment of whether the proposed project:
 1. Is directed toward a problem that is demonstrated by statistical data;
 2. Is designed to address the identified problem;
 3. Is a coordinated effort among multiple approved agencies;
 4. Has specific goals;
 5. Has measurable objectives that relate to the goals;
 6. Has appropriate methods for evaluating achievement of objectives;
 7. Has a reasonable budget of allowable expenses;
 8. Has identified the required matching funds;
 9. Has internal controls to monitor expenditure of Account funds; and
 10. If the program was previously funded, all grant requirements were met timely and there were no reportable deficiencies during monitoring reviews.

Historical Note

Adopted as an emergency effective February 22, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Adopted without change as a permanent rule effective July 18, 1988 (Supp. 88-3). Amended effective October 28, 1994 (Supp. 94-4). Amended by final rulemaking at 7 A.A.R. 1007, effective February 8, 2001 (Supp. 01-1). Former Section 10-4-404 renumbered to R10-4-406; new Section R10-4-404 renumbered from R10-4-403 and amended by final rulemaking 14 A.A.R. 4654, effective January 31, 2009 (Supp. 08-4). Section amended by final rulemaking at 24 A.A.R. 3425 effective December 4, 2018 (Supp. 18-4).

R10-4-405. Request for Modification of Recommended Allo-**cation Plan**

- A. Commission staff shall provide an applicant with at least five days' notice of the Committee's recommended allocation plan and the date, time, and location of the meeting at which the Committee will make a decision about forwarding the recommended allocation plan to the Commission for its action.
- B. If an applicant disagrees with the recommended allocation plan, the applicant may verbally request that the Committee modify the recommended allocation plan. The Committee shall consider the request for modification before forwarding the recommended allocation plan to the Commission.
- C. Commission staff shall provide an applicant with at least five days' notice of the date, time, and location of the meeting at which the Commission will consider the recommended allocation plan.
- D. If an applicant disagrees with the recommendation of the Committee, the applicant may verbally request that the Commission modify the recommended allocation plan. The Commission shall consider the request for modification when making a final decision to award or deny a grant of Account funds to the applicant. The Commission's decision is final.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 4654, effective January 31, 2009 (Supp. 08-4).

R10-4-406. Required Reports

- A. The Commission shall annually prepare and submit the report required under A.R.S. § 41-2405(A)(11). The Commission shall use data submitted by grant recipients as specified in the recipient's grant agreement to prepare the report.
- B. A grant recipient shall submit to the Commission financial, activity, and progress reports documenting the activities supported by the Account funds. The grant recipient shall submit the reports as specified in the grant agreement. The specific reports required are determined by the nature of the proposed project.
- C. The Commission shall not distribute Account funds to a grant recipient that fails to submit a required report within 60 days of its due date.
- D. A grant recipient shall cooperate with and participate in all assessment, evaluation, or data collection efforts authorized by the Commission.
- E. The Commission has the right to obtain, reproduce, publish, or use information provided in the required reports or assessment, evaluation, or data collection efforts. When in the best interest of the state, the Commission may authorize others to receive and use the information.

Historical Note

New Section R10-4-406 renumbered from R10-4-404 and amended by final rulemaking 14 A.A.R. 4654, effective January 31, 2009 (Supp. 08-4). Section amended by final rulemaking at 24 A.A.R. 3425 effective December 4, 2018 (Supp. 18-4).

ARTICLE 5. FULL-SERVICE FORENSIC CRIME LABORATORY ACCOUNT**R10-4-501. Definitions**

In this Article:

1. "Account" means the Full-service Forensic Crime Laboratories Account established by A.R.S. § 41-2421(J)(5).
2. "Commission" means the Arizona Criminal Justice Commission established by A.R.S. § 41-2404.

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3. "Full-service forensic crime laboratory" means a facility that:
 - a. Is operated by a criminal justice agency that is a political subdivision of the state;
 - b. Employs at least one full-time forensic scientist who holds a minimum of a bachelor's degree in a physical or natural science;
 - c. Is registered as an analytical laboratory with the Drug Enforcement Administration of the United States Department of Justice for possession of all scheduled, controlled substances;
 - d. Is accredited by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board; and
 - e. Provides, at a minimum, services in the areas of controlled substances, forensic biology, DNA, blood and breath alcohol, firearms, and toolmarks.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2217, effective May 11, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 2294, effective August 5, 2006 (Supp. 06-2).

R10-4-502. Grant Solicitation Process

- A. The Commission shall annually publish and post on the Commission's internet site, which is www.azacjc.gov, a grant solicitation for distribution of Account monies. When the grant solicitation is posted, the Commission shall send an electronic notice of the posting to all Arizona criminal justice agencies that operate a full-service forensic crime laboratory.
- B. The Commission shall ensure that the grant solicitation contains:
 1. The Commission's goals for the grant program for the allocation year,
 2. Applicant eligibility criteria,
 3. The format in which a grant application is to be submitted,
 4. The date by which a grant application is to be submitted,
 5. Grant application evaluation criteria,
 6. Project expenses for which Account monies may be used,
 7. The period in which all Account monies must be expended,
 8. Account money reversion criteria and process, and
 9. The award denial appeal process.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2217, effective May 11, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 2294, effective August 5, 2006 (Supp. 06-2).

R10-4-503. Grant Application Evaluation; Decision of the**Commission**

- A. The Commission shall evaluate each grant application and make a decision to award or deny a grant within 120 days of the date by which grant applications are due.
- B. If the Commission determines additional information is needed to facilitate its evaluation of an application, the Commission shall request from the applicant:
 1. Additional information, or
 2. Application modification.
- C. An applicant from whom additional information or application modification is requested shall submit the information or modification to the Commission within 10 business days from the date of the request.
- D. After completing its evaluation of an application, the Commission shall vote to award, in whole or in part, or deny a grant based on:
 1. The grant criteria published in the grant solicitation;
 2. The amount of funds available for allocation; and
 3. Compliance with the application format.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2217, effective May 11, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 2294, effective August 5, 2006 (Supp. 06-2).

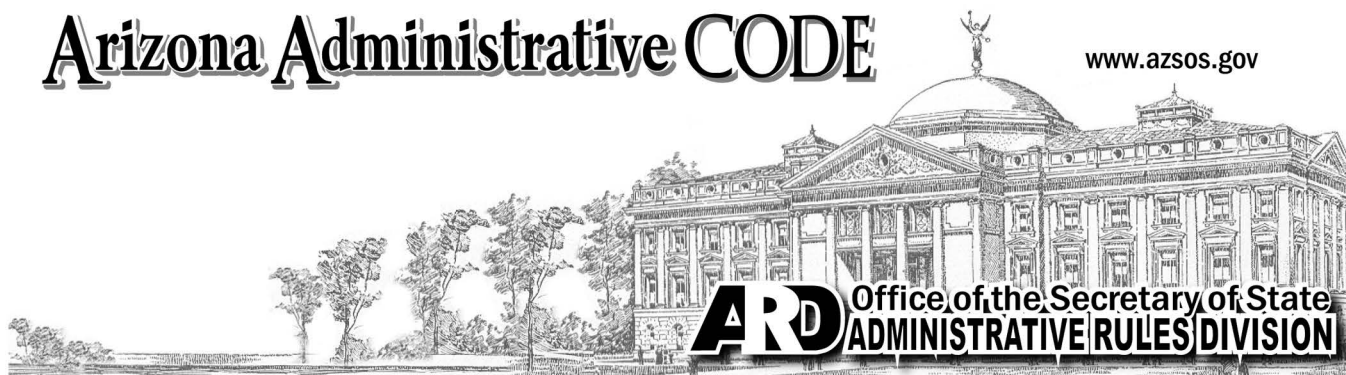
R10-4-504. Reports

Within 15 days after the end of each calendar quarter, a grantee shall submit a written report, on a form prescribed by the Commission, containing:

1. A financial report that includes itemized budget information, and
2. An activity report that documents activities supported by the grant funds and includes:
 - a. A narrative of activities undertaken during the reporting period;
 - b. An evaluation of progress toward achieving the goals and objectives in the grant application;
 - c. An evaluation of adherence to the time-frames in the grant application; and
 - d. A description of equipment purchased with grant funds during the reporting period, how the equipment is related to achieving the goals and objectives of the project, and the current status of the equipment, such as whether it is operational, waiting to be installed, or undergoing testing; and
3. A copy of any deliverable provided by a consultant paid with grant funds.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2217, effective May 11, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 2294, effective August 5, 2006 (Supp. 06-2).



12 A.A.C. 2

Supp. 24-1

TITLE 12. NATURAL RESOURCES

CHAPTER 2. STATE OF ARIZONA LIVESTOCK LOSS BOARD

The table of contents on page one contains links to the referenced page numbers in this Chapter.
Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
January 1, 2024 through March 31, 2024

This is a new Chapter.

Questions about these rules? Contact:

Name: Charles I. Kelly, Board Chairman
Address: State of Arizona Livestock Loss Board
P.O. Box 74975
Phoenix, AZ, 85087
Telephone: (623) 236-7279
Fax: (623) 236-7299

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

PERSONAL USE/COMMERCIAL USE

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division
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TITLE 12. NATURAL RESOURCES

CHAPTER 2. STATE OF ARIZONA LIVESTOCK LOSS BOARD

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS**R12-2-101. Definitions**

In addition to the definition established under A.R.S. § 17-492, the following definitions are applicable to this Article:

“Board” means the State of Arizona Livestock Loss Board.

“Claim” means an application to the Board for compensation under this Chapter.

“Claimant” means the landowner, lessee, or livestock operator who has filed a wolf predation claim for compensation.

“Compensation” means a cash payment, materials, or service.

“Guard dog” means dogs trained for the purpose of protecting livestock from attack by wildlife or for herding livestock.

“Livestock” means bison, cattle, goats, horses, llamas, mules and asses, sheep, and swine.

“Range rider” means a person who monitors, scouts for, and identifies signs of wolf activity in areas where livestock will graze.

“NFWF” means the National Fish and Wildlife Foundation.

“USDA Wildlife Field Representative” means a person who has successfully completed the training necessary to assist landowners in preventing or controlling problems caused by negative wildlife interactions.

“Wildlife interaction” means the interaction and the resultant damage between wildlife and livestock.

Historical Note

New Section made by final rulemaking at 30 A.A.R. 430 (March 8, 2024), effective April 13, 2024 (Supp. 24-1).

R12-2-102. Compensation for Mexican Wolf Depredation on Livestock; Eligibility; Application

- A. The Board may compensate a landowner, lessee, or livestock operator for the loss of livestock caused by Mexican gray wolf depredation. Cash compensation for livestock losses from wolves shall not include damage to other real or personal property, including other vegetation or animals, consequential damages, or any other damages. The Board shall:
 1. Consider claims in the order received, and
 2. Award compensation until eligible funds are exhausted.
- B. Landowners, lessees, and livestock operators should take care in operations so to reduce and, where possible, to avoid a circumstance that increases the potential for increasing Mexican wolf depredations. However, a landowner, lessee, or livestock operator whose livestock has been killed in an area in Arizona and who suspects the kill is from a wolf is eligible to submit a claim to the Board.
 1. A claimant may pursue a claim for wolf depredations occurring no earlier than September 1, 2015.
 2. A claimant who initiated a claim for compensation under the Board’s interim policy is prohibited from seeking compensation for the same animal under this Section.
- C. A landowner, lessee, or livestock operator who suspects a wolf depredation shall contact a USDA Wildlife Services Field Representative (Wildlife Field Representative) to report the suspected wolf depredation incident and request an investigation by the U.S. Department of Agriculture, Wildlife Services.
 1. The landowner, lessee, or livestock operator shall provide access to the Wildlife Field Representatives or their agents to investigate the cause of death to eligible live-

stock or guard dogs and use reasonable measures to protect evidence at the depredation site.

2. A Wildlife Field Representative shall conduct a depredation investigation and provide a determination of the cause of death of the livestock in Arizona.
3. If the Wildlife Field Representative determines the cause of death was the result of Mexican wolf depredation, the Wildlife Field Representative shall provide the landowner, lessee, or livestock operator (claimant) with a Request for Depredation Compensation Form (form).
- D. To receive compensation for the death of livestock, the claimant shall submit the form to the Board no less than seven days prior to its next regularly scheduled meeting. The claimant shall mail the form to the State of Arizona Livestock Loss Board at P.O. Box 74975, Phoenix, AZ, 85087. The claimant shall provide all of the information on the form, including:
 1. The claimant’s:
 - a. Name,
 - b. Mailing address,
 - c. Contact number, and
 - d. Email address.
 2. The Board shall review claims submitted in compliance with subsection (D) during a regularly scheduled public meeting. The Board shall:
 - a. Notify the claimant if the claim is approved, and
 - b. Notify the NFWF, or other Board-approved payment agent, of the approved amount, authorizing payment to the claimant.
 3. The payment of a claim included on the list maintained by the Board under this section is conditional on the availability of specific funding for this purpose and is not a guarantee of reimbursement.
- E. The decision of the Board is not subject to reconsideration and shall be the final administrative decision.
 1. Monetary compensation as determined by the Board using standardized methods and shall constitute full and final payment for a claim.
 2. If the Board is unable to make a payment for livestock losses due to lack of funding, the claim shall be held over until the Board receives additional eligible funding.
 3. Claims that are carried over shall have priority and receive payment before any new claims are paid.

Historical Note

New Section made by final rulemaking at 30 A.A.R. 430 (March 8, 2024), effective April 13, 2024 (Supp. 24-1).

R12-2-103. Compensation for Carcass Removal; Eligibility; Application

- A. The Board may compensate a landowner, lessee, or livestock operator for removal of a livestock carcass from the areas where the landowner, lessee, or livestock operator maintains livestock to reduce the potential for Mexican wolves (wolf, wolves) to feed on the carcass and remain in the area proximate to additional livestock. The Board has established a compensation rate of \$250 per carcass removed from wolf-occupied areas.
- B. To receive compensation, the claimant shall submit an Obtaining Carcass Removal Program Compensation Request Form (form) to the Board no less than seven days prior to its next regularly scheduled meeting. The claimant shall mail the form to the Arizona Livestock Loss Board at P.O. Box 74975, Phoenix, AZ, 85087. The claimant shall provide all of the information on the form, including:
 1. Producer name,

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2. Producer mailing address,
 3. Ranch/Allotment,
 4. Photographic documentation and a description of the circumstances regarding the carcass and its removal from any area where the carcass is available to access by wolves, and
 5. Manner of disposal:
 - a. Buried,
 - b. Disposed of at a landfill, or
 - c. Removed outside wolf occupied area. The claimant shall describe the location where the carcass was placed.
- C. The Board shall review and consider the request at its next regularly scheduled public meeting.
- D. The decision of the Board is not subject to reconsideration and shall be the final administrative decision.
- Historical Note**
- New Section made by final rulemaking at 30 A.A.R. 430 (March 8, 2024), effective April 13, 2024 (Supp. 24-1).
- R12-2-104. Livestock Depredation Prevention Compensation Funding; Eligibility**
- A. The Arizona Livestock Loss Board (Board), in its sole discretion, may make funds available to landowners, lessees, or livestock operators who implement livestock management techniques or nonlethal wolf deterrence techniques designed to prevent wolf and livestock interactions and reduce wolf depredations, which may include but is not limited to:
1. Fencing,
 2. Guard dogs,
 3. Range riders,
 4. Reduction in livestock production, and
 5. Transportation costs to relocate livestock.
- B. The Board shall consider compensation applications in the order received, except that preference shall be given to applicants who:
1. Employ range rider strategies or other non-lethal conflict avoidance measures,
 2. Projects on ranches that have experienced depredation or depredations, and
 3. Projects on ranches where wolf packs are known to be present.
- C. An applicant seeking funding shall submit to the Board an Application for Mexican Wolf Depredation Prevention Compensation Form (application form) no less than seven days prior to its next regularly scheduled meeting. The claimant shall mail the form to the State of Arizona Livestock Loss Board at, P.O. BOX 74975, Phoenix, AZ, 85087. An applicant who is applying for multiple projects shall submit a separate application for each project. The applicant shall provide all of the information on the application form, including:
1. The applicant's:
 - a. Name;
 - b. Mailing address;
 - c. Telephone number;
 - d. Fax number, if available;
 - e. Email address, if available;
 2. Primary Contact's:
 - a. Name;
 - b. Mailing address;
 - c. Telephone number;
 - d. Fax number, if available; and
 - e. Email address, if available; and
 3. Description of the project area shall be a map or a description of the project area to include the Township, Section, Range, and the Allotment Name, if available;
 4. Livestock information:
 - a. Types of livestock being protected by the project;
 - b. Number of livestock owners within the project area;
 - c. Estimated number of livestock covered by the project;
 5. A detailed description of the proposed depredation prevention measure or measures;
 6. An itemized cost report showing how the applicant intends to use compensation funds (e.g. fencing, range riders, alternative ranges, guard dogs etc.).
 7. Previous funded projects completed by the applicant that reduced wolf and livestock interactions, if applicable:
 - a. Compensation funds received for each project;
 - b. Total funding for each project;
 - c. Project start and end dates;
 - d. For a project exceeding one year, indicate the period estimated to complete the project;
 - e. For an existing project, provide the year the project began;
 8. Total compensation funds requested;
 9. Total matching funds, to include the total cash and non-cash match;
 10. Affirmation that the information provided on the application is true and accurate; and
 11. Signature and date. The person signing the application form shall have the authority to enter into agreements, accept funding, and fulfill the terms of the agreement on behalf of the applicant.
- D. Submission of an application does not guarantee the Board will award compensation. The Board shall award compensation funding based upon available funds and whether the proposed project will effectively prevent wolf and livestock interactions and reduce wolf depredations.
1. The Board shall review each application for completeness, accuracy, and consistency with this Section.
 2. Incomplete applications may be returned for correction or completion.
 3. Applications not meeting the standards established in these rules may be denied.
- E. The awarding of funding is within the Board's sole discretion and is based on the Board's determination of the proposed measures effectiveness at preventing wolf depredation. After reviewing all applications, the Board may make any one of the following decisions:
1. Approve funding for the full amount requested;
 2. Approve funding of partial amount requested. In this instance, the Board may elect to fund a portion of the requested amount;
 3. Defer request for further consideration based upon submission of additional information;
 4. Deny request.
- F. An applicant awarded compensation funding shall:
1. Provide an Arizona State W-9 to NFWF, or other Board-approved payment agent, before any funds may be dispersed, unless the person already has a W-9 on file with NFWF.
 2. Provide approved dollar-for-dollar match in the form of cash, in-kind contributions, or third-party contributions on behalf of the applicant.
 3. Surrender any unexpended livestock compensation funds to the Board.

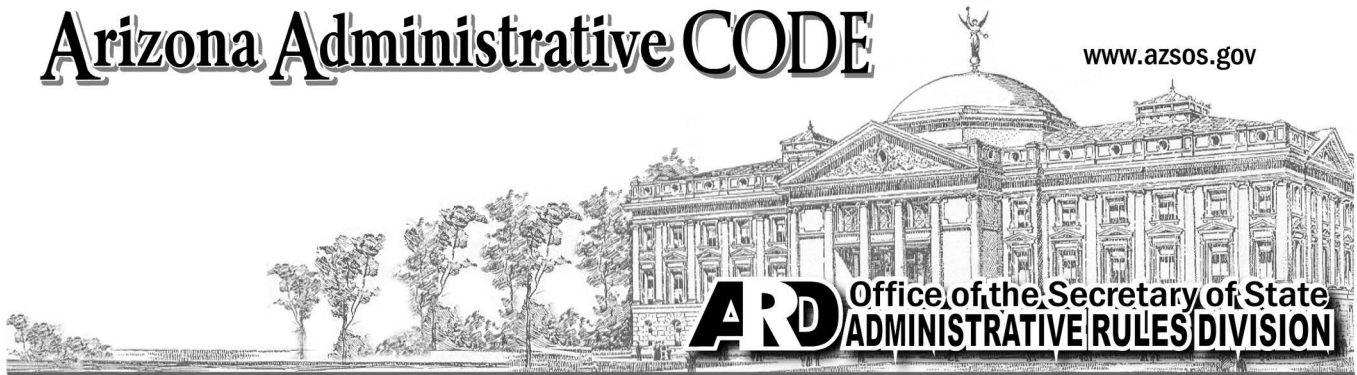
TITLE 12. NATURAL RESOURCES

CHAPTER 2. STATE OF ARIZONA LIVESTOCK LOSS BOARD

- G. The Applicant assumes all liabilities for actions implemented by the Livestock Depredation Prevention Compensation Funding.
- H. The Board is not responsible for any injuries, taxes, fees, or other costs, resulting from a Livestock Depredation Compensation Funding.

Historical Note

New Section made by final rulemaking at 30 A.A.R. 430 (March 8, 2024), effective April 13, 2024 (Supp. 24-1).



19 A.A.C. 1

Supp. 24-1

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 1. DEPARTMENT OF LIQUOR LICENSES AND CONTROL

The table of contents on page one contains links to the referenced page numbers in this Chapter.

Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
January 1, 2024 through March 31, 2024

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Questions about these rules? Contact:

Name: Gino Duran, Assistant Director
Address: Department of Liquor Licenses and Control
800 W. Washington St., 5th floor
Phoenix, AZ 85007
Telephone: (602) 364-0646
Email: gino.duran@azliquor.gov

The release of this Chapter in Supp. 24-1 replaces Supp. 22-4, 1-39 pages.

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

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “*Rule*’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

PERSONAL USE/COMMERCIAL USE

This Chapter is posted as a public courtesy online, and is for private use only. Those who wish to use the contents for resale or profit should contact the Office about Commercial Use fees. For information on commercial use fees review A.R.S. § 39-121.03 and 1 A.A.C. 1, R1-1-113.

Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division

The Arizona Secretary of State electronically publishes each A.A.C. Chapter with a digital certificate. The certificate-based signature displays the date and time the document was signed and can be validated in Adobe Acrobat Reader.

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING**CHAPTER 1. DEPARTMENT OF LIQUOR LICENSES AND CONTROL**

Authority: A.R.S. § 4-112(A)(2) and (B)(1)

Supp. 24-1

Editor's Note: The Office of the Secretary of State publishes all Code Chapters on white paper (Supp. 01-4).

Editor's Note: Some Sections of this Chapter were amended, adopted, and repealed under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Chapter 307, § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and conduct a hearing. The changes were not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).

Editor's Note: Some Sections of this Chapter were amended, adopted, and repealed under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1989, Chapter 234, § 22. Although exempt from certain portions of the rulemaking process, the Department was required to provide a notice of hearing and a public hearing before adopting these changes. At the time the Sections were amended, adopted, and repealed the Office of the Secretary of State was not allowed by law to file and publish exempt rules. The Department has now filed these changes with the Office of the Secretary of State as required pursuant to Laws 1991, Chapter 136 §§ 2 and 3 (Supp. 96-4).

19 A.A.C. 1, consisting of R19-1-101 through R19-1-111, and R19-1-201 through R19-1-257 recodified from 4 A.A.C. 15 consisting of R4-15-101 through R4-15-111, and R4-15-201 through R4-15-257 pursuant to R1-1-102 (Supp. 95-1).

Portions of this Chapter have been adopted under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6), pursuant to Laws 1993, Ch. 133, § 49 and Laws 1994, Ch. 373, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit notice of this rulemaking to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council; the Department was not required to hold public hearings on these rules; and the Attorney General did not certify these rules.

Because this Chapter contains rules which are exempt from the regular rulemaking process, it is printed on blue paper.

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(A.R.S. § 4-112(A))

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(A.R.S. § 4-112(B)(1))

Article 2 heading amended effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act (Supp. 97-2).

Article 2 heading amended effective September 14, 1990, under an exemption from the provisions of the Administrative Procedure Act (Supp. 96-4).

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TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 1. DEPARTMENT OF LIQUOR LICENSES AND CONTROL

ARTICLE 1. GENERAL PROVISIONS

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).

R19-1-101. Definitions

A. The definitions in A.R.S. §§ 4-101, 4-205.02, 4-205.03, 4-205.06, 4-207, 4-210, 4-227, 4-243, 4-243.01, 4-244, 4-248, 4-251, and 4-311 apply to this Chapter. Additionally, in A.R.S. Title 4 and this Chapter, unless the context otherwise requires:

1. "Association" means a group of individuals who have a common interest that is organized as a non-profit corporation or fraternal or benevolent society and owns or leases a business premises for the group's exclusive use.
2. "Bar license" (Series 6) means authorization issued to an on-sale retailer to sell:
 - a. Spirituous liquors in individual portions for consumption on the licensed premises;
 - b. Spirituous liquors in an original, unopened, container for consumption off the licensed premises provided sales for consumption off the licensed premises, by total retail sales of spirituous liquor at the licensed premises, are no more than the percentage of the sales price of on-sale spirituous liquor established under A.R.S. § 4-206.01(G); and
 - c. Beer in accordance with A.R.S. § 4-244(32)(c).
3. "Beer and wine bar license" (Series 7) means authorization issued to an on-sale retailer to sell:
 - a. Beer and wine in individual portions for consumption on the licensed premises;
 - b. Beer and wine in an original, unopened, container for consumption off the licensed premises provided sales for consumption off the licensed premises, by total retail sales of spirituous liquor at the licensed premises, are no more than the percentage of the sales price of on-sale spirituous liquor established under A.R.S. § 4-206.01(G); and
 - c. Beer in accordance with A.R.S. § 4-244(32)(c).
4. "Beer and wine store license" (Series 10) means authorization issued to an off-sale retailer to sell:
 - a. Wine and beer in an original, unopened, container for consumption off the licensed premises; and
 - b. Beer in accordance with A.R.S. § 4-244(32)(c).
5. "Business" means an enterprise or organized undertaking conducted regularly for profit, which may be licensed or unlicensed.
6. "Business premises" means real property and improvements from which a business operates.
7. "Catering establishment" means a business that is available for hire for a particular event and at which food and service is provided for people who attend the event.
8. "Club license" (Series 14) means authorization issued to a club to sell spirituous liquors only to members and members' bona fide guests for consumption only on the premises of the club.
9. "Cocktail mixer" means a non-alcoholic liquid or solid mixture used for mixing with spirituous liquor to prepare a beverage.
10. "Conveyance license" (Series 8) means authorization issued to the owner or lessee of an airplane, train, or boat to sell spirituous liquors for consumption only on the airplane, train, or boat.
11. "Cooler product" means an alcoholic beverage made from wine or beer and fruit juice or fruit flavoring, often in combination with a carbonated beverage and sugar but does not include a formula wine as defined at 27 CFR 24.10.
12. "Deal" means to sell, trade, furnish, distribute, or do business in spirituous liquor.
13. "Department" means the Director of the Department of Liquor Licenses and Control and the State Liquor Board.
14. "Direct shipment license" (Series 17) means authorization issued to producer, exporter, importer, or rectifier to take an order for spirituous liquor and ship the order under A.R.S. § 4-203.04(A)-(I).
15. "Entertainment," as used in A.R.S. § 4-244.05, means any form of amusement including a theatrical, opera, dance, or musical performance, motion picture, videotape, audiotape, radio, television, carnival, game of chance or skill, exhibit, display, lecture, sporting event, or similar activity.
16. "Erotic entertainer," as used in A.R.S. § 4-112(G), means an employee who performs in a manner or style designed to stimulate or arouse sexual thoughts or actions.
17. "Farm winery license" (Series 13) means authorization issued to a farm winery that produces at least 200 gallons but not more than 40,000 gallons of wine annually. For the purposes of A.R.S. § 4-243, a farm winery is considered an "other producer."
18. "Government license" (Series 5) has the meaning set forth at A.R.S. § 4-101.
19. "Hotel-motel license" (Series 11) means authorization issued to a hotel or motel that has a restaurant where food is served to sell spirituous liquors for consumption on the premises of the hotel or motel or by means of a mini-bar.
20. "Incidental convenience," as used in A.R.S. § 4-244.05(I), means allowing a customer to possess and consume the amount of spirituous liquor stated in R19-1-324 while at a business to obtain goods or services regularly offered to all customers.
21. "In-state producer license" (Series 1) means authorization issued to an entity to produce or manufacture spirituous liquor in Arizona.
22. "Interim permit" means temporary authorization issued under A.R.S. § 4-203.01 that allows continued sale of spirituous liquor.
23. "Licensed" means a license or interim permit is issued under A.R.S. Title 4 and this Chapter, including a license or interim permit on nonuse status.
24. "Licensed retailer" means an on-sale or off-sale retailer.
25. "Limited out-of-state producer license" (Series 2L) means authorization issued to an out-of-state producer to sell no more than 50 cases of spirituous liquor through a wholesaler annually.
26. "Liquor store license" (Series 9) means authorization issued to an off-sale retailer to sell:
 - a. Spirituous liquors in an original, unopened, container for consumption off the licensed premises; and
 - b. Beer in accordance with A.R.S. § 4-244(32)(c).
27. "Microbrewery license" (Series 3) means authorization issued to a microbrewery that produces at least 5,000 gal-

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- lons of beer following its first year of operation and not more than 6.2 million gallons of beer annually and includes authorization to sell beer in a clean glass container that is sealed and labeled as described in A.R.S. § 4-244(32)(c). For the purposed of A.R.S. § 4-243, a microbrewery is considered an “other producer.”
28. “Non-technical error” means a mistake on an application that has the potential to mislead regarding the truthfulness of information provided.
 29. “Nonuse” means a license is not used to engage in business activity authorized by the license for at least 30 consecutive days.
 30. “Out-of-state producer license” (Series 2) means authorization issued to an entity to produce, export, import, or rectify spirituous liquors outside of Arizona and ship the spirituous liquors to a wholesaler.
 31. “Party” has the same meaning as prescribed in A.R.S. § 41-1001.
 32. “Physical barrier” means a wall, fence, rope, railing, or other temporary or permanent structure erected to restrict access to a designated area of a licensed premises.
 33. “Producer” means the holder of an in-state, out-of-state, or limited out-of-state producer license.
 34. “Product display” means a wine rack, bin, barrel, cask, shelving, or similar item with the primary function of holding and displaying spirituous liquor or other products.
 35. “Production and storage spaces” means the same as in A.R.S. § 4-205.10.
 36. “Public area” means the same as in A.R.S. § 4-205.10.
 37. “Quota license” means a bar, beer and wine bar, or liquor store license.
 38. “Rectify” means to color, flavor, or otherwise process spirituous liquor by distilling, blending, percolating, or other processes.
 39. “Reset” means a wholesaler adjusts spirituous liquor on the shelves of a licensed retailer.
 40. “Restaurant continuation authorization” means authorization issued to the holder of a restaurant license to operate under the restaurant license after it is determined that food sales comprise at least 30 percent but less than 40 percent of the business’s gross revenue.
 41. “Restaurant license” (Series 12) means authorization issued to a restaurant, as defined in A.R.S. § 4-205.02, to sell spirituous liquors for consumption only on the restaurant premises.
 42. “Second-party purchaser” means an individual who is of legal age to purchase spirituous liquor and buys spirituous liquor for an individual who may not lawfully purchase spirituous liquor in Arizona.
 43. “Special event license” (Series 15) means the authorization provided under A.R.S. § 4-203.02(E).
 44. “Tapping equipment” means beer, wine, and distilled spirit dispensers as stated in R19-1-326.
 45. “Technical error” means a mistake on an application that does not mislead regarding the truthfulness of the information provided.
 46. “Transfer” means to:
 - a. Move a license from one location to another location within the same county; or
 - b. Change ownership, directly or indirectly, in whole or in part, of a business.
 47. “Wholesaler license” (Series 4) means authorization issued to a wholesaler, as prescribed at A.R.S. § 4-243.01, to warehouse and distribute spirituous liquors to a licensed retailer or another licensed wholesaler.
 48. “Wine festival or fair license” (Series 16) means authorization issued for a specified period to a farm winery to serve samples of its products and sell the products in individual portions for consumption on the premises or in original, unopened, containers for consumption off the premises.
- B.** This Section is authorized by A.R.S. § 4-112(B)(1)(a).
- Historical Note**
- Former Rule 1; Former Section R4-15-01 renumbered as Section R4-15-101 without change effective October 8, 1982 (Supp. 82-5). Section repealed, new Section adopted effective March 3, 1993 (Supp. 93-1). R19-1-101 recodified from R4-15-101 (Supp. 95-1). Amended effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2). New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2). Amended by final expedited rulemaking 30 A.A.R. 389 (March 1, 2024), with an immediate effective of February 9, 2024 (Supp. 24-1).
- R19-1-102. Fees and Surcharges; Service Charges**
- A.** Most of the fees and surcharges collected by the Department are established by statute.
 - B.** After a license other than a special event, wine festival or fair, or direct shipment license is approved but before the license is issued, the person that applied for the license shall pay the issuance fee and all applicable surcharges. If the license will be issued less than six months before it is scheduled to be renewed, the person that applied for the license shall also pay one-half of the annual renewal fee.
 - C.** After a new bar, beer and wine bar, or liquor store license is approved but before the license is issued, the person that applied for the license shall, as required by A.R.S. § 4-206.01(A) through (E), pay the fair market value of the license.
 - D.** A licensee shall pay the renewal fee established under A.R.S. 4-209(D) annually or double the renewal fee established under A.R.S. 4-209(D) biennially, as specified by the Department. A licensee that fails to submit a renewal application by the deadline established by the Department shall pay a penalty of \$150 in addition to the renewal fee.
 - E.** At the time of application for a license, an individual required under A.R.S. Title 4 or this Chapter to submit fingerprints for a criminal history background check, shall pay the charge established by the Department of Public Safety for processing the fingerprints. The individual may have the fingerprints taken by a law enforcement agency, other qualified entity, or the Department. If the fingerprints are taken by the Department, the individual shall pay to the Department the actual cost of this service to a maximum of \$20.
 - F.** Under A.R.S. § 4-205.02(G), the Director shall collect from an applicant for a restaurant license the actual amount incurred to conduct a site inspection to a maximum of \$50.
 - G.** Under A.R.S. § 4-207.01(B), the Director shall collect from a licensee the actual amount incurred to review and act on an application for approval to alter or change a licensed premise to a maximum of \$50.
 - H.** Under A.R.S. § 4-206.01(K), the Director establishes and shall collect a fee of \$100 from an applicant that applies for sam-

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pling privileges associated with a liquor or beer and wine store license and \$60 to renew the sampling privilege.

- I. Under A.R.S. § 4-244.05(J)(4), the Director shall collect from the owner of an unlicensed establishment or premises acting under A.R.S. § 4-244.05 the actual amount incurred to conduct an inspection for compliance with R19-1-324 to a maximum of \$50.
- J. If a check provided to the Department by an applicant or licensee is dishonored by the bank upon presentment, the Department shall:
 - 1. As allowed by A.R.S. § 44-6852, require the applicant or licensee to pay the actual charges assessed by the bank plus a service fee of \$25;
 - 2. Not issue a license, permit, or other approval to the applicant or licensee until all fees, including those referenced in subsection (K)(1), are paid by money order; and
 - 3. Require the applicant or licensee to pay all future fees to the Department by money order.
- K. As allowed under A.R.S. § 35-142(L), the Department may impose a convenience fee for accepting payment made by credit or debit card.
- L. This Section is authorized by A.R.S. §§ 4-112(G)(10), 4-205.02, 4-206.01, 4-207.01(B), 4-209, 4-244.05, and 35-142(L).

Historical Note

Former Rule 2; Former Section R4-15-02 renumbered as Section R4-15-102 without change effective October 8, 1982 (Supp. 82-5). Repealed effective July 11, 1983 (Supp. 83-4). New Section adopted effective March 3, 1993 (Supp. 93-1). R19-1-102 recodified from R4-15-102 (Supp. 95-1). Amended by final rulemaking at 11 A.A.R. 5119, effective January 9, 2006 (Supp. 05-4). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2). New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2). Amended by final expedited rulemaking 30 A.A.R. 389 (March 1, 2024), with an immediate effective of February 9, 2024 (Supp. 24-1).

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).

R19-1-103. A.R.S. Title 4 Training Course: Minimum Standards

- A. As authorized by A.R.S. § 4-112(G)(2), the Department establishes the following minimum standards for an A.R.S. Title 4 training course.
 - 1. A provider of a training course shall ensure that course content, training materials, and examination provide current reference and practical application of statute and this Chapter for:
 - a. Basic liquor law applicable to an on-sale retail licensee,
 - b. Management training applicable to an on-sale retail licensee,
 - c. Basic liquor law applicable to an off-sale retail licensee, and

- d. Management training applicable to an off-sale retail licensee;
- 2. A provider of a Basic On-sale training course shall ensure that the course is a minimum of three hours, excluding sign-in and break times, and course content includes the following topics:
 - a. General law regarding spirituous liquor.
 - i. Review of requirements for licensees and employees in Title 4 and this Chapter,
 - ii. Role and function of the Arizona Department of Liquor Licenses and Control,
 - iii. Potential legal risks to an on-sale retail licensee,
 - iv. Potential legal risks to an employee of an on-sale retail licensee,
 - v. Distinction between off- and on-sale license privileges, and
 - vi. Types and privileges of on-sale retail licenses,
 - b. Law regarding a licensed premises.
 - i. The licensed premises defined;
 - ii. Entertainment within or on the licensed premises, private parties, special events, or gambling;
 - iii. Spirituous liquor brought onto or removed from the licensed premises; and
 - iv. Extending or changing the licensed premises.
 - c. Law regarding age.
 - i. Selling spirituous liquor to persons of legal age;
 - ii. When to require identification of legal age;
 - iii. Recognizing acceptable forms of identification;
 - iv. Recognizing invalid forms of identification;
 - v. Documenting identification inspection by using an ID Log;
 - vi. Underage individuals in a bar or restaurant at which spirituous liquor is served;
 - vii. The Covert Underage Buyer Program; and
 - viii. Refusing to sell spirituous liquor to an underage individual using policy, procedure, and skill assessment;
 - d. Law regarding intoxication.
 - i. The effects of spirituous liquor and recognizing signs of obvious intoxication;
 - ii. Responsibility for the safety of customers;
 - iii. Service limitations of spirituous liquor at a licensed premises, special event, or sampling event;
 - iv. Monitoring customer consumption and intervention techniques using skill assessment; and
 - v. Refusing spirituous liquor service or sale to an intoxicated individual using policy, procedure, and skill assessment;
 - e. Law regarding second-party sales of spirituous liquor.
 - i. Definition of second-party sale,
 - ii. Licensee responsibilities regarding second-party sales,
 - iii. Recognizing a second-party purchaser,
 - iv. Preventing a second-party sale, and
 - v. Refusing to sell to a second-party purchaser;
 - f. Employee consumption of spirituous liquor;
 - g. Law regarding legal hours of sale and payment for spirituous liquor at retail locations;
 - h. Disorderly conduct and acts of violence.

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- i. Defining disorderly conduct and acts of violence;
 - ii. Maintaining order on the licensed premises using policy, procedures, and skill assessment;
 - iii. Locating forms and reporting requirements for an act of violence;
 - iv. Repeated acts of violence; and
 - v. Firearms on the licensed premises;
 - i. Management of problem situations.
 - i. Kinds of problem situations that may arise,
 - ii. Recognizing a problem situation, and
 - iii. Employee responsibilities in a problem situation; and
 - j. Course review.
 - i. Summarize course content,
 - ii. Administer to all participants the examination required under subsection (A)(10),
 - iii. Have all participants complete the Course Evaluation Form required under subsection (A)(9), and
 - iv. Issue to qualifying participants the Certificate of Completion required under subsection (A)(11).
- 3. A provider of a Management On-sale training course shall ensure that the course is a minimum of two hours, excluding sign-in and break times, is preceded by the Basic On-sale training course outlined in subsection (A)(2), and management content includes the following topics:
 - a. Making changes to and deactivating a liquor license.
 - i. Liquor license application requirements;
 - ii. The “capable, qualified, and reliable” requirements for licensure;
 - iii. Definition of controlling person, types of ownership, and ownership that is unlawful;
 - iv. Local government approval of liquor license application, including an application for a special event;
 - v. Distinction between the Director and the Board; and
 - vi. License application protests, requirements, and procedure;
 - b. Law enforcement regarding spirituous liquor.
 - i. Routine liquor inspection of premises,
 - ii. Common liquor law violations,
 - iii. Compliance meetings and actions,
 - iv. Office of Administrative Hearings,
 - v. Grounds for suspension or revocation,
 - vi. Administrative liability,
 - vii. Criminal liability, and
 - viii. Civil liability;
 - c. Licensed premises.
 - i. Diagramming licensed premises, including hotel and motel locations;
 - ii. Altering licensed premises;
 - iii. Changing name of business;
 - iv. Patio requirements; and
 - v. Unlicensed locations;
 - d. Liquor license.
 - i. Posting the liquor license,
 - ii. Required and optional signs,
 - iii. Renewing license,
 - iv. Recordkeeping requirements,
 - v. Employee log, and
 - vi. Change in active or nonuse status;
 - e. Management requirements.
 - i. Defining on-site manager, responsibilities, and completion of the required questionnaire;
 - ii. Managing employee and customer safety;
 - iii. Changing managers;
 - iv. Changing agents;
 - v. Restructure; and
 - vi. Locating forms and required reporting;
 - f. Spirituous liquor marketing.
 - i. Coupons and rebates,
 - ii. Happy hour,
 - iii. Advertising and signage, and
 - iv. Promotional and novelty items;
 - g. General business practices.
 - i. Sources of spirituous liquor;
 - ii. Credit purchase of spirituous liquor;
 - iii. Delivering, shipping, and internet selling of spirituous liquor;
 - iv. Off-premise storage of spirituous liquor;
 - v. Wholesaler and retailer relationship and inducements;
 - vi. Sampling events of spirituous liquor;
 - vii. Special events and auction of spirituous liquor;
 - viii. Wine and food clubs;
 - ix. Cooperative purchase of spirituous liquor,
 - x. Locking entrance to licensed premises and private parties,
 - xi. Limiting service to and consumption of spirituous liquor by employees, and
 - xii. Owner service and consumption of spirituous liquor;
 - h. Disorderly conduct and acts of violence. The information specified under subsection (A)(2)(h) and management responsibilities; and
 - i. Course review. The activities specified under subsection (A)(2)(j).
- 4. A provider of a Basic Off-sale training course shall ensure that the course is a minimum of two hours, excluding sign-in and break times, and course content includes the following topics:
 - a. General law regarding spirituous liquor.
 - i. The information specified under subsections (A)(2)(a)(i) and (ii),
 - ii. Potential legal risks to an off-sale retail licensee,
 - iii. Potential legal risks to an employee of an off-sale retail licensee, and
 - iv. Types and privileges of off-sale retail licenses;
 - b. Law regarding a licensed premises. The information specified under subsections (A)(2)(b)(i), (ii), and (iv);
 - c. Law regarding age. The information specified under subsections (A)(2)(c)(i) through (v) and (vii) and (viii);
 - d. Law regarding intoxication. The information specified under subsections (A)(2)(d)(i) through (iii), and (v);
 - e. Law regarding second-party sales of spirituous liquor. The information specified under subsections (A)(2)(e);
 - f. Employee consumption of spirituous liquor.
 - g. Law regarding legal hours of sale.
 - i. Legal hours of sale in Arizona, and

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- ii. Refusing an after-hour sale using skill assessment;
 - h. Law regarding sale of broken packages and on-premises consumption.
 - i. Definition of broken package and on-premises consumption,
 - ii. Advising a customer of off-sale consumption restrictions using skill assessment,
 - iii. Refusing to allow a customer to open or consume spirituous liquor on the licensed premises using skill assessment, and
 - iv. Refusing to allow a customer to consume spirituous liquor in parking area or property adjacent to licensed premises using skill assessment;
 - i. Disorderly conduct and acts of violence. The information specified under subsection (A)(2)(h);
 - j. Management of problem situations. The information specified under subsections (A)(2)(i); and
 - k. Course review. The activities specified under subsection (A)(2)(j).
5. A provider of a Management Off-sale training course shall ensure that the course is a minimum of two hours, excluding sign-in and break times, and is preceded by the Basic Off-sale training course outlined in subsection (A)(4), and management content includes the following topics:
- a. Making changes to and deactivating a liquor license. The information specified under subsection (A)(3)(a);
 - b. Law enforcement regarding spirituous liquor. The information specified under subsection (A)(3)(b);
 - c. Licensed premises. The information specified under subsection (A)(3)(c);
 - d. Liquor license. The information specified under subsection (A)(3)(d);
 - e. Management requirements. The information specified under subsection (A)(3)(e);
 - f. Spirituous liquor marketing. The information specified under subsections (A)(3)(f)(i), (iii), and (iv);
 - g. General business practices.
 - i. The information specified under subsections (A)(3)(g)(i) through (vii) and (ix) through (xii), and
 - ii. Drive-through purchase of spirituous liquor;
 - h. Disorderly conduct and acts of violence. The information specified under subsection (A)(2)(h) and management responsibilities; and
 - i. Course review. The activities specified under subsection (A)(2)(j).
6. A provider of a Basic Off-sale with On-sale Privileges training course shall ensure that the course addresses the topics specified under subsections (A)(2) and (4).
7. A provider of a Management Off-sale with On-sale Privileges training course shall ensure that the course addresses the topics specified under subsections (A)(3) and (5).
8. A provider of a management training course shall ensure that a sign-in roster is completed and provides the following information:
- a. Name of the course provider,
 - b. Date on which the course was conducted,
 - c. Location at which the course was conducted,
 - d. Name of individual who taught the course,
 - e. Printed name and signature of each participant, and
 - f. Form of identification accepted by the provider to verify each participant's identity and the number and expiration date of the identification;
9. The Department shall provide a training provider with a Course Evaluation Form that allows a course participant to evaluate the knowledge and competence of the course trainer and the quality of the course.
10. A provider of a training course shall administer an objective examination to measure each participant's completion of the course.
11. The Department shall provide a training provider with an authorized Certificate of Completion form to issue to each participant who attends the course in its entirety, takes the examination required under subsection (A)(10), and completes the Course Evaluation form required under subsection (A)(9). The Department shall ensure that the Certificate of Completion contains the following information:
- a. Name of the participant who completed the course,
 - b. Date on which the course was attended,
 - c. Notice that the Certificate of Completion expires three years from the date of issuance,
 - d. Whether the completed course addressed on-sale or off-sale retail requirements or a combination of both,
 - e. Whether the completed course addressed basic or management information or a combination of both,
 - f. Name of individual who taught the training course, and
 - g. Name of the course provider.
12. A provider of a training course shall:
- a. Maintain for two years:
 - i. A record of all Certificates of Completion issued under subsection (A)(11),
 - ii. Course Evaluation Forms completed by participants as required under subsection (A)(9),
 - iii. Examination results for each course participant as required under subsection (A)(10), and
 - iv. Course sign-in rosters required under subsection (A)(8); and
 - b. Submit to the Department by August 1 of each year, either by mail or electronically, an updated syllabus, examination, and other course materials for each training course provided. The provider shall ensure that the updated syllabus, course materials, and examination clearly indicate:
 - i. Whether the course is on-sale, off-sale, or a combination of both;
 - ii. Whether the course is basic or basic plus management;
 - iii. The name of each trainer authorized by the provider to teach each course;
 - iv. A list of individuals who are no longer authorized by the provider to teach its courses; and
 - v. The name, daytime telephone number, and e-mail address of the person responsible for the course provider.
- B.** Before providing a training course to participants, the provider of the training course shall apply to the Department for approval of the course content.
- C.** The provider of an approved training course shall, upon request, make the following available to the Department:
- 1. Record of the Certificates of Completion maintained under subsection (A)(11);

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2. All current training course syllabi, course materials, examinations, and Employee Information Forms;
 3. A copy of all materials provided to course participants;
 4. A copy of all teaching aids used in the training course; and
 5. A copy of the Course Evaluations Forms completed under subsection (A)(9).
- D.** The Department may, at any time, review an approved training course to determine that the course continues to meet the minimum standards specified in this Section. A provider shall inform the Department, upon request, of the date, time, and location of all scheduled training courses and allow the Department to audit the courses for:
1. Compliance with this Section, and
 2. Quality and accuracy of the training course content.
- E.** If the Department determines that a training course fails to meet the minimum standards specified in this Section, the Department shall give notice to the course provider regarding the areas of non-compliance, the steps required to be in compliance, and the date by which compliance must be achieved.
- F.** If the Department determines that a provider who received notice under subsection (E) failed to achieve compliance by the date specified, the Department may take action to suspend or revoke approval of the training course.
- G.** This Section is authorized by A.R.S. § 4-112(G)(2).

Historical Note

Former Rule 3; Former Section R4-15-03 renumbered as Section R4-15-103 without change effective October 8, 1982 (Supp. 82-5). Section repealed, new Section adopted effective March 3, 1993 (Supp. 93-1). R19-1-103 recodified from R4-15-103 (Supp. 95-1). Amended effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2). New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-104. Shipping Container Labeling; Shipping Requirements

- A.** An individual or entity, whether licensed or unlicensed under A.R.S. Title 4 and this Chapter, shall ensure that spirituous liquor shipped or offered for shipping within this state for a commercial purpose is in a container that is clearly and conspicuously labeled with or is accompanied by a shipping document containing the following information:
1. Name of the individual or entity consigning or shipping the spirituous liquor,
 2. Name and address of the individual or entity to whom the spirituous liquor will be delivered, and
 3. Identification of the spirituous liquor.
- B.** An individual who transports spirituous liquor other than beer from a wholesaler to a licensed retailer shall ensure that:
1. The individual possesses a bill or memorandum from the wholesaler to the licensed retailer showing the:
 - a. Name and address of the wholesaler,
 - b. Name and address of the licensed retailer, and
 - c. Quantity and type of the spirituous liquor sold and transported; and
 2. The bill or memorandum referenced under subsection (B)(1) is exhibited on demand by any peace officer.

- C.** An individual or entity that ships or offers for shipping spirituous liquor from a point outside Arizona to a final destination in Arizona shall ensure that:

1. With the exception of wine that is being shipped by a common carrier under A.R.S. § 4-203.04(J) or by a licensed farm winery under A.R.S. § 4-205.04(C)(7) or (9), beer that is being shipped by a licensed microbrewery under A.R.S. § 5-205.08(D)(4), or distilled spirits that are being shipped by a licensed craft distiller under A.R.S. § 4-205.10(C)(5), the spirituous liquor is consigned to a wholesaler authorized to sell or deal in the particular spirituous liquor being shipped; and
2. The spirituous liquor is placed for shipping with:
 - a. A common carrier or transportation company that is in compliance with all Arizona and federal law regarding operation of an interstate transportation business, or
 - b. The wholesaler to whom the spirituous liquor is consigned with the exception of:
 - i. Wine that is being shipped under A.R.S. § 4-203.04(J) by a common carrier or A.R.S. § 4-205.04(C)(7) or (9) by a licensed farm winery,
 - ii. Beer that is being shipped under A.R.S. § 4-205.08(D) by a licensed microbrewery, or
 - iii. Distilled spirits that are being shipped under A.R.S. 4-205.10(C)(5) by a licensed craft distiller.

- D.** A common carrier or transportation company hired to transport spirituous liquor from a point outside Arizona to a final destination in Arizona shall ensure that:

1. The common carrier or transportation company maintains possession of the spirituous liquor from the time the spirituous liquor is placed for shipping until it is delivered; and
2. With the exception of spirituous liquor that is being shipped under A.R.S. § 4-203.04(J) or A.R.S. § 4-205.04(C)(7) or (9) by a farm winery licensee, the spirituous liquor is delivered to the licensed premises of the wholesaler to whom the spirituous liquor is consigned.

- E.** An individual or entity shall not construe this Section in a manner that interferes with the interstate shipment of spirituous liquor, including beer and wine, through this state if the spirituous liquor, as it passes through this state, is under the control of a common carrier or transportation company hired to transport the spirituous liquor.

- F.** This Section is authorized by A.R.S. § 4-112(B)(1)(a).

Historical Note

Former Rule 4; Former Section R4-15-04 renumbered as Section R4-15-104 without change effective October 8, 1982 (Supp. 82-5). Repealed effective March 3, 1993 (Supp. 93-1). R19-1-104 recodified from R4-15-104 (Supp. 95-1). New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2). Amended by final expedited rulemaking 30 A.A.R. 389 (March 1, 2024), with an immediate effective of February 9, 2024 (Supp. 24-1).

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Chapter 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not

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submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).

R19-1-105. Standards for a Non-contiguous Area of a Licensed Premises

- A. When an application is made for inclusion of a non-contiguous area in a licensed premises, the Department shall approve inclusion of the non-contiguous area only if the following standards are met:
1. Unless application is made by a club licensee, the public convenience requires and the best interest of the community will be substantially served by approving inclusion of the non-contiguous area in the licensed premises;
 2. The non-contiguous area does not violate A.R.S. § 4-207;
 3. The non-contiguous area will be a permanent part of the licensed premises;
 4. The walkway or driveway that separates the non-contiguous area from the remainder of the licensed premises is no more than 30 feet wide;
 5. The non-contiguous area is completely enclosed by a permanently installed fence that is at least three feet in height;
 6. Construction of the business premises in the non-contiguous area will comply with all applicable building and safety standards before spirituous liquor is sold or served in the non-contiguous area; and
 7. The licensee demonstrates control of the taking of spirituous liquor between the non-contiguous area and the remainder of the licensed premises.
- B. This Section is authorized by A.R.S. § 4-101(31).

Historical Note

Former Rule 5; Former Section R4-15-05 renumbered as Section R4-15-105 without change effective October 8, 1982 (Supp. 82-5). R19-1-105 recodified from R4-15-105 (Supp. 95-1). Amended effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). Section renumbered to R19-1-108, new Section R19-1-105 made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2). Amended by final expedited rulemaking 30 A.A.R. 389 (March 1, 2024), with an immediate effective of February 9, 2024 (Supp. 24-1).

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).

R19-1-106. Severability

- A. In this Chapter, the subsections of each Section are severable and each Section is severable from the Chapter. If a Section or subsection or the application of a Section or subsection to a particular individual, entity, or circumstance is held to be invalid, the invalidity does not affect the validity of other Sections or subsections and does not affect the validity of the Section or subsection to a different individual, entity, or circumstance.
- B. This Section is authorized by A.R.S. § 4-112(B)(1)(b).

Historical Note

Former Rule 6; Former Section R4-15-06 renumbered as Section R4-15-106 without change effective October 8, 1982 (Supp. 82-5). Amended effective July 11, 1983 (Supp. 83-4). Section repealed, new Section adopted effective March 3, 1993 (Supp. 93-1). R19-1-106 recodified from R4-15-106 (Supp. 95-1). Amended effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2). New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).

R19-1-107. Electronic Signatures

- A. An applicant, licensee, or other person that submits to the Department a form or document required under A.R.S. Title 4 or this Chapter may submit the form or document electronically.
- B. This Section is authorized by A.R.S. § 4-112(G)(11).

Historical Note

Adopted effective April 26, 1977 (Supp. 77-2). Former Section R4-15-07 renumbered as Section R4-15-107 without change effective October 8, 1982 (Supp. 82-5). Amended effective January 28, 1987 (Supp. 87-1). R19-1-107 recodified from R4-15-107 (Supp. 95-1). Amended effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2). New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-108. Repealed

Historical Note

New Section R19-1-108 renumbered from R19-1-105 by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2). Section repealed by final rulemaking at 20 A.A.R. 1207, effective July 6, 2014 (Supp. 14-2).

R19-1-109. Repealed

Historical Note

Adopted as an emergency effective September 30, 1981, pursuant to A.R.S. § 1003, valid for only 90 days (Supp. 81-5). Former Section R4-15-09, Quota license selection process, adopted as an emergency, renumbered as Section R4-15-109, expired (Supp. 82-5). Adopted effective December 9, 1982 (Supp. 82-6). Spelling correction, subsection (B), paragraph (3) to adoption effective December 9, 1982 (Supp. 87-1). R19-1-109 recodified from R4-15-109 (Supp. 95-1). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

R19-1-110. Sign Limitations

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- A. A person, firm, or corporation engaged in business as a manufacturer, distiller, brewer, vintner, or wholesaler or any officer, director, agent, or employee of such person may lend, to the retailer any sign for interior or exterior use provided:
 1. The sign must bear conspicuous and substantial advertising matter about a product of the manufacturer, distiller, brewer, vintner, or wholesaler.
 2. The cost of the sign may not exceed \$400.
 3. A sign may not be utilitarian except as to its advertising or information content.
 4. No such signs shall be offered or furnished by any manufacturer, distiller, brewer, vintner or wholesaler or by any officer, director, agent, or employee thereof, or by any other person as an inducement to the retailer to purchase or use the products of such manufacturer, distiller, brewer, vintner or wholesaler to the exclusion in whole or in part of the product of any competitor.
- B. No signs or other advertising matter used in connection with the licensed premises of any retailer of alcoholic beverages shall be obscene as determined by applying contemporary state standards.
- C. Licensed special events are not subject to the limitations of subsections (A)(1) through (3).

Historical Note

New Section R19-1-110 renumbered from R19-1-210 by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-111. Repealed**Historical Note**

Adopted effective March 3, 1993 (Supp. 93-1). R19-1-111 recodified from R4-15-111 (Supp. 95-1). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

R19-1-112. Repealed**Historical Note**

New Section R19-1-112 renumbered from R19-1-228 by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2). Section repealed by final rulemaking at 20 A.A.R. 1207, effective July 6, 2014 (Supp. 14-2).

R19-1-113. Repealed**Historical Note**

New Section R19-1-113 renumbered from R19-1-315 by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2). Section repealed by final rulemaking at 20 A.A.R. 1207, effective July 6, 2014 (Supp. 14-2).

ARTICLE 2. LICENSING

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).

Editor's Note: Previous amendments were made under a different exemption (Supp. 96-4).

R19-1-201. Who May Apply for a License

- A. Except as provided in subsection (B) and notwithstanding any other law, the following pre-requisites apply for a license under A.R.S. Title 4 and this Chapter.

1. If an individual applies for a license, the individual shall be:
 - a. A citizen of the United States or a legal resident alien, and
 - b. A bona fide resident of Arizona;
2. If a partnership applies for a license, each partner shall meet the criteria in subsection (A)(1);
3. Except as provided in subsection (A)(6), if a corporation or limited liability company applies for a license, the corporation or limited liability company shall:
 - a. Be qualified to do business in Arizona, and
 - b. Hold the license through an agent who is an individual that meets the criteria in subsection (A)(1);
4. If a limited partnership applies for a license:
 - a. An individual general partner, but not a limited partner, shall meet the criteria in subsection (A)(1); and
 - b. A corporate general partner shall meet the criteria in subsection (A)(3);
5. If a club or governmental entity applies for a license, the club or governmental entity shall hold the license through an agent who is an individual that meets the criteria in subsection (A)(1);
6. If an out-of-state entity applies for a license, the out-of-state entity shall hold the license through an agent who meets the standard described in A.R.S. § 4-202(A).

- B. An entity organized outside the U.S. that applies for an out-of-state producer or limited out-of-state producer license is not required to meet the pre-requisites in subsection (A) if the person makes application through an agent who meets the criteria listed in A.R.S. § 41-1080(B).

- C. The Department shall accept as evidence that an individual is a citizen of the United States or a legal resident alien the documents listed in A.R.S. § 41-1080(A).

- D. The Department shall accept a driver license or voter registration card as evidence that an individual is a bona fide resident of Arizona.

- E. The Department shall accept the following, provided by or filed with the Arizona Corporation Commission, as evidence that an entity is qualified to do business in Arizona:
 1. Corporation file number, or
 2. L.L.C. file number.

- F. This Section is authorized by A.R.S. §§ 4-202(A) and 41-1080.

Historical Note

Former Rule 1; Former Section R4-15-20 renumbered as Section R4-15-201 without change effective October 8, 1982 (Supp. 82-5). R-19-1-201 recodified from R4-15-201 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996, as required pursuant to Laws 1996, Ch. 307, § 19 (Supp. 96-4). Historical note corrected for clarification. Amended effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). Former Section R19-1-201 recodified to R19-1-314; new Section R19-1-201 recodified from R19-1-301 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2). New Section made by

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final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-202. Application Required

- A. An individual or entity that wishes to obtain a license or other approval from the Department shall complete and submit to the Department an application using a form that is available from the Department at its office or online.
- B. This Section is authorized by A.R.S. §§ 4-201, 4-202, 4-203, 4-203.01, 4-203.04, and 4-228.

Historical Note

Former Rule 2; Former Section R4-15-21 renumbered as Section R4-15-202 without change effective October 8, 1982 (Supp. 82-5). R19-1-202 recodified from R4-15-202 (Supp. 95-1). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2). New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-203. Registration of a Retail Agent

- A. Pre-requisites for registration as a retail agent. A person may act as a retail agent only if the person:
 - 1. Holds one of the licenses listed in A.R.S. § 4-222(A);
 - 2. Has a written Cooperative-purchase Agreement, using a form available from the Department, with one or more licensees; and
 - 3. Submits the materials required under subsections (B) and (C) to the Department.
- B. To register as a retail agent, a licensee shall submit to the Department the application form prescribed by the Department. The licensee registering shall include the licensee's notarized signature affirming that the licensee will comply with all laws and this Chapter regarding cooperative purchases and that all information provided is true, correct, and complete.
- C. In addition to submitting the application form required under subsection (B), an applicant for registration as a retail agent shall submit:
 - 1. A copy of every Cooperative-purchase Agreement reached with another licensee, and
 - 2. The fee prescribed at A.R.S. § 4-222(B).
- D. This Section is authorized by A.R.S. §§ 4-112(B)(1)(d) and 4-222.

Historical Note

Former Rule 3; Former Section R4-15-22 renumbered as Section R4-15-203 without change effective October 8, 1982 (Supp. 82-5). R19-1-203 recodified from R4-15-203 (Supp. 95-1). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2). New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1989, Ch. 234, § 22. The Office of the Secretary of State was not allowed by law to file or publish exempt rules when the Section was amended by the Department. The Department has now filed this Section with the Office of the Secretary of State as required pursuant to Laws 1996, Ch. 307, § 19.

R19-1-204. Obtaining a Quota License

- A. The number of quota licenses that the Department may issue in a county is limited.

- B. Before issuing a new quota license in a particular county, the Department shall provide notice through available media of its intent to issue a new quota license, the particular kind of quota license to be issued, and invite interested persons in the county to inform the Department of their interest in the manner prescribed by the Department.
- C. If the number of interested persons in a particular county exceeds the number of specified quota licenses available, the Department shall use a random selection method to determine priority of individuals who have applied for a new quota license.
- D. Before a new quota license is issued to a successful applicant, the applicant shall pay:
 - 1. The issuance fee and applicable surcharges prescribed under A.R.S. § 4-209;
 - 2. One-half of the annual renewal fee if the license will be issued less than six months before it is scheduled to be renewed; and
 - 3. The fair market value of the quota license, as determined by the Department.
- E. This Section is authorized by A.R.S. § 4-206.01.

Historical Note

Former Rule 4; Amended effective September 10, 1979 (Supp. 79-5). Former Section R4-15-23 renumbered as Section R4-15-204 without change effective October 8, 1982 (Supp. 82-5). R19-1-204 recodified from R4-15-204 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Amended by exempt rulemaking at 7 A.A.R. 5252, effective November 2, 2001 (Supp. 01-4). Former Section R19-1-204 recodified to R19-1-210; new Section R19-1-204 recodified from R19-1-220 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2). New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-205. Requirements for a Special Event License

- A. To apply for a special event license, an entity authorized under A.R.S. § 4-203.02 (B) shall submit to the Department an application form, which is available from the Department.
- B. At the same time application is made to the Department under subsection (A), the entity shall submit a copy of the application form to the board of supervisors if the special event is to be held in an unincorporated area or to the governing body of a city or town if the special event is to be held in a city or town. The Department shall issue a special event license subject to the approval of the board of supervisors or governing body.
- C. The Department shall issue a special event license to an entity authorized under A.R.S. § 4-203.02 (B) for no more than 10 days in each calendar year.
- D. This Section is authorized by A.R.S. § 4-203.02.

Historical Note

Former Rule 5; Former Section R4-15-24 renumbered as Section R4-15-205 without change effective October 8, 1982 (Supp. 82-5). R19-1-205 recodified from R4-15-205 (Supp. 95-1). Former Section R19-1-205 recodified to R19-1-211; new Section R19-1-205 recodified from R19-1-253 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section expired under A.R.S. § 41-1056(E) at 12 A.A.R. 1784, effective January 31, 2006.

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(Supp. 06-2). New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

Editor's Note: The following Section was repealed and a new Section adopted under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6), pursuant to Laws 1993, Ch. 133, § 49. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit notice of this rulemaking to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council; the Department was not required to hold public hearings on these rules; and the Attorney General did not certify these rules.

R19-1-206. Criteria for Issuing a Restaurant License

- A. The Department shall not issue a restaurant license to an applicant if the Department finds there is sufficient evidence that the applicant will be unable to operate as a restaurant as defined in A.R.S. § 4-205.02(M)(2).
- B. The following criteria are evidence of an ability to operate a restaurant as defined in A.R.S. § 4-205.02(M)(2). The Department shall consider these criteria when determining whether to issue a restaurant license to an applicant:
 1. Number of cooks, other food preparation personnel, and wait staff are sufficient to prepare and provide the proposed restaurant services;
 2. Restaurant equipment is of sufficient grade or appropriate for the offered menu;
 3. Proposed menu is of a type and price likely to achieve 40 percent food sales; and
 4. Dinnerware and small-ware, including dining utensils, are compatible with the offered menu.
- C. The following criteria are evidence of an inability to operate a restaurant as defined in A.R.S. § 4-205.02(M)(2). The Department shall consider these criteria when determining whether to issue a restaurant license to an applicant:
 1. More than 60 percent of the public seating area consists of barstools, cocktail tables, and similar seating indicating the area is used primarily for consumption of spirituous liquor;
 2. Name, signage, or promotional materials of the proposed business premises contain a term such as bar, tavern, pub, spirits, club, lounge, cabaret, or saloon that denotes sale of spirituous liquor;
 3. Proposed business premises has a jukebox, live entertainment, or dance floor; and
 4. Proposed business premises contain bar games and equipment.
- D. This Section is authorized by A.R.S. § 4-205.02(E).

Historical Note

Former Rule 6; Former Section R4-15-25 renumbered as Section R4-15-206 without change effective October 8, 1982 (Supp. 82-5). Section repealed, new Section adopted effective May 26, 1993, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1993, Ch. 133, § 49 (Supp. 93-2). R19-1-206 recodified from R4-15-206 (Supp. 95-1). Former Section R19-1-206 recodified to R19-1-221; new Section R19-1-206 recodified from R19-1-217 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2). New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2). Amended by final expedited rulemaking 30 A.A.R. 389 (March 1, 2024), with an immediate effective of February 9, 2024

(Supp. 24-1).

Editor's Note: The following Section was repealed under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).

Editor's Note: Previous amendments were made under a different exemption (Supp. 96-4).

R19-1-207. Extension of Premises

- A. A licensee shall ensure that no spirituous liquor is served to a customer seated outside the licensed premises, as defined in A.R.S. § 4-101(31), without first making application for an extension of premises.
- B. An application under subsection (A) is required for either a temporary or permanent extension of premises.
- C. This Section is authorized by A.R.S. §§ 4-101(31) and 4-203(B).

Historical Note

Former Rule 7; Former Section R4-15-26 renumbered as Section R4-15-207 without change effective October 8, 1982 (Supp. 82-5). R19-1-207 recodified from R4-15-207 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Repealed effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). New Section R19-1-207 recodified from R19-1-221 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2). New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2). Amended by final expedited rulemaking 30 A.A.R. 389 (March 1, 2024), with an immediate effective of February 9, 2024 (Supp. 24-1).

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).

Editor's Note: Previous amendments were made under a different exemption (Supp. 96-4).

R19-1-208. Notice of Application for a Conveyance License

- A. An individual or entity qualified under R19-1-201 who submits an application under R19-1-202 for a conveyance license shall post a copy of the application and the notice required under A.R.S. § 4-201(B) conspicuously at the location from which the applicant conducts its principal business in Arizona.
- B. This Section is authorized by A.R.S. § 4-201(B).

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Former Rule 8; Former Section R4-15-27 renumbered as Section R4-15-208 without change effective October 8, 1982 (Supp. 82-5). R19-1-208 recodified from R4-15-208 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996, as required pursuant to Laws 1996, Ch. 307, § 19 (Supp. 96-4). Historical note corrected for clarification. Amended effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). Former Section R19-1-208 recodified to R19-1-219; new Section R19-1-208 recodified from R19-1-231 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2). New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1989, Ch. 234, § 22. The Office of the Secretary of State was not allowed by law to file or publish exempt rules when the Section was amended by the Department. The Department has now filed this Section with the Office of the Secretary of State as required pursuant to Laws 1996, Ch. 307, § 19.

R19-1-209. Licensing Time Frames

- A. For the purpose of compliance with A.R.S. § 41-1073, the Department establishes time frames that apply to licenses issued by the Department. The licensing time frames consist of an administrative completeness review time frame, a substantive review time frame, and an overall time frame as defined in A.R.S. § 41-1072.
- B. The Department shall not forward a liquor license application for review and consideration by local governing authorities until the application is administratively complete. A liquor license application is administratively complete when:
 1. Every piece of information required by the form prescribed by the Department is provided;
 2. All required materials specified on the form prescribed by the Department are attached to the form;
 3. The non-refundable license application fee specified at A.R.S. § 4-209(A) is attached to the form; and
 4. If required, a questionnaire and complete set of fingerprints are attached to the form from:
 - a. Every individual who is a controlling person of the business to be licensed,
 - b. Every individual who has an aggregate beneficial interest of at least 10 percent in the business to be licensed,
 - c. Every individual who owns at least 10 percent of the business to be licensed,
 - d. Every individual who holds a beneficial interest of at least 10 percent of the liabilities of the business to be licensed, and
 - e. The agent and managers of the business to be licensed.
- C. Except as provided in subsection (D), the time frame for the Department to act on a license application is as follows:
 1. Administrative completeness review time frame: 75 days;
 2. Substantive review time frame: 30 days; and
 3. Over-all time frame: 105 days.
- D. The time frame for the Department to act on an application for a special event license, wine festival or fair license, extension or change of licensed premises, or approval of a liquor law training course is as follows:
 1. Administrative completeness review time frame: 10 days;
 2. Substantive review time frame: 20 days; and
 3. Over-all time frame: 30 days.
- E. Administrative completeness review time frame.
 1. The administrative completeness review time frame begins when the Department receives an application. During the administrative completeness review-time frame, the Department shall determine whether the application is:
 - a. Complete,
 - b. Contains a technical error, or
 - c. Contains a non-technical error.
 2. If the Department determines that an application is incomplete or contains a non-technical error, the Department shall return the application to the applicant. If the applicant wishes to be considered further for a license, the applicant shall submit to the Department a new, completed application and non-refundable application fee.
 3. If the Department determines that an application contains a technical error, the Department shall notify the applicant in writing of the technical error.
 4. An applicant that receives a notice regarding a technical error in an application shall correct the technical error within 30 days from the date of the notice or within the time specified by the Department. The administrative completeness review and over-all time frames are suspended from the date of the notice referenced under subsection (E)(3) until the date the technical error is corrected.
 5. If an applicant fails to correct a technical error within the specified time, the Department shall close the file. An applicant whose file is closed may apply again for a license by submitting a new, completed application and non-refundable application fee.
- F. Substantive review time frame.
 1. The substantive review time frame begins when an application is administratively complete or at the end of the administrative completeness review time frame listed in subsection (C)(1) or (D)(1). If a hearing is required under A.R.S. § 4-201 regarding the license application, the Department shall ensure that the hearing occurs during the substantive review time frame.
 2. If the Department determines during the substantive review that additional information is needed, the Department shall send the applicant a comprehensive written request for additional information. An applicant from whom additional information is requested shall supply the additional information within 30 days from the date of the request or within the time specified by the Department. Both the substantive review and over-all time frames are suspended from the date of the Department's request until the date that the Department receives the additional information.
 3. If an applicant fails to submit the requested information within the specified time, the Department shall close the file. An applicant whose file is closed may apply again for a license by submitting a new, completed application and non-refundable application fee.
- G. Within the overall time frame, the Department shall:

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1. Deny a license to an applicant if the Department determines that the applicant does not meet all the substantive criteria required by A.R.S. Title 4 and this Chapter, or
 2. Grant a license to an applicant if the Department determines that the applicant meets all the substantive criteria required by A.R.S. Title 4 and this Chapter.
- H.** If the Department denies a license under subsection (G)(1), the Department shall provide a written notice of denial to the applicant that explains:
1. The reason for the denial, with citations to supporting statutes or rules;
 2. The applicant's right to appeal the denial; and
 3. The time for appealing the denial.
- I.** This Section is authorized by A.R.S. §§ 41-1073, 4-201(E), and 4-202(B).

Historical Note

Former Rule 9; Former Section R4-15-28 renumbered as Section R4-15-209 without change effective October 8, 1982 (Supp. 82-5). R19-1-209 recodified from R4-15-209 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Former Section R19-1-209 recodified to R19-1-232; new Section R19-1-209 recodified from R19-1-210 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2). New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2). Amended by final expedited rulemaking 30 A.A.R. 389 (March 1, 2024), with an immediate effective of February 9, 2024 (Supp. 24-1).

R19-1-210. Renumbered**Historical Note**

Former Rule 10; Former Section R4-15-29 renumbered as Section R4-15-210 without change effective October 8, 1982 (Supp. 82-5). R19-1-210 recodified from R4-15-210 (Supp. 95-1). Former Section R19-1-210 recodified to R19-1-209; new Section R19-1-210 recodified from R19-1-204 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section renumbered to R19-1-110 by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).

Editor's Note: Previous amendments were made under a different exemption (Supp. 96-4).

R19-1-211. Repealed**Historical Note**

Former Rule 11; Former Section R4-15-30 renumbered as Section R4-15-211 without change effective October 8, 1982 (Supp. 82-5). R19-1-211 recodified from R4-15-211 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Pro-

cedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Amended effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). Former Section R19-1-211 recodified to R19-1-224; new Section R19-1-211 recodified from R19-1-205 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

Editor's Note: The following Section was repealed under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).

R19-1-212. Repealed**Historical Note**

Former Rule 12; Former Section R4-15-31 renumbered as Section R4-15-212 without change effective October 8, 1982 (Supp. 82-5). R19-1-212 recodified from R4-15-212 (Supp. 95-1). Repealed effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). New Section R19-1-212 recodified from R19-1-228 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).

Editor's Note: Previous amendments were made under a different exemption (Supp. 96-4).

R19-1-213. Repealed**Historical Note**

Former Rule 13; Former Section R4-15-32 renumbered as Section R4-15-213 without change effective October 8, 1982 (Supp. 82-5). R19-1-213 recodified from R4-15-213 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Amended effective June 4, 1997; amended again effective June 10, 1997. Both amendments were made under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). Former Section R19-1-213 recodified to R19-1-234; new Section R19-1-213 recodified from R19-1-235 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 11 A.A.R. 1564, effective June 4, 2005 (Supp. 05-2).

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Editor's Note: The following Section was repealed and a new Section adopted under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1991, Ch. 136, § 2 and 3. The Office of the Secretary of State was not allowed by law to file or publish exempt rules when the Section was repealed and new Section adopted by the Department. The Department has now filed this Section with the Office of the Secretary of State as required pursuant to Laws 1996, Ch. 307, § 19.

R19-1-214. Repealed**Historical Note**

Former Rule 14; Former Section R4-15-33 renumbered as Section R4-15-214 without change effective October 8, 1982 (Supp. 82-5). Former Section R4-15-214 repealed, new Section R4-15-214 adopted effective April 26, 1984 (Supp. 84-2). R19-1-214 recodified from R4-15-214 (Supp. 95-1). Section repealed, new Section adopted effective April 1, 1992, under an exemption from the Administrative Procedure Act pursuant to Laws 1991, Ch. 136, §§ 2 and 3; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Former Section R19-1-214 recodified to R19-1-235; new Section R19-1-214 recodified from R19-1-236 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed; new Section made by final rulemaking at 11 A.A.R. 1564, effective June 4, 2005 (Supp. 05-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1989, Ch. 234, § 22. The Office of the Secretary of State was not allowed by law to file or publish exempt rules when the Section was amended by the Department. The Department has now filed this Section with the Office of the Secretary of State as required pursuant to Laws 1996, Ch. 307, § 19.

R19-1-215. Repealed**Historical Note**

Former Rule 15; Former Section R4-15-34 renumbered as Section R4-15-215 without change effective October 8, 1982 (Supp. 82-5). R19-1-215 recodified from R4-15-215 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Former Section R19-1-215 recodified to R19-1-225; new Section R19-1-215 recodified from R19-1-237 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1989, Ch. 234, § 22. The Office of the Secretary of State was not allowed by law to file or publish exempt rules when the Section was amended by the Department. The Department has now filed this Section with the Office of the Secretary of State as required pursuant to Laws 1996, Ch. 307, § 19.

R19-1-216. Repealed**Historical Note**

Former Rule 16; Former Section R4-15-35 renumbered as Section R4-15-216 without change effective October 8, 1982 (Supp. 82-5). R19-1-216 recodified from R4-15-216 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Former Section R19-1-216 recodified to R19-1-222; new Section R19-1-216 recodified from R19-1-255 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1989, Ch. 234, § 22. The Office of the Secretary of State was not allowed by law to file or publish exempt rules when the Section was amended by the Department. The Department has now filed this Section with the Office of the Secretary of State as required pursuant to Laws 1996, Ch. 307, § 19.

R19-1-217. Repealed**Historical Note**

Former Rule 17; Former Section R4-15-36 renumbered as Section R4-15-217 without change effective October 8, 1982 (Supp. 82-5). R19-1-217 recodified from R4-15-217 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Former Section R19-1-217 recodified to R19-1-206; new Section R19-1-217 recodified from R19-1-248 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).

Editor's Note: Previous amendments were made under a different exemption (Supp. 96-4).

R19-1-218. Repealed**Historical Note**

Former Rule 18; Former Section R4-15-37 renumbered as Section R4-15-218 without change effective October 8, 1982 (Supp. 82-5). R19-1-218 recodified from R4-15-218 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Amended effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). Former Section R19-1-218 recodified to R19-1-305; new Section R19-1-218 recodified from R19-1-222 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R.

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1355, effective July 6, 2013 (Supp. 13-2).

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).

Editor's Note: Previous amendments were made under a different exemption (Supp. 96-4).

R19-1-219. Repealed**Historical Note**

Former Rule 19; Former Section R4-15-38 renumbered as Section R4-15-219 without change effective October 8, 1982 (Supp. 82-5). R19-1-219 recodified from R4-15-219 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Amended effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). Former Section R19-1-219 recodified to R19-1-306; new Section R19-1-219 recodified from R19-1-208 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).

Editor's Note: Previous amendments were made under a different exemption (Supp. 96-4).

R19-1-220. Repealed**Historical Note**

Former Rule 20; Former Section R4-15-39 renumbered as Section R4-15-220 effective October 8, 1982 (Supp. 82-5). * R19-1-220 recodified from R4-15-220 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Amended effective June 4, 1997; amended again effective June 10, 1997. Both amendments were exempt from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). Former Section R19-1-220 recodified to R19-1-204; new Section R19-1-220 recodified from R19-1-229 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act

(A.R.S. Title 41, Chapter 6) pursuant to Laws 1989, Ch. 234, § 22. The Office of the Secretary of State was not allowed by law to file or publish exempt rules when the Section was amended by the Department. The Department has now filed this Section with the Office of the Secretary of State as required pursuant to Laws 1996, Ch. 307, § 19.

R19-1-221. Repealed**Historical Note**

Former Rule 21; Former Section R4-15-40 renumbered as Section R4-15-221 without change effective October 8, 1982 (Supp. 82-5). R19-1-221 recodified from R4-15-221 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Former Section R19-1-221 recodified to R19-1-207; new Section R19-1-221 recodified from R19-1-206 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).

Editor's Note: Previous amendments were made under a different exemption (Supp. 96-4).

R19-1-222. Repealed**Historical Note**

Former Rule 22; Former Section R4-15-41 renumbered as Section R4-15-222 without change effective October 8, 1982 (Supp. 82-5). R 19-1-222 recodified from R4-15-222 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Amended effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). Former Section R19-1-222 recodified to R19-1-218; new Section R19-1-222 recodified from R19-1-216 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

Editor's Note: The following Section was repealed and a new Section adopted under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1989, Ch. 234, § 22. The Office of the Secretary of State was not allowed by law to file or publish exempt rules when the Section was repealed and a new Section adopted by the Department. The Department has now filed this Section with the Office of the Secretary of State as required pursuant to Laws 1996, Ch. 307, § 19.

R19-1-223. Repealed**Historical Note**

Former Rule 23; Former Section R4-15-42 renumbered

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as Section R4-15-223 without change effective October 8, 1982 (Supp. 82-5). R19-1-223 recodified from R4-15-223 (Supp. 95-1). Section repealed, new Section adopted effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Former Section R19-1-223 recodified to R19-1-312; new Section R19-1-223 recodified from R19-1-226 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

Editor's Note: *The following Section was repealed under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1989, Ch. 234, § 22. The Office of the Secretary of State was not allowed by law to file or publish exempt rules when the Section was repealed by the Department. The Department has now filed this Section with the Office of the Secretary of State as required pursuant to Laws 1996, Ch. 307, § 19.*

R19-1-224. Repealed**Historical Note**

Former Rule 24; Former Section R4-15-43 renumbered as Section R4-15-224 without change effective October 8, 1982 (Supp. 82-5). R19-1-224 recodified from R4-15-224 (Supp. 95-1). Repealed effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). New Section R19-1-224 recodified from R19-1-211 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

Editor's Note: *The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).*

Editor's Note: *Previous amendments were made under a different exemption (Supp. 96-4).*

R19-1-225. Repealed**Historical Note**

Former Rule 25; Former Section R4-15-44 renumbered as Section R4-15-225 without change effective October 8, 1982 (Supp. 82-5). R19-1-225 recodified from R4-15-225 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Amended effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). Former Section R19-1-225 recodified to R19-1-307; new Section R19-1-225 recodified from R19-1-215 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

Editor's Note: *The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).*

R19-1-226. Repealed**Historical Note**

Former Rule 26; Former Section R4-15-45 renumbered as Section R4-15-226 without change effective October 8, 1982 (Supp. 82-5). R19-1-226 recodified from R4-15-226 (Supp. 95-1). Amended effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). Former Section R19-1-226 recodified to R19-1-223; new Section R19-1-226 recodified from R19-1-245 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

Editor's Note: *The following Section was repealed under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1989, Ch. 234, § 22. The Office of the Secretary of State was not allowed by law to file or publish exempt rules when the Section was repealed by the Department. The Department has now filed this Section with the Office of the Secretary of State as required pursuant to Laws 1996, Ch. 307, § 19.*

R19-1-227. Repealed**Historical Note**

Former Rule 27; Former Section R4-15-46 renumbered as Section R4-15-227 without change effective October 8, 1982 (Supp. 82-5). R19-1-227 recodified from R4-15-227 (Supp. 95-1). Repealed effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). New Section R19-1-227 recodified from R19-1-254 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

Editor's Note: *The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1989, Ch. 234, § 22. The Office of the Secretary of State was not allowed by law to file or publish exempt rules when the Section was amended by the Department. The Department has now filed this Section with the Office of the Secretary of State as required pursuant to Laws 1996, Ch. 307, § 19.*

R19-1-228. Renumbered**Historical Note**

Former Rule 28; Former Section R4-15-47 renumbered as Section R4-15-228 without change effective October 8, 1982 (Supp. 82-5). R19-1-228 recodified from R4-15-228 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996

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(Supp. 96-4). Former Section R19-1-228 recodified to R19-1-212; new Section R19-1-228 recodified from R19-1-250 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section renumbered to R19-1-112 by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-229. Repealed**Historical Note**

Former Rule 29; Former Section R4-15-48 renumbered as Section R4-15-229 without change effective October 8, 1982 (Supp. 82-5). R-19-1-229 recodified from R4-15-229 (Supp. 95-1). Former Section R19-1-229 recodified to R19-1-220; new Section R19-1-229 recodified from R19-1-247 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

Editor's Note: The following Section was repealed under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).

R19-1-230. Repealed**Historical Note**

Former Rule 30; Former Section R4-15-49 renumbered as Section R4-15-230 without change effective October 8, 1982 (Supp. 82-5). R19-1-230 recodified from R4-15-230 (Supp. 95-1). Repealed effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). New Section R19-1-230 recodified from R19-1-241 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1989, Ch. 234, § 22. The Office of the Secretary of State was not allowed by law to file or publish exempt rules when the Section was amended by the Department. The Department has now filed this Section with the Office of the Secretary of State as required pursuant to Laws 1996, Ch. 307, § 19.

R19-1-231. Repealed**Historical Note**

Former Rule 31; Former Section R4-15-50 renumbered as Section R4-15-231 without change effective October 8, 1982 (Supp. 82-5). R19-1-231 recodified from R4-15-231 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Former Section R19-1-231 recodified to R19-1-208; new Section R19-1-231 recodified from R19-1-246 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

Editor's Note: The following Section was repealed under an

exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1989, Ch. 234, § 22. The Office of the Secretary of State was not allowed by law to file or publish exempt rules when the Section was repealed by the Department. The Department has now filed this Section with the Office of the Secretary of State as required pursuant to Laws 1996, Ch. 307, § 19.

R19-1-232. Repealed**Historical Note**

Former Rule 32; Former Section R4-15-51 renumbered as Section R4-15-232 without change effective October 8, 1982 (Supp. 82-5). R19-1-232 recodified from R4-15-231 (Supp. 95-1). Repealed effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). New Section R19-1-232 recodified from R19-1-209 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1989, Ch. 234, § 22. The Office of the Secretary of State was not allowed by law to file or publish exempt rules when the Section was amended by the Department. The Department has now filed this Section with the Office of the Secretary of State as required pursuant to Laws 1996, Ch. 307, § 19.

R19-1-233. Repealed**Historical Note**

Former Rule 33; Former Section R4-15-52 renumbered as Section R4-15-233 without change effective October 8, 1982 (Supp. 82-5). R19-1-233 recodified from R4-15-233 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Former Section R19-1-233 recodified to R19-1-311; new Section R19-1-233 recodified from R19-1-305 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

Editor's Note: The following Section was repealed under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1989, Ch. 234, § 22. The Office of the Secretary of State was not allowed by law to file or publish exempt rules when the Section was repealed by the Department. The Department has now filed this Section with the Office of the Secretary of State as required pursuant to Laws 1996, Ch. 307, § 19.

R19-1-234. Repealed**Historical Note**

Former Rule 34; Former Section R4-15-53 renumbered as Section R4-15-234 without change effective October 8, 1982 (Supp. 82-5). R19-1-234 recodified from R4-15-234 (Supp. 95-1). Repealed effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). New Section R19-1-234 recodified from

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R19-1-213 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1989, Ch. 234, § 22. The Office of the Secretary of State was not allowed by law to file or publish exempt rules when the Section was amended by the Department. The Department has now filed this Section with the Office of the Secretary of State as required pursuant to Laws 1996, Ch. 307, § 19.

R19-1-235. Repealed**Historical Note**

Former Rule 35; Former Section R4-15-54 renumbered as Section R4-15-235 without change effective October 8, 1982 (Supp. 82-5). R19-1-235 recodified from R4-15-235 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Former Section R19-1-235 recodified to R19-1-213; new Section R19-1-235 recodified from R19-1-214 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1989, Ch. 234, § 22. The Office of the Secretary of State was not allowed by law to file or publish exempt rules when the Section was amended by the Department. The Department has now filed this Section with the Office of the Secretary of State as required pursuant to Laws 1996, Ch. 307, § 19.

R19-1-236. Recodified**Historical Note**

Former Rule 36; Former Section R4-15-55 renumbered as Section R4-15-236 without change effective October 8, 1982 (Supp. 82-5).* R19-1-236 recodified from R4-15-236 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Section R19-1-236 recodified to R19-1-214 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2).

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1989, Ch. 234, § 22. The Office of the Secretary of State was not allowed by law to file or publish exempt rules when the Section was amended by the Department. The Department has now filed this Section with the Office of the Secretary of State as required pursuant to Laws 1996, Ch. 307, § 19.

R19-1-237. Recodified**Historical Note**

Former Rule 37; Former Section R4-15-56 renumbered as Section R4-15-237 without change effective October 8, 1982 (Supp. 82-5). R19-1-237 recodified from R4-15-237 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed

with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Section R19-1-237 recodified to R19-1-215 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2).

Editor's Note: The following Section was repealed under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1989, Ch. 234, § 22. The Office of the Secretary of State was not allowed by law to file or publish exempt rules when the Section was repealed by the Department. The Department has now filed this Section with the Office of the Secretary of State as required pursuant to Laws 1996, Ch. 307, § 19.

R19-1-238. Repealed**Historical Note**

Former Rule 38; Former Section R4-15-57 renumbered as Section R4-15-238 without change effective October 8, 1982 (Supp. 82-5). R19-1-238 recodified from R4-15-238 (Supp. 95-1). Repealed effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4).

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).

Editor's Note: Previous amendments were made under a different exemption (Supp. 96-4).

R19-1-239. Recodified**Historical Note**

Former Section R4-15-58 renumbered as Section R4-15-239 without change effective October 8, 1982 (Supp. 82-5). R19-1-239 recodified from R4-15-239 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Amended effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). Section R19-1-239 recodified to R19-1-302 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act. Exemption from this Act means that the rule was not reviewed by the Governor's Regulatory Review Council; the rule not submitted to the Secretary of State's Office for publication as a proposed rule in the Arizona Administrative Register; the public did not have an opportunity to comment on the rule; and the rule was not certified by the Attorney General.

R19-1-240. Recodified**Historical Note**

Adopted effective October 11, 1977 (Supp. 77-5). Repealed effective January 5, 1979 (Supp. 79-1). Former Section R4-15-59 renumbered as Section R4-15-240

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effective October 8, 1982 (Supp. 82-5). Amended effective August 3, 1994, under an exemption from the Administrative Procedure Act (Supp. 94-3). R19-1-240 recodified from R4-15-240 (Supp. 95-1). Section R19-1-240 recodified to R19-1-310 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2).

Editor's Note: *The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1989, Ch. 234, § 22. The Office of the Secretary of State was not allowed by law to file or publish exempt rules when the Section was amended by the Department. The Department has now filed this Section with the Office of the Secretary of State as required pursuant to Laws 1996, Ch. 307, § 19.*

R19-1-241. Recodified**Historical Note**

Adopted effective October 8, 1982 (Supp. 82-5). R19-1-241 recodified from R4-15-241 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Section R19-1-241 recodified to R19-1-230 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2).

Editor's Note: *The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).*

Editor's Note: *Previous amendments were made under a different exemption (Supp. 96-4).*

R19-1-242. Recodified**Historical Note**

Adopted effective April 9, 1979; Amended effective April 10, 1979 (Supp. 79-2). Former Section R4-15-61 renumbered as Section R4-15-242 without change effective October 8, 1982 (Supp. 82-5). R19-1-242 recodified from R4-15-242 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Amended effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). Section R19-1-242 recodified to R19-1-303 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2).

Editor's Note: *The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).*

Editor's Note: *Previous amendments were made under a different exemption (Supp. 96-4).*

R19-1-243. Recodified**Historical Note**

Adopted effective Aug. 2, 1982 (Supp. 82-4). Former Section R4-15-62 renumbered as Section R4-15-243 without change effective October 8, 1982 (Supp. 82-5). Correction, (A)(3)(a) (Supp. 83-3). R19-1-243 recodified from R4-15-243 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Amended effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). Section R19-1-243 recodified to R19-1-308 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2).

Editor's Note: *The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).*

Editor's Note: *Previous amendments were made under a different exemption (Supp. 96-4).*

R19-1-244. Recodified**Historical Note**

Adopted effective March 31, 1981 (Supp. 81-2). Former Section R4-15-63 renumbered as Section R4-15-2 without change effective October 9, 1982 (Supp. 82-5). R19-1-244 recodified from R4-15-244 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Amended effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). Section R19-1-244 recodified to R19-1-309 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2).

Editor's Note: *The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).*

Editor's Note: *Previous amendments were made under a different exemption (Supp. 96-4).*

R19-1-245. Recodified**Historical Note**

Adopted effective January 29, 1982 (Supp. 82-1). Former Section R4-15-64 renumbered and amended subsec-

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tion (A), paragraph (1) effective October 8, 1982 (Supp. 82-5). Correction, (A)(1) and (4) (Supp. 83-3). R19-1-245 recodified from R4-15-245 (Supp. 95-1). Amended effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Amended effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). Section R19-1-245 recodified to R19-1-226 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2).

Editor's Note: *The following Section was repealed and a new Section adopted under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1989, Ch. 234, § 22. The Office of the Secretary of State was not allowed by law to file or publish exempt rules when the Section was repealed and a new Section adopted by the Department. The Department has now filed this Section with the Office of the Secretary of State as required pursuant to Laws 1996, Ch. 307, § 19.*

R19-1-246. Recodified**Historical Note**

Adopted as an emergency effective Feb. 8, 1985 pursuant to A.R.S. SS 41-1003, valid for only 90 days (Supp. 85-1). Emergency expired. Adopted as a permanent rule effective Aug. 6, 1985 (Supp. 85-4). R19-1-246 recodified from R4-15-246 (Supp. 95-1). Section repealed, new Section adopted effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Section R19-1-246 recodified to R19-1-231 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2).

Editor's Note: *The following Section was adopted under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1989, Ch. 234, § 22. The Office of the Secretary of State was not allowed by law to file or publish exempt rules when the Section was adopted by the Department. The Department has now filed this Section with the Office of the Secretary of State as required pursuant to Laws 1996, Ch. 307, § 19.*

R19-1-247. Recodified**Historical Note**

Adopted effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Section R19-1-247 recodified to R19-1-229 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2).

Editor's Note: *The following Section was adopted under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1989, Ch. 234, § 22. The Office of the Secretary of State was not allowed by law to file or publish exempt rules when the Section was adopted by the Department. The Department has now filed this Section with the Office of the Secretary of State as required pursuant to Laws 1996, Ch. 307, § 19.*

R19-1-248. Recodified**Historical Note**

Adopted effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Section R19-1-248 recodified to R19-1-217 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2).

Editor's Note: *The following Section was repealed under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).*

Editor's Note: *Previous amendments were made under a different exemption (Supp. 96-4).*

R19-1-249. Repealed**Historical Note**

Adopted effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4).

Repealed effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2).

Editor's Note: *The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).*

Editor's Note: *Previous amendments were made under a different exemption (Supp. 96-4).*

R19-1-250. Recodified**Historical Note**

Adopted effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4).

Amended effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). Amended by exempt rulemaking at 7 A.A.R. 5252, effective November 2, 2001 (Supp. 01-4). Section R19-1-250 recodified to R19-1-228 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2).

Editor's Note: *The following Section was repealed under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).*

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Editor's Note: Adoption was made under a different exemption (Supp. 96-4).

R19-1-251. Repealed**Historical Note**

Adopted effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4).

Repealed effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2).

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).

Editor's Note: Adoption was made under a different exemption (Supp. 96-4).

R19-1-252. Recodified**Historical Note**

Adopted effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4).

Amended effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). Section R19-1-252 recodified to R19-1-313 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2).

Editor's Note: The following Section was adopted under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1989, Ch. 234, § 22. The Office of the Secretary of State was not allowed by law to file or publish exempt rules when the Section was adopted by the Department. The Department has now filed this Section with the Office of the Secretary of State as required pursuant to Laws 1996, Ch. 307, § 19.

R19-1-253. Recodified**Historical Note**

Adopted effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Section R19-1-253 recodified to R19-1-205 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2).

Editor's Note: The following Section was adopted under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1989, Ch. 234, § 22. The Office of the Secretary of State was not allowed by law to file or publish exempt rules when the Section was adopted by the Department. The Department has now filed this Section with the Office of the Secretary of State as required pursuant to Laws 1996, Ch. 307, § 19.

R19-1-254. Recodified**Historical Note**

Adopted effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Section R19-1-254 recodified to R19-1-227 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2).

Editor's Note: The following Section was adopted under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1989, Ch. 234, § 22. The Office of the Secretary of State was not allowed by law to file or publish exempt rules when the Section was adopted by the Department. The Department has now filed this Section with the Office of the Secretary of State as required pursuant to Laws 1996, Ch. 307, § 19.

R19-1-255. Recodified**Historical Note**

Adopted effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Section R19-1-255 recodified to R19-1-216 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2).

Editor's Note: The following Section was amended and then repealed under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp. 97-2).

Editor's Note: Adoption was made under a different exemption (Supp. 96-4)

R19-1-256. Repealed**Historical Note**

Adopted effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Amended effective June 4, 1997; repealed effective June 10, 1997. Both actions were exempt from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2).

Editor's Note: The following Section was adopted under an exemption from the provisions of the Arizona Administrative Procedure Act. Exemption from this Act means that the rule was not reviewed by the Governor's Review Council; the rule was not submitted to the Secretary of State's Office for publication as a proposed rule in the Arizona Administrative Register; the public did not have an opportunity to comment on the rule; and the rule was not certified by the Attorney General.

R19-1-257. Recodified**Historical Note**

Adopted effective August 3, 1994, under an exemption from the Administrative Procedure Act (Supp. 94-3). R19-1-257 recodified from R4-15-257 (Supp. 95-1). Section R19-1-257 recodified to R19-1-304 at 8 A.A.R.

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2636, effective May 30, 2002 (Supp. 02-2).

ARTICLE 3. LICENSEE RESPONSIBILITIES**R19-1-301. Recodified****Historical Note**

Adopted effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Amended effective June 4, 1997; amended again effective June 10, 1997. Both amendments were exempt from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). Section R19-1-301 recodified to R19-1-201 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2).

R19-1-302. Knowledge of Liquor Law; Responsibility

- A.** A licensee shall take reasonable steps to ensure the following individuals acquire knowledge of A.R.S. Title 4 and this Chapter:
1. The licensee;
 2. The manager;
 3. Any employee who serves, sells, or furnishes spirituous liquor to a retail customer; and
 4. Any individual who will be physically present and operating the licensed premises.
- B.** This Section is authorized by A.R.S. § 4-112(G)(2).

Historical Note

Adopted effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Amended effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). Former Section R19-1-302 recodified to R19-1-315; new Section R19-1-302 recodified from R19-1-239 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2). New Section made by final rulemaking at 20 A.A.R. 1207, effective July 6, 2014 (Supp. 14-2).

R19-1-303. Authorized Spirituous Liquor

- A.** A licensee shall not directly or indirectly manufacture, sell, or deal in spirituous liquor in Arizona other than the spirituous liquors authorized by the license issued to the licensee under A.R.S. Title 4 and this Chapter.
- B.** A licensee shall ensure that no spirituous liquor other than the spirituous liquors authorized by the license issued to the licensee under A.R.S. Title 4 and this Chapter is on the licensed premises for any purpose.
- C.** This Section is authorized by A.R.S. § 4-203(B)(1).

Historical Note

Adopted effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Repealed effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). Adopted by final rulemaking at 5 A.A.R. 386, effective January 8, 1999 (Supp. 99-1). Former Section R19-1-303

recodified to R19-1-317; new Section R19-1-303 recodified from R19-1-242 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-304. Storing Spirituous Liquor on Unlicensed Premises

- A.** Except as provided in subsection (B), a licensee shall not accept delivery of or store spirituous liquor at any premises other than the business premises described on the license issued to the licensee under A.R.S. Title 4 and this Chapter.
- B.** The Department shall authorize a licensee to accept delivery of or store spirituous liquor at a premises other than the business premises described on the license issued to the licensee under A.R.S. Title 4 and this Chapter if:
1. The licensee submits a written request to the Department that:
 - a. Identifies the unlicensed premises,
 - b. Provides a diagram that shows the geographical location of the unlicensed premises in relation to the business premises, and
 - c. Explains how the licensee will safeguard the spirituous liquor at the unlicensed premises; and
 2. The Department determines that the licensee will safeguard the spirituous liquor at the unlicensed premises in a manner that protects the public health, safety, and welfare and that authorizing the licensee to store spirituous liquor at the unlicensed premises is consistent with the best interest of the state.
- C.** A licensee granted authorization under subsection (B) shall provide evidence of the authorization to a wholesaler before asking the wholesaler to make delivery of spirituous liquor at the unlicensed premises.
- D.** This Section is authorized by A.R.S. § 4-203(B).

Historical Note

Adopted effective September 14, 1990, under an exemption from the Administrative Procedure Act pursuant to Laws 1989, Ch. 234, § 22; filed with the Office of the Secretary of State October 25, 1996 (Supp. 96-4). Amended effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2). Former Section R19-1-304 recodified to R19-1-316; new Section R19-1-304 recodified from R19-1-257 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2). New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-305. Paying Taxes Required

- A.** The Director shall not issue an interim permit on a quota license if the Director has notice that the quota-license licensee is delinquent in paying any tax to the state or a political subdivision unless:
1. The licensee or transferee enters into an agreement with the taxing authority to pay the delinquent tax; and
 2. The taxing authority submits written verification of the agreement to the Director.
- B.** This Section is authorized by A.R.S. §§ 4-112(B)(1)(c), 4-205.04(E), and 4-210(A)(5).

Historical Note

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Adopted effective June 4, 1997, under an exemption from certain provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 307, § 18 (Supp. 97-2).

Amended effective November 24, 1998, under an exemption from provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 259, § 23 (Supp. 98-4). Former Section R19-1-305 recodified to R19-1-233; new Section R19-1-305 recodified from R19-1-218 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2). New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-306. Bottle Labeling Requirements

- A. A licensee and any officer, director, agent, or employee of the licensee shall not directly or indirectly or through an affiliate sell, ship, deliver for sale or shipment, or receive or remove from federal custody any bottled spirituous liquor unless the spirituous liquor is bottled, packaged, and labeled in conformity with all federal requirements.
- B. This Section is authorized by A.R.S. § 4-112(B)(1)(a).

Historical Note

New Section R19-1-306 recodified from R19-1-219 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2). New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-307. Bottle Reuse or Refilling Prohibited

- A. Except as authorized under A.R.S. § 4-244(32), a retail licensee shall ensure that a bottle or other container authorized by law for packaging spirituous liquor:
1. Is not reused to package spirituous liquor after the spirituous liquor originally packaged in the bottle or other container is removed from the bottle or other container, and
 2. Bears a label that accurately indicates the kind and brand of spirituous liquor in the bottle or other container.
- B. Except as authorized under A.R.S. § 4-244(32) and (45), a retail licensee shall ensure that no substance is added to a bottle or other container authorized by law for packaging spirituous liquor that has the effect of increasing the amount of liquid originally packaged or remaining in the bottle or other container.
- C. This Section is authorized by A.R.S. § 4-244(21), (32), and (45).

Historical Note

New Section R19-1-307 recodified from R19-1-225 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2). New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-308. Age Requirement for Erotic Entertainers

- A. A licensee shall ensure that an individual employed by or performing as an erotic entertainer at the licensed premises is at least 19 years old.
- B. This Section is authorized by A.R.S. § 4-112(G)(6).

Historical Note

New Section R19-1-308 recodified from R19-1-243 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355,

effective July 6, 2013 (Supp. 13-2). New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-309. Prohibited Acts

- A. A licensee or an employee of a business shall take reasonable steps to ensure that an individual on the licensed premises, including an employee or independent contractor of the licensed premises, does not:
1. Expose any portion of the individual's anus, vulva, or genitals;
 2. Grope, caress, or fondle or cause to be groped, caressed, or fondled the breasts, anus, vulva, or genitals of another individual with any part of the body; or
 3. Perform an act of sexual intercourse, masturbation, sodomy, bestiality, or oral copulation.
- B. This Section is authorized by A.R.S. § 4-112(B)(1)(b).

Historical Note

New Section R19-1-309 recodified from R19-1-244 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2). New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-310. Prohibited Films and Pictures

- A. A licensee shall ensure that a film, slide picture, or other reproduction is not shown on the licensed premises if the film, slide picture, or other reproduction depicts:
1. An act of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, or a sexual act prohibited by law;
 2. An individual being touched, caressed, or fondled on the breast, anus, vulva, or genitals;
 3. An individual displaying a portion of the individual's pubic hair, anus, vulva, or genitals; or
 4. Use of an artificial device or inanimate object to depict an activity described under subsections (1) through (3).
- B. This Section is authorized by A.R.S. § 4-112(B)(1)(b).

Historical Note

New Section R19-1-310 recodified from R19-1-240 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2). New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-311. Repealed**Historical Note**

New Section R19-1-311 recodified from R19-1-233 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

R19-1-312. Accurate Labeling of Dispensing Equipment Required

- A. A licensee shall ensure that equipment through which spirituous liquor is dispensed is accurately labeled with the brand, grade, or class of spirituous liquor, including wine and beer, dispensed and that nothing on the equipment label directly or indirectly misleads the public regarding the spirituous liquor dispensed, sold, or used.
- B. Except as provided in subsection (C), a licensee shall ensure that a faucet, spigot, or other outlet from which spirituous liquor is dispensed is clearly and conspicuously labeled with

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the name or brand adopted by the manufacturer of the spirituous liquor being dispensed.

- C. If a faucet, spigot, or other outlet from which spirituous liquor is dispensed is not located in the area in which the spirituous liquor is served, a licensee shall post a notice in the area in which the spirituous liquor is served that lists the names or brands adopted by the manufacturers of only the spirituous liquors served.
- D. This Section is authorized by A.R.S. § 4-243.

Historical Note

New Section R19-1-312 recodified from R19-1-223 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2). New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-313. Repealed**Historical Note**

New Section R19-1-313 recodified from R19-1-252 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

R19-1-314. Prohibited Inducement to Purchase or Consume Spirituous Liquor

- A. Except as specified in subsection (B), an on-sale retailer shall not offer or furnish to a customer an inducement such as a gift, prize, coupon, premium, or rebate, including assumption of an excise or transaction privilege tax, if receipt of the inducement is contingent on the purchase or consumption of spirituous liquor.
- B. A bar or beer and wine bar licensee may offer or furnish a coupon to a customer if the coupon can be used only for an off-sale purchase.
- C. An on-sale retailer may furnish to a customer an advertising novelty of nominal value or a service that is a customary trade practice if receipt of the novelty or service is not contingent on the purchase or consumption of spirituous liquor.
- D. This Section is authorized by A.R.S. § 4-112(B)(1).

Historical Note

New Section R19-1-314 recodified from R19-1-201 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section expired under A.R.S. § 41-1056(E) at 12 A.A.R. 1784, effective January 31, 2006 (Supp. 06-2). New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-315. Responsibilities of a Licensee that Operates a Delivery Service

- A. A licensed retailer that operates a delivery service under A.R.S. § 4-203(J), a licensed farm winery that delivers wine under A.R.S. § 4-205.04(C)(9), a common carrier that delivers wine under A.R.S. § 4-203.04(J), or a licensed craft distiller that delivers distilled spirits under A.R.S. § 4-205.10(C)(7) shall ensure that delivery of spirituous liquor:
 1. Is made only to an individual who is at least 21 years old,
 2. Is made only after an inspection of identification shows that the individual accepting delivery of the spirituous liquor is of legal drinking age,
 3. Is made only during the hours of lawful service of spirituous liquor,
 4. Is not made to an intoxicated or disorderly individual, and
 5. Is not made to the licensed premises of a licensed retailer.

- B. A licensed retailer that operates a delivery service under A.R.S. § 4-203(J), a licensed farm winery that delivers wine under A.R.S. § 4-205.04(C)(9), a common carrier that delivers wine under A.R.S. § 4-203.04(J), or a licensed craft distiller that delivers distilled spirits under A.R.S. § 4-205.10(C)(7) shall refuse to complete a delivery if the licensee or common carrier believes the delivery may constitute a violation of A.R.S. Title 4 or this Chapter.
- C. This Section is authorized by A.R.S. §§ 4-112(B)(1)(d), 4-203(J) and (M), 4-203.04(J), 4-205.04(C)(9), and 4-205.10(C)(7).

Historical Note

New Section R19-1-315 recodified from R19-1-302 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section renumbered to R19-1-113, new Section R19-1-315 made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2). Amended by final expedited rulemaking 30 A.A.R. 389 (March 1, 2024), with an immediate effective of February 9, 2024 (Supp. 24-1).

R19-1-316. Responsibilities of a Liquor Store or Beer and Wine Store Licensee

- A. Except for a broken package, as defined at A.R.S. § 4-101, used in sampling conducted under A.R.S. §§ 4-206.01(K), 4-243(B)(3) or 4-244.04, a liquor store or beer and wine store licensee shall not have a broken package of spirituous liquor on the licensed premises.
- B. This Section is authorized by A.R.S. § 4-244(19).

Historical Note

New Section R19-1-316 recodified from R19-1-304 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2). New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2). Amended by final expedited rulemaking 30 A.A.R. 389 (March 1, 2024), with an immediate effective of February 9, 2024 (Supp. 24-1).

R19-1-317. Responsibilities of a Hotel-Motel or Restaurant Licensee

- A. If a hotel-motel or restaurant licensee ceases to provide complete restaurant services before 10:00 p.m., the licensee shall cease to sell spirituous liquor at the same time that the licensee ceases to provide complete restaurant services.
- B. If a hotel-motel or restaurant licensee provides complete restaurant services until at least 10:00 p.m., the licensee may continue to sell spirituous liquor during the hours allowed by law.
- C. If a hotel-motel or restaurant licensee refuses to serve a meal requested before 10:00 p.m. and continues to serve spirituous liquor, the Department shall assume that the hotel-motel or restaurant licensee has ceased to operate as a restaurant and has the primary purpose of selling or dispensing spirituous liquor for consumption.
- D. In the event of an audit to determine whether a hotel-motel or restaurant licensee meets the standard at A.R.S. § 4-205.02(M), the licensee shall submit records that enable the Department to determine the amount of gross revenue that the licensee derives from the sale of food and from the sale of spirituous liquor. If the Department is unable to determine the amount of gross revenue attributed to the sale of food, the Department shall assume that the licensee does not meet the standard at A.R.S. § 4-205.02(M).

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- E.** To ensure that the Department is able to determine the amount of gross revenue derived from the sale of food and from the sale of spirituous liquor, a hotel-motel or restaurant licensee shall maintain the majority of the following documents in the following order for the time specified in R19-1-501:
1. Vendor invoices. Sorted by vendor by year;
 2. Inventory records; financial statements; general ledger; sales journals or schedules; cash receipts or disbursement journals; and bank statements. Sorted by month by year;
 3. Daily sales report, guest checks, and cash register journal. Segregated by the sale of food and the sale of spirituous liquor and sorted by day by month by year;
 4. Bank deposit slips. Sorted by day by month by year and maintained with the daily sales report, guest checks, and cash register journal;
 5. Transaction privilege tax returns. Sorted by month by year;
 6. Income tax returns. Sorted by year; and
 7. Payroll records. Sorted by pay period by year.
- F.** If a licensee holds multiple licenses for business premises, one of which is for a hotel-motel or restaurant, the licensee shall ensure that records for purchases and sales for the hotel-motel or restaurant are maintained and accounted for separate from records for purchases and sales for the other license on the same premises.
- G.** This Section is authorized by A.R.S. §§ 4-205.01 and 4-205.02.

Historical Note

New Section R19-1-317 recodified from R19-1-303 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Section repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2). New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2). Amended by final expedited rulemaking 30 A.A.R. 389 (March 1, 2024), with an immediate effective of February 9, 2024 (Supp. 24-1).

R19-1-318. Responsibilities of a Special Event Licensee

- A.** If a special event occurs at an otherwise unlicensed location, the special event licensee shall conduct all dispensing, serving, and selling of spirituous liquor;
- B.** If a special event occurs at the licensed premises of a licensed retailer, the special event licensee shall ensure that one of the following occurs during the special event:
1. The licensed retailer places the license in non-use status and ceases to sell spirituous liquor and the special event licensee dispenses and serves spirituous liquor and ensures that all sales of spirituous liquor comply with A.R.S. Title 4 and this Chapter;
 2. The licensed retailer dispenses and serves all spirituous liquor under the licensed retailer's license and the special event licensee does not dispense or serve spirituous liquor. The licensed retailer shall dispense and serve only spirituous liquor purchased from a wholesaler and ensure that all sales of spirituous liquor comply with A.R.S. Title 4 and this Chapter;
 3. The licensed retailer dispenses and serves all spirituous liquor under the special event license and the special event licensee does not dispense or serve spirituous liquor. The licensed retailer shall dispense and serve only spirituous liquor purchased by or donated to the special event licensee. Both the licensed retailer and special event licensee shall ensure that all sales of spirituous liquor comply with A.R.S. Title 4 and this Chapter; or
 4. The licensed premises of the licensed retailer are divided into two areas as follows:
 - a. In the first area, the licensed retailer shall dispense and serve spirituous liquor that is purchased from a wholesaler and ensure that all sales of spirituous liquor comply with A.R.S. Title 4 and this Chapter; and
 - b. In the second area, the special event licensee shall dispense and serve spirituous liquor purchased by or donated to the special event licensee and ensure that all sales of spirituous liquor comply with A.R.S. Title 4 and this Chapter.
- C.** If a special event involving sampling of spirituous liquor occurs at the licensed premises of a licensed retailer, the special event licensee shall comply with the procedures in A.R.S. § 4-243(B).
- D.** This Section is authorized by A.R.S. §§ 4-112(B)(1)(b) and 4-203.02(E).

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-319. Commercial Coercion or Bribery Prohibited

- A.** A distiller, vintner, brewer, rectifier, blender, or other producer or wholesaler shall not directly or indirectly or through an affiliate engage in any of the following activities unless specifically authorized under A.R.S. Title 4 or this Chapter:
1. Furnishing, giving, renting, lending, or selling to a licensed retailer an article of primary utilitarian value in the conduct of the business;
 2. Selling food or food products to a licensed retailer at less than the cost that the producer or wholesaler paid for the food or food products;
 3. Selling non-alcoholic malt beverage, non-alcoholic wine, or other non-alcoholic beverage or cocktail mixer to a licensed retailer at less than the cost that the producer or wholesaler paid for the non-alcoholic malt beverage, non-alcoholic wine, or cocktail mixer.
 4. Extending credit or furnishing financing to a licensed retailer through the licensed retailer's purchase of spirituous liquor or other products;
 5. Providing a service to a licensed retailer, including stocking, resetting, or pricing merchandise;
 6. Paying or crediting a licensed retailer for a promotion, advertising, display, public relations effort, or distribution service;
 7. Sharing with a licensed retailer the cost of a promotion or advertising through any medium;
 8. Guaranteeing a loan to or repayment of a financial obligation of a licensed retailer;
 9. Providing financial assistance to a licensed retailer;
 10. Engaging in a practice that requires a licensed retailer to take and dispose of a quota of spirituous liquor;
 11. Offering or giving a meal, local ground transportation, or event ticket to a licensed retailer unless the item is deductible as a business entertainment expense under the Internal Revenue Code;
 12. Offering a product to an on-sale licensee at a price not available to all on-sale licensees. A price based on the volume delivered within a 24-hour period is permitted if the volume-based price is available to all on-sale licensees; or
 13. Offering a product to an off-sale licensee at a price not available to all off-sale licensees. A price based on the

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volume delivered within a 24-hour period is permitted if the volume-based price is available to all off-sale licensees.

- B. A licensed retailer shall not require that a producer or wholesaler provide stocking or resetting services as a condition for being allocated shelf, cold box, or product display space.
- C. A licensed retailer shall not solicit from a distiller, vintner, brewer, rectified, blender, or other producer or wholesaler any activity outlined in subsections (A)(1) through (A)(13) unless specifically authorized under A.R.S. Title 4 or this Chapter.
- D. This Section is authorized by A.R.S. § 4-243(A).

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-320. Practices Permitted by a Producer or Wholesaler

- A. In addition to practices specifically authorized under A.R.S. Title 4 and 27 CFR, Chapter 1, Subchapter A, the practices outlined in subsections (B) through (Q) allow a distiller, vintner, brewer, rectifier, blender, or other producer or wholesaler to furnish something of value to a licensed retailer or other specified licensee as long as the producer or wholesaler does not furnish something of value to induce the licensed retailer or other specified licensee to purchase spirituous liquor from the producer or wholesaler to the exclusion, in whole or in part, of another producer or wholesaler. A distiller, vintner, brewer, rectifier, blender, or other producer or wholesaler shall not furnish something of value to a licensed retailer or other specified licensee unless specifically authorized under A.R.S. Title 4, 27 CFR, Chapter 1, Subchapter A, or this Chapter. If there is a conflict between the practices authorized in 27 CFR, Chapter 1, Subsection A and this Chapter, this Chapter governs.
- B. A licensed retailer shall not solicit or knowingly accept from a distiller, vintner, brewer, rectifier, blender, or other producer or wholesaler any activity not outlined in subsections (C) through (Q) unless the activity is specifically authorized under A.R.S. Title 4 or this Chapter.
- C. Participating in a special event.
 - 1. A producer or wholesaler may furnish advertising, sponsorship, services, or other things of value at a special event at which spirituous liquor is sold if:
 - a. A special event license is issued for the special event. A producer or wholesaler shall not pay for advertising, sponsorship, services, or other things of value until the wholesaler or producer confirms that a special event application has been submitted for approval under A.R.S. § 4-203.02;
 - b. The special event license is issued to a charitable, civic, religious, or fraternal organization;
 - c. The special event license is not issued to a political committee or organization;
 - d. The producer or wholesaler ensures that nothing of value given to a licensed retailer or employees of a licensed retailer during or after the special event is left on the licensed premises of a licensed retailer except that the wholesaler may leave items of value with the licensed retailer or at the licensed premises if the retailer is an on-sale retailer and leaving the items of value complies with the restrictions at A.R.S. § 4-243(D); and

- e. The producer or wholesaler pays financial sponsorship, if any, to the organization to which the special event license is issued.
- 2. A producer or wholesaler may donate spirituous liquor to a special event licensee identified under subsection (C)(1)(b).
- 3. A producer or wholesaler may dispense spirituous liquor donated by the producer or wholesaler at a special event.
- 4. A producer or wholesaler may provide a sign to a special event licensee identified under subsection (C)(1)(b). If the producer or wholesaler provides a sign to a special event licensee, the sign is not subject to R19-1-313.
- 5. A producer or wholesaler may furnish a vehicle for use by a special event licensee identified under subsection (C)(1)(b). The producer or wholesaler shall ensure the vehicle is used to dispense spirituous liquor only during the days of the special event.
- D. Providing an item of value to a customer of a licensed retailer. A producer or wholesaler or its employee or independent contractor may provide an item of value to a customer of a licensed retailer if:
 - 1. The item is provided directly to the customer of the licensed retailer by the producer or wholesaler or an employee or independent contractor of the producer or wholesaler except that a schedule of sporting events, as defined in subsection (F), may be provided to the customer through the licensed retailer;
 - 2. The item provided has a value less than \$5 and bears advertising about the producer, wholesaler, or spirituous liquor available from the producer or wholesaler. The producer or wholesaler may provide an unlimited number of items;
 - 3. The item provided has a value more than \$5 and bears advertising about the producer, wholesaler, or spirituous liquor available from the producer or wholesaler. The producer or wholesaler shall ensure that the total value of all items provided does not exceed \$100 during any 6:00 a.m. to 2:00 a.m. period per licensed premises; and
 - 4. The producer or wholesaler ensures that no item of value is provided to the licensed retailer or an employee of the licensed retailer or is left on the licensed premises.
- E. Furnishing advertising. A producer or wholesaler may furnish advertising copy in the form of a digital file or camera- or internet-ready images of nominal value to a licensed retailer.
- F. Sponsoring a sporting event. If the licensed premises of a licensed retailer has a permanent occupancy of more than 1,000 people and is used primarily for live sporting events, a producer or wholesaler may sponsor and provide advertising to the licensed retailer in conjunction with a live sporting event or telecast of a sporting event at the licensed premises. If the producer or wholesaler provides a sign as part of the sponsorship of a sporting event, the sign is not subject to the value limitation or information content restrictions in R19-1-313. The producer or wholesaler shall ensure no item of value remains with the licensed retailer or at the licensed premises after the sporting event except that the wholesaler may leave items of value with the licensed retailer or at the licensed premises if the retailer is an on-sale retailer and leaving the items of value complies with the restrictions at A.R.S. § 4-243(D). For the purpose of this subsection, live sporting event means an athletic competition governed by a set of rules or customs to which pre-sold tickets are made available to the public. For nationally recognized sporting events that are seasonal, including but not limited to baseball, football, basket-

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ball, soccer, and NASCAR, the conclusion of a live sporting event occurs when the season ends rather than after each individual event of the season. A golf tournament is not a live sporting event unless:

1. The golf tournament is regulated by a golf association; or
2. The golf tournament is held for the benefit of an unlicensed organization and the sponsoring producer or wholesaler ensures that:
 - a. All sponsorship proceeds are provided to the unlicensed organization, and
 - b. Nothing of utilitarian value or other consideration is provided to a licensed retailer.

G. Sponsoring a concert. If the licensed premises of a licensed retailer has a permanent occupancy of more than 1,000 people and is used primarily as a concert or live sporting event venue, a producer or wholesaler may sponsor and provide advertising to the licensed retailer in conjunction with a concert at the licensed premises. For the purpose of this subsection, "concert" is a live event with pre-sold tickets for a musical, vocal, theatrical, or comedic performance at the licensed premises or a live musical, vocal, theatrical, or comedic performance at the licensed premises that is not open to the public. If the producer or wholesaler provides a sign as part of the sponsorship of a concert, the sign is not subject to the value limitation or information content restrictions in R19-1-313. The producer or wholesaler shall ensure that no item of value remains with the licensed retailer or at the licensed premises after the conclusion of the concert event except that the wholesaler may leave items of value with the licensed retailer or at the licensed premises if the retailer is an on-sale retailer and leaving the items of value complies with the restrictions at A.R.S. § 4-243(D).

H. Participating in a tradeshow or convention. A producer or wholesaler may provide for a licensee sampling, advertising, and event sponsorship to a trade association in conjunction with a tradeshow or convention if the trade association consists of five or more retail licensees that have no common ownership. If the producer or wholesaler provides a sign as part of the sponsorship of a tradeshow or convention, the sign is not subject to the value limitation or information content restrictions in R19-1-313. The producer or wholesaler shall ensure the sign is physically placed at the location where the tradeshow or convention is held. The producer or wholesaler shall remove the sign within one business day after the conclusion of the tradeshow or convention and ensure that no item of value remains with the licensed retailer after the conclusion of the tradeshow or convention event except that the wholesaler may leave items of value with the licensed retailer if the retailer is an on-sale retailer and leaving the items of value complies with the restrictions at A.R.S. § 4-243(D).

I. Participating in an educational seminar. A producer or wholesaler may participate in an educational seminar for employees of a licensed retailer if:

1. The educational seminar occurs on the licensed premises of a producer, wholesaler, or retailer;
2. Content of the educational seminar is substantially related to spirituous liquor available from the producer or wholesaler;
3. Lodging and transportation expenses incurred by employees of the licensed retailer or the licensed retailer to attend the educational seminar are not paid or reimbursed by the producer or wholesaler. The producer or wholesaler may provide a meal and snacks of nominal value to participants in the education seminar;

4. The retailer's expenses associated with organizing, producing, or hosting the educational seminar are not paid or reimbursed by the producer or wholesaler; and
5. No item of value remains with the licensed retailer after the conclusion of the educational seminar event except that the wholesaler may leave items of value with the licensed retailer if the retailer is an on-sale retailer and leaving the items of value complies with the restrictions at A.R.S. § 4-243(D).

J. Furnishing a printed menu. A producer or wholesaler may furnish a printed menu for use by a retailer if:

1. All printed menus furnished to the licensed retailer during a calendar year have a fair market value within the limit prescribed by A.R.S. § 4-243(D),
2. A similar menu is made available to all retail accounts that use menus,
3. The menu has no utilitarian value to the licensed retailer except as a menu, and
4. The menu conspicuously bears the name of spirituous liquor available from the producer or wholesaler or the name of the producer or wholesaler.

K. Distributing coupons or rebates. A producer or wholesaler may distribute coupons or rebates to consumers by any means including providing the coupons or rebates to a licensed retailer if the coupons or rebates:

1. Can be used only for an off-sale purchase by the consumer from a licensed retailer,
2. Do not specify a licensed retailer at which the coupons or rebates are required to be used, and
3. Are available in approximately the same number of qualifying products the licensed retailer has available for customers if the coupons or rebates are ultimately redeemed by the licensed retailer.

L. Providing holiday decorations. A producer or wholesaler may lend decorations commonly associated with a specific holiday to a licensed retailer for use on the licensed premises if the decorations:

1. Bear advertising about a brand, producer, or wholesaler that is substantial, conspicuous, and permanently inscribed or securely affixed; and
2. The decorations have no utilitarian value to the licensed retailer other than as decorations for a specific holiday.

M. Providing a sample to a customer of a licensed retailer. A producer or wholesaler may provide a sample of spirituous liquor to a customer of a licensed:

1. On-sale retailer without off-sale privileges if the producer or wholesaler complies with the procedures at A.R.S. § 4-243(B)(2)(b), which limit sampling to 12 ounces of beer or cooler product, six ounces of wine, or two ounces of distilled spirits per person, per brand to be consumed on the licensed premises;
2. Off-sale retailer if the producer or wholesaler complies with the procedures at A.R.S. § 4-243(B)(3)(c), which limit sampling to three ounces of beer, one and one-half ounces of wine, or one ounce of distilled spirits per person, per day if consumed on the licensed premises. If the sample provided is for consumption off the licensed premises, the producer or wholesaler shall ensure the sample is limited to 72 ounces of beer and two ounces of distilled spirits per person per day; or
3. On-sale retailer with off-sale privileges if the producer or wholesaler complies with subsection (M)(1) when providing samples under the on-sale portion of the license

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and subsection (M)(2) when providing samples under the off-sale portion of the license.

- N. Conducting market research. A producer or wholesaler may participate in market research regarding spirituous liquor under the following conditions:
 1. The spirituous liquor is provided to research participants by personal delivery or through a delivery service provider;
 2. The spirituous liquor provided to research participants is obtained from or shipped through a wholesaler;
 3. All research participants are of legal drinking age;
 4. Any employee of the producer or wholesaler and any employee of a marketing research business conducting the market research that handles the spirituous liquor is at least 19 years old; and
 5. The amount of spirituous liquor provided to each research participant does not exceed 72 ounces of beer, cooler product, or wine or 750 milliliters of distilled spirits.
- O. Providing a sample to a licensed retailer. A producer or wholesaler may provide a licensed retailer with a sample of a brand of spirituous liquor that the licensed retailer has not purchased for sale within the last 12 months if the sample does not exceed the following:
 1. Wine. Three liters;
 2. Beer. Three gallons; and
 3. Distilled spirits. Three liters.
- P. Providing a shelf plan or schematic. A producer or wholesaler may provide a recommended shelf plan or schematic for use by a licensed retailer in displaying spirituous liquor or other product in a point-of-sale area.
- Q. Providing meals, beverages, event tickets, and local ground transportation. Except as provided under subsection (I), a producer or wholesaler may provide a licensed retailer with meals, beverages, event tickets, and local ground transportation if:
 1. The producer or wholesaler accompanies the licensed retailer while meals and beverages are consumed and ground transportation is used; and
 2. The value of the meals, beverages, event tickets, and local ground transportation is deductible as a business entertainment expense under the Internal Revenue Code.
- R. A producer or wholesaler that sells spirituous liquor to another producer or wholesaler is exempt from the credit prohibition in A.R.S. § 4-242.
- S. Section is authorized by A.R.S. §§ 4-242, 4-243 and 4-244(3).

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1207, effective July 6, 2014 (Supp. 14-2). Amended by final expedited rulemaking 30 A.A.R. 389 (March 1, 2024), with an immediate effective of February 9, 2024 (Supp. 24-1).

R19-1-321. Practices Permitted by a Wholesaler

- A. In addition to practices specifically authorized under A.R.S. Title 4 and 27 CFR, Chapter 1, Subchapter A, the following practices allow a wholesaler to furnish something of value to a licensed retailer or other specified licensee as long as the wholesaler does not furnish something of value to induce the licensed retailer or other specified licensee to purchase spirituous liquor from the wholesaler to the exclusion, in whole or in part, of another wholesaler. A wholesaler shall not furnish something of value to a licensed retailer or other specified licensee unless specifically authorized under A.R.S. Title 4, 27 CFR, Chapter 1, Subchapter A, or this Chapter. If there is a

conflict between the practices authorized in 27 CFR, Chapter 1, Subsection A and this Chapter, this Chapter governs.

- B. A licensed retailer shall not solicit or knowingly accept from a wholesaler any activity not outlined in subsections (C) through (N) unless the activity is specifically authorized under A.R.S. Title 4 or this Chapter.
- C. Providing stocking services. A wholesaler may stock any spirituous liquor or other product that the wholesaler sells to a licensed retailer. The stocking service provided by a wholesaler:
 1. Shall not alter or disturb any spirituous liquor or other product of another wholesaler;
 2. Shall be performed at a point-of-sale area, including a cold box, from which a consumer may purchase spirituous liquor sold by the retailer. A wholesaler may move spirituous liquor to or from the following locations on the licensed premises:
 - a. A designated delivery entrance, and
 - b. A storage area; and
 3. May include:
 - a. Rotating, cleaning, or otherwise preparing the spirituous liquor or other product for sale at a point-of-sale area; and
 - b. Furnishing advertising materials displayed at a point-of-sale area as authorized under R19-1-313.
- D. Providing resetting services. A wholesaler may reset spirituous liquor sold to a licensed retailer if requested by the licensed retailer and the resetting does not alter or disturb the product of another wholesaler. The resetting services provided by a wholesaler:
 1. Shall be performed only in a point-of-sale area, including a cold box;
 2. Shall not be performed unless the retailer provides at least two working days' notice to any other wholesaler whose product needs to be affected so the resetting can be performed; and
 3. Shall not be performed more frequently than once per year if the resetting involves a substantial reconfiguration of the spirituous liquor department of a retailer.
- E. Furnishing tapping equipment. A wholesaler may furnish tapping equipment under R19-1-326 to a retail licensee.
- F. Making a driver sale. A wholesaler may sell to a licensed retailer, through a driver sale, at the current market price, spirituous liquor not previously ordered.
- G. Delivering a specially discounted quantity purchase. A wholesaler may provide a licensed retailer with a specially discounted price for a quantity purchase if the wholesaler delivers the entire quantity purchased to an approved storage facility of the licensed retailer.
- H. Accepting returned spirituous liquor products.
 1. A wholesaler may allow a licensed retailer that intends to be closed for at least 30 days to exchange beer or other malt beverage products purchased from the wholesaler or to receive a credit for or refund of the amount paid for the malt beverage products;
 2. With permission from the Director, a wholesaler may allow a licensed retailer that is discontinuing sale of a particular beer or other malt beverage product to exchange the product purchased from the wholesaler or to receive a credit for or refund of the amount paid for the beer or other malt beverage product; and
 3. A wholesaler may exchange or accept return of other spirituous liquors as permitted under 27 U.S.C. 205(d) and 27 C.F.R. Subchapter A, Part 11.

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- I. Selling tobacco products or foodstuffs. A wholesaler may sell tobacco products or foodstuffs to a licensed retailer if the price paid by the retailer equals or exceeds the cost to the wholesaler.
- J. Furnishing promotional items. A wholesaler may provide promotional items to an on-sale retailer. Promotional items, as defined and limited by A.R.S. § 4-243(D) does not include spirituous liquor.
- K. Facilitating a special event. A wholesaler may facilitate a special event by:
 1. Donating spirituous liquor directly to the special event licensee and issuing a net zero cost billing invoice in the name of the special event licensee,
 2. Leaving a delivery vehicle and other equipment necessary for the sale or service of spirituous liquor on the premises of the special event for the duration of the special event and up to one business day before and after the special event,
 3. Leaving spirituous liquor at the special event if:
 - a. The spirituous liquor is properly described on a preliminary billing invoice issued in the names of both the off-sale retailer from which the special event licensee is purchasing the spirituous liquor and the special event licensee,
 - b. The wholesaler issues a final billing invoice in the names of both the off-sale retailer from which the special event licensee is purchasing the spirituous liquor and the special event licensee within five business days after the special event ends, and
 - c. The spirituous liquor is stored securely to ensure only intended persons gain access to the spirituous liquor; and
 4. Selling spirituous liquor directly to the special event licensee at the same price the wholesaler sells the spirituous liquor to on-sale retailers. If the wholesaler sells spirituous liquor directly to the special event licensee, both the preliminary and final billing invoices shall be in the name of the special event licensee.
- L. Providing shelves, bins, or racks. A wholesaler may lend a shelf, bin, or rack to a licensed off-sale retailer if the following conditions are met:
 1. The shelf, bin, or rack lent to the licensed off-sale retailer is located in a point-of-sale area.
 2. The shelf, bin, or rack lent to the licensed off-sale retailer does not have an actual cost of more than \$300 per brand, as defined at 27 C.F.R. Subchapter A, Section 6.11, at any one time in the licensed premises. The cost of the shelf, bin, or rack excludes the cost of transporting and installing the shelf, bin, or rack. The wholesaler shall not pool or combine dollar limitations to provide the licensed off-sale retailer with a shelf, bin, or rack that exceeds the dollar limitation in this subsection;
 3. The shelf, bin, or rack bears advertising regarding spirituous liquor available from the wholesaler that is conspicuous, substantial, and permanently inscribed or securely affixed. The name and address of the licensed off-sale retailer may appear on the shelf, bin, or rack;
 4. The primary function of the shelf, bin, or rack is to hold and display spirituous liquor available from the wholesaler;
 5. The spirituous liquor on the shelf, bin, or rack is only the spirituous liquor advertised on the shelf, bin, or rack by the wholesaler. The shelf, bin, or rack may also hold non-spirituous-liquor products that are being promoted or advertised with the spirituous liquor available from the wholesaler; and
 6. The shelf, bin, or rack is not temperature controlled.
- M. Providing product display enhancers. A wholesaler may lend to a licensed off-sale retailer a non-functional copy or reproduction of an item that enhances the display of spirituous liquor sold from the display.
- N. Providing staff assistance. A wholesaler may use its staff to provide a licensed retailer with assistance in performing the activities outlined in this Section. A wholesaler shall not maintain full-time staff or permanently occupy office space on the licensed premises or at the corporate office of a licensed retailer.
- O. This Section is authorized by A.R.S. §§ 4-203.02(H) through (J) and 4-243.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1207, effective July 6, 2014 (Supp. 14-2).

R19-1-322. Responsibilities of a Registered Retail Agent

- A. A retail agent registered under A.R.S. § 4-222 and R19-1-203 shall provide a licensee that enters into a cooperative-purchase agreement with the registered retail agent a copy of the cooperative-purchase agreement. The licensee shall make the copy of the cooperative-purchase agreement available for inspection on request by the Department or a peace officer.
- B. A retail agent registered under A.R.S. § 4-222 and R19-1-203 shall:
 1. Display the Certificate of Registration obtained from the Department on request by the Department, a peace officer, or a licensee;
 2. Place all cooperative-purchase orders with a wholesaler;
 3. Pay the wholesaler for all cooperative-purchase orders;
 4. Not attempt to exchange merchandise after it is delivered by the wholesaler but may request that a delivery error be corrected if the error is recognized at the time of delivery and documented;
 5. Provide each licensee under subsection (A) with a copy of the master invoice prepared by the wholesaler from which a cooperative purchase is made; and
 6. Charge each licensee under subsection (A) the price listed on the master invoice prepared by the wholesaler for spirituous liquor delivered to the licensee.
- C. A retail agent registered under A.R.S. § 4-222 and R19-1-203 may charge a licensee with which the registered retail agent has a cooperative-purchase agreement a fee for services provided to the licensee.
- D. This Section is authorized by A.R.S. § 4-222.

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-323. Underage Individuals on Licensed Premises

- A. An individual under the legal drinking age may be on the licensed premises of an on-sale retailer under the conditions established in A.R.S. § 4-244(22).
- B. Additionally, an individual under the legal drinking age may be on the licensed premises of an on-sale retailer if:
 1. The licensed premises have an occupancy limit of at least 1,000 as determined by the fire marshal;
 2. The primary purpose of the licensed premises is not to sell spirituous liquor but rather, to show live sporting events or concerts;

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3. The on-sale retailer ensures that spirituous liquor is sold only to individuals who are of the legal drinking age; and
 4. The on-sale retailer implements security measures necessary to ensure that an individual under the legal drinking age does not purchase, possess, or consume spirituous liquor on the licensed premises.
- C. Additionally, an individual under the legal drinking age may be on the licensed premises of an on-sale retailer if:
1. The licensed premises have an occupancy limit less than 1,000 as determined by the fire marshal;
 2. The primary purpose of the licensed premises is not to sell spirituous liquor but rather, to show live sporting events or concerts; and
 3. The on-sale retailer establishes a physical barrier that prevents an underage individual from:
 - a. Entering a portion of the licensed premises where spirituous liquor is sold, possessed, or served; and
 - b. Receiving, purchasing, possessing, or consuming spirituous liquor in that portion of the licensed premises.
- D. This Section is authorized by A.R.S. §§ 4-210(M) and 4-244(22).

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2). Section symbol added under subsection D as multiple A.R.S. sections are listed (Supp. 24-1).

R19-1-324. Standards for Exemption of an Unlicensed Business

- A. The owner of a small restaurant or business establishment, business premises, or association hosting a private social function may act under A.R.S. § 4-244.05 if the owner of the small restaurant or business establishment, business premises, or association hosting a private social function:
1. Submits a Request for Exemption form, which is available from the Department and on its web site;
 2. Pays the inspection fee specified in R19-1-102(J); and
 3. Ensures that:
 - a. Possession or consumption of spirituous liquor on the business premises is permitted only as an incidental convenience to customers;
 - b. Possession or consumption of spirituous liquor on the business premises is limited as follows:
 - i. Small restaurant: between noon and 10:00 p.m.; and
 - ii. Business establishment, business premises, or association hosting a private social function: between 4:00 p.m. and 2:00 a.m.
 - c. A customer is allowed to possess or consume no more than:
 - i. Forty ounces of beer,
 - ii. Seven hundred fifty milliliters of wine, or
 - iii. Four ounces of distilled spirits;
 - d. The occupancy limitation of the small restaurant or business establishment, business premises, or association hosting a private social function does not exceed the following maximum:
 - i. Small restaurant: 50; and
 - ii. Business establishment, business premises, or association hosting a private social function: 300; and
 - e. The owner, manager, comptroller, controlling person, and any employee of the small restaurant or business establishment, business premises, or association hosting a pri-

vate social function complies with all applicable provisions of A.R.S. Title 4 and this Chapter.

- B. As provided under A.R.S. § 4-244.05 (J)(4), the Director, agent of the Director, or peace officer empowered to enforce A.R.S. Title 4 and this Chapter may visit and inspect a small restaurant, business establishment, business premises, or association operating under A.R.S. § 4-244.05 and this Section during business hours of the premises.
- C. This Section is authorized by A.R.S. § 4-244.05.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1207, effective July 6, 2014 (Supp. 14-2).

R19-1-325. Display of Warning Sign Regarding Consumption of Alcohol; Posting Notice Regarding Firearms

- A. As prescribed under A.R.S. § 4-261, a licensed retailer shall post one or more warning signs, which are available without charge from the Department, regarding consumption of alcohol during pregnancy.
- B. An on-sale retailer that wishes to prohibit possession of a weapon on the licensed premises shall post the notice described in A.R.S. § 4-229, which is available without charge from the Department:
 1. In a conspicuous location accessible to the general public, and
 2. Immediately adjacent to the license posted as required under A.R.S. § 4-262 and R19-1-301.
- C. This Section is authorized by A.R.S. §§ 4-229, 4-261 and 4-262.

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-326. Tapping Equipment

- A. A wholesaler may furnish, install, and maintain tapping equipment for a licensed retailer for use with all spirituous liquor. The wholesaler shall maintain ownership of the tapping equipment that is provided free.
- B. A wholesaler that sells tapping equipment listed in subsection (C) to a licensed retailer shall maintain a written record of the name and address of the licensed retailer to which the tapping equipment is sold, the equipment sold, and an invoice indicating payment was made. The wholesaler shall make these records available to the Department upon request.
- C. A wholesaler may only sell the following items to a licensed retailer for cash at the market value for the items:
 1. CO2 or other dispensing gas,
 2. CO2 or other dispensing gas regulator,
 3. CO2 or other dispensing gas filter,
 4. Faucet or complete faucet standard,
 5. Shank or bent tube,
 6. Air distributor,
 7. Blower assembly,
 8. Switch;
 9. Drip pan,
 10. P.V.C. pipe;
 11. Sanitizing materials,
 12. Backflow device,
 13. Coupling gasket,
 14. Beer pump,
 15. Tower,
 16. Trunk line, and
 17. Another item necessary to prepare and maintain a tapping-equipment system in proper operating condition.

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- D. A wholesaler may replace at no charge to a licensed retailer the following items:
 1. Bonnet washer;
 2. Friction ring;
 3. Valve stem;
 4. Hardware, unions, clamps, air tees, and screws;
 5. Tapping devices, including tower heads; and
 6. Single air and beer lines.
- E. A wholesaler may clean a tapping-equipment system for a licensed retailer at no charge to the licensed retailer.
- F. This Section is authorized by A.R.S. § 4-243(A)(4).

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-327. Farm Winery Sampling

- A. A licensed farm winery that conducts sampling of the product of the licensed farm winery on the premises of an off-sale retailer or a retailer with off-sale privileges, as allowed by A.R.S. § 4-244.04, shall ensure that:
 1. No more than six ounces of the product of the licensed farm winery is served to each consumer each day,
 2. An employee of the licensed farm winery serves or supervises the serving of the product of the licensed farm winery, and
 3. There is no violation of A.R.S. Title 4 or this Chapter.
- B. As provided in A. R. S. § 4-205.04(C)(2), a licensed farm winery may provide samples of the product of the licensed farm winery on the premises of the farm winery.
- C. This Section is authorized by A.R.S. § 4-244.04.

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2). Amended by final expedited rulemaking 30 A.A.R. 389 (March 1, 2024), with an immediate effective of February 9, 2024 (Supp. 24-1).

Table A. Repealed**Historical Note**

Table adopted by final rulemaking at 5 A.A.R. 386, effective January 8, 1999 (Supp. 99-1). Table A recodified from a position after R19-1-305 to a position after R19-1-317 under A.R.S. § 41-1011 at 8 A.A.R. 2636, effective May 30, 2002 (Supp. 02-2). Table A repealed by final rulemaking at 19 A.A.R. 1355, effective July 6, 2013 (Supp. 13-2).

ARTICLE 4. REQUIRED NOTICES TO DEPARTMENT**R19-1-401. Notice of License Surrender or Application Withdrawal**

- A. A licensee that intends to surrender a license that is not a quota license or an applicant that intends to withdraw an application shall submit to the Department a file deactivation form prescribed by the Department.
- B. The Department shall deem a license surrendered if all of the following apply:
 1. The licensed premises are vacant during normal operating hours for at least 30 consecutive days;
 2. The licensee fails to notify the Department of the licensee's intention to suspend the business authorized by the license, as required under A.R.S. § 4-203;
 3. The Department is unable to contact the licensee using information available in the Department's records; and

- 4. The individual who informs the Department that the licensee has abandoned the license submits to the Department:
 - a. The license, if available; and
 - b. A signed and notarized statement indicating that to the best of the individual's knowledge, the licensed premises have been vacant during normal operating hours for at least 30 consecutive days and the licensee has abandoned the license and licensed premises.
- C. The Department shall deny surrender of a license if the Department determines that:
 1. It has notice that the licensee is delinquent in paying taxes to the state or a political subdivision,
 2. A complaint is pending against the licensee alleging violation of A.R.S. Title 4 or this Chapter,
 3. Ownership of the license is contested,
 4. Civil proceedings involving the license are pending before any court, or
 5. A hearing is pending before the Board.
- D. This Section is authorized by A.R.S. §§ 4-203, 4-203.01, 4-205.02 and 4-210(I).

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-402. Registered Retail Agent: Notice of Change in Cooperative-purchase Agreement; List of Cooperative Members

- A. As required under A.R.S. § 4-222(A), a retail agent registered under R19-1-203 shall provide written notice to the Department within 10 days after a licensee with whom the registered retail agent has a cooperative-purchase agreement terminates the registered retail agent's authority. The registered retail agent shall ensure that the notice identifies the licensee terminating the cooperative-purchase agreement and shall send a copy of the notice to all affected wholesalers.
- B. A retail agent registered under R19-1-203 shall submit to the Department a copy of a new cooperative purchase agreement between the registered retail agent and another licensee within 10 days after entering into the cooperative-purchase agreement.
- C. In addition to submitting a copy of each cooperative-purchase agreement to the Department, a retail agent registered under R19-1-203 shall submit to the Department a list that includes the following information regarding each licensee with which the registered retail agent has a cooperative-purchase agreement:
 1. Name of licensee,
 2. Address of licensed premises, and
 3. License numbers of each licensee with which the registered retail agent has a cooperative-purchase agreement.
- D. A registered retail agent shall report to the Department a change in any of the information submitted under subsection (C) within 10 days of the change.
- E. This Section is authorized by A.R.S. § 4-222.

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-403. Hotel-Motel or Restaurant Licensee: Notice of Change to Restaurant Facility

- A. Under A.R.S. § 4-205.01(E) or 4-205.02(F), a hotel-motel or restaurant licensee that intends to alter the seating capacity or

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dimensions of a restaurant facility shall provide advance notice to the Department.

- B. To provide the notice required under subsection (A), a hotel-motel or restaurant licensee shall complete and submit to the Department the form prescribed by the Department.
- C. This Section is authorized by A.R.S. § 4-205.02(F).

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-404. Notice of Sampling on a Licensed Off-sale Retail Premises

- A. A distiller, vintner, brewer, rectifier, blender, or other producer or wholesaler that intends to conduct a sampling under A.R.S. § 4-243(B)(3) or 4-244.04 on the licensed premises of a licensed off-sale retailer shall submit a Store Sampling Notice, which is a form available from the Department, to the Department at least 10 days before the sampling.
- B. This Section is authorized by A.R.S. §§ 4-243(B)(3)(b) and 4-244.04.

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-405. Notice of Change in Status: Active or Nonuse

- A. A licensee that ceases to manufacture, sell, or deal in spirituous liquor for 30 consecutive days shall submit notice to the Department, on a form that is available from the Department.
- B. Except as provided in subsection (D), a licensee that puts a license on nonuse status by complying with subsection (A) may put the license on active status by submitting notice to the Department, on a form that is available from the Department.
- C. If a license is on nonuse status for more than five months, the licensee shall pay the surcharge prescribed at A.R.S. § 4-203(G) when the license is returned to active status by complying with subsection (B).
- D. Under A.R.S. § 4-203(G), if a license is on nonuse status for 36 months, the license automatically reverts to the state unless extended by the Director for good cause.
- E. This Section is authorized by A.R.S. § 4-203.

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-406. Notice of Change in Manager

- A. As required under A.R.S. § 4-202(C), a licensee shall provide notice to the Department and file a manager's agreement within 30 days after a change in manager.
- B. If a licensee is designated as the manager, the licensee shall comply with subsection (A) when the licensee will be away from the licensed premises, while under normal operating conditions, for more than 30 days.
- C. This Section is authorized by A.R.S. § 4-202(C).

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-407. Notice of Legal or Equitable Interest

- A. To enable the Department to fulfill its responsibility under A.R.S. § 4-112(B)(3), a person that has a legal or equitable interest in a license issued under A.R.S. Title 4 and this Chapter shall file with the Department a statement of the interest. A person filing a statement of legal or equitable interest shall use a form that is available from the Department.

- B. A person that has a legal or equitable interest in a license issued under A.R.S. Title 4 and this Chapter shall file with the Department an amended statement of the interest by complying with subsection (A) when:

1. Any of the information provided in a previous statement of interest changes, or
2. The person's legal or equitable interest terminates.

- C. To enable the Department to fulfill its responsibility under A.R.S. § 4-112(B)(3), the Department shall periodically request that the holders of a legal or equitable interest in a license verify in writing to the Director that the statement on file with the Department is correct and accurate. If the holder of a legal or equitable interest in a license fails to respond within 30 days to the Department's request for verification of interest, the Department shall deem the interest terminated.
- D. The Department shall provide notice to a person that files a statement of interest under subsection (A) when there is a disciplinary or compliance action or transfer affecting the license in which the person has an interest and shall allow the person to participate in any proceeding regarding the license.
- E. This Section is authorized by A.R.S. § 4-112(B)(3).

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-408. Notice of Change in Business Name, Address, E-mail, or Telephone Number

- A. A licensee shall not change the name of the business as specified on the license issued by the Department without first providing notice, using a form that is available from the Department.
- B. The Department shall communicate with a licensee using the business name, U.S. Postal Service address on file with the Department, and e-mail, when provided. To ensure timely communication from the Department, a licensee shall provide the Department with current contact information for the licensee. When contact information for a licensee changes, the licensee shall submit a notice, using a form that is available from the Department.
- C. If the name or U.S. Postal Service address of a business changes and notice is provided under subsection (A) or (B), the Department shall issue a replacement license that reflects the current name and U.S. Postal Service address of the business.
- D. This Section is authorized by A.R.S. § 4-112(B)(1)(a).

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

ARTICLE 5. REQUIRED RECORDS AND REPORTS**R19-1-501. General Recordkeeping**

- A. A licensee may maintain any record required under A.R.S. Title 4 or this Chapter in electronic form so long as the licensee is readily able to access and produce a paper copy of the electronic record.
- B. A licensee shall maintain all invoices, records, bills, and other papers and documents relating to the purchase, sale, or delivery of spirituous alcohol for two years.
- C. A hotel-motel or restaurant licensee shall maintain all invoices, records, bills, and other papers and documents relating to the purchase, sale, or delivery of food in the manner specified in R19-1-317 for two years.

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- D. A licensee shall make the invoices, records, bills, and other papers and documents maintained under subsections (B) and (C) available, upon request, to the Department for examination or audit. During an examination or audit and upon request, the licensee shall provide valid identification to the Department.
- E. This Section is authorized by A.R.S. §§ 4-210(A)(7), and 4-119.

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2). Amended by final expedited rulemaking 30 A.A.R. 389 (March 1, 2024), with an immediate effective of February 9, 2024 (Supp. 24-1).

R19-1-502. On-sale Retail Personnel Records

- A. As required by A.R.S. § 4-119, an on-sale retail licensee shall maintain a record of every employee of the business that includes the following information about the employee:
1. Full legal name,
 2. Residential address,
 3. Date of birth, and
 4. Description of the employee's responsibilities.
- B. A licensee shall maintain the records required under subsection (A) for two years after an individual ceases to be an employee of the business.
- C. A licensee shall make the records maintained under subsection (A) available, upon request, to the Department for examination.
- D. This Section is authorized by A.R.S. § 4-119.

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-503. Records Regarding Cooperative Purchases

- A. A retail agent registered under A.R.S. § 4-222 and R19-1-203 shall maintain a copy of every cooperative-purchase agreement between the registered retail agent and another licensee for two years after termination of the cooperative-purchase agreement.
- B. A retail agent registered under A.R.S. § 4-222 and R19-1-203 shall maintain in accordance with R19-1-501:
1. A copy of a cooperative purchase order placed with a wholesaler,
 2. A copy of a cooperative-purchase invoice provided by a wholesaler, and
 3. A record of the following regarding each cooperative member:
 - a. The kind and quantity of spirituous liquor ordered and delivered,
 - b. Monies received from the cooperative member, and
 - c. The date on and location at which spirituous liquor is delivered to the cooperative member.
- C. A wholesaler that fills a cooperative-purchase order submitted by a retail agent registered under A.R.S. § 4-222 and R19-1-203 shall prepare and provide to the registered retail agent a master invoice of the cooperative purchase that shows the spirituous liquor purchased by each cooperative member and the amount of the discount provided for the cooperative purchase.
- D. This Section is authorized by A.R.S. § 4-222.

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-504. Record of Delivery of Spirituous Liquor

- A. A retail licensee having off-sale privileges, or a licensed farm winery under A.R.S. § 4-205.04(C)(9), common carrier under A.R.S. § 4-203.04(J), or a licensed craft distiller under A.R.S. § 4-205.10(C)(7) that delivers spirituous liquor, as authorized by A.R.S. § 4-203(J) and R19-1-315, shall complete a record of each delivery at the time of delivery. The licensee or common carrier shall ensure that the record provides the following information:
1. Name of licensee making the delivery,
 2. Address of licensee making the delivery,
 3. License number,
 4. Date and time of delivery,
 5. Address at which delivery is made,
 6. Type and brand of spirituous liquor delivered, and
 7. Printed name and signature of the individual making the delivery.
- B. In addition to the information required under subsection (A), a retail licensee having off-sale privileges that delivers spirituous liquor, as authorized by A.R.S. § 4-203(J), shall obtain the following information about the individual accepting delivery of the spirituous liquor:
1. Name,
 2. Date of birth,
 3. Type of and number on the identification used to verify the individual's date of birth, and
 4. The signature of the individual accepting delivery. The retail licensee making delivery may use an electronic signature system to comply with this subsection.
- C. A licensed farm winery under A.R.S. § 4-205.04(C)(9), common carrier under A.R.S. § 4-203.04(J), or licensed craft distiller under A.R.S. § 4-205.10(C)(7) that delivers spirituous liquor may rely on an electronic signature system operated by the United Parcel Service or Federal Express to comply with the requirements in subsection (A).
- D. A licensed retailer that delivers spirituous liquor under A.R.S. § 4-203.04(H) or a direct shipment licensee that ships wine under A.R.S. § 4-203.04(J) or A.R.S. § 4-205.04(C)(9), or licensed craft distiller that ships distilled spirits under A.R.S. § 4-205.10(C)(7) may rely on an electronic signature system operated by the United Parcel Service or Federal Express.
- E. This Section is authorized by A.R.S. §§ 4-112(B)(1)(d), 4-203(J) and (M), 4-203.04(H) and (J), 4-205.04(C)(9), and 4-205.10(C)(7).

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2). Amended by final expedited rulemaking 30 A.A.R. 389 (March 1, 2024), with an immediate effective of February 9, 2024 (Supp. 24-1).

R19-1-505. Report of Act of Violence

- A. As required under A.R.S. § 4-244(37), a licensee shall report an act of violence that occurs on the licensed premises.
- B. A licensee shall report an act of violence that occurs on property immediately adjacent to the licensed premises if the act of violence involves a customer who is entering or leaving the licensed premises and if the licensee knew or reasonably should have known of the act of violence.
- C. A licensee shall submit the report required under subsection (A) to the Department or a law enforcement agency. A licensee shall submit the report required under subsection (B) to the Department.
- D. A licensee shall submit the report required under subsection (A) or (B) within seven days after the act of violence occurs.

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- E. A licensee that submits a report under subsection (A) or (B) to the Department shall use a form that is available from the Department and provide the following information to the best of the licensee's knowledge:
1. Name of licensee or licensee's agent;
 2. License number;
 3. Name of business;
 4. Address of licensed premises;
 5. Date of the report;
 6. Date and time of the incident being reported;
 7. A statement whether the police were summoned and if so:
 - a. Name of the police jurisdiction summoned,
 - b. Name of the individual who placed the call to the police,
 - c. Police report number, and
 - d. A statement whether an arrest was made;
 8. A statement whether emergency services were summoned and if so, the name of the individual who placed the call for emergency services;
 9. Names or description of participants in the incident;
 10. Names of individuals injured in the incident and a description of the injury;
 11. Detailed description of the incident; and
 12. Name, title, and signature of the individual preparing the report affirming that the information provided is true and accurate to the best of the individual's knowledge.
- F. This Section is authorized by A.R.S. § 4-244(37).

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

ARTICLE 6. VIOLATIONS; HEARINGS; DISCIPLINE**R19-1-601. Appeals and Hearings**

- A. Under A.R.S. § 4-210.02(A), a decision of the Director, except as provided under A.R.S. § 4-203.01(E), is not final until it is appealed to and ruled on by the Board or until the time for appeal expires.
- B. As required by A.R.S. § 4-210(H), the Department, Board, or a panel of the Board established under A.R.S. § 4-111(D) shall ensure that all hearings are conducted according to the procedures at A.R.S. Title 41, Chapter 6, Article 10.
- C. This Section is authorized by A.R.S. § 4-210(H).

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-602. Actions During License Suspension

- A. If the Director suspends a license issued under A.R.S. Title 4 and this Chapter, the licensee:
1. Shall not take any action on or about the business premises for which a license is required under A.R.S. Title 4 or this Chapter, and
 2. Shall prominently display the notice of suspension on the business premises during the suspension.
- B. This Section is authorized by A.R.S. § 4-244(1).

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-603. Seizure of Spirituous Liquor

- A. If a peace officer has probable cause to believe that a spirituous liquor is being or is intended to be used in a manner that is

inconsistent with a provision of A.R.S. Title 4 or this Chapter, the peace officer shall seize the spirituous liquor.

- B. This Section is authorized by A.R.S. § 4-244.05(F).

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-604. Closure Due to Violence

- A. If the Director determines that an act of violence is apt to occur at a licensed premises and that action is needed to protect the public health, safety, or welfare, the Director shall order that:
1. The licensee closes the doors of the licensed premises to the public;
 2. No spirituous liquor be sold or served to any individual on the licensed premises; and
 3. Only the licensee, employees of the licensee, and peace officers are allowed on the licensed premises.
- B. This Section is authorized by A.R.S. § 4-210.

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

ARTICLE 7. STATE LIQUOR BOARD**R19-1-701. Election of Officers**

- A. The Board shall elect a chairperson and vice chairperson in February of each year.
- B. If a vacancy occurs in the chairperson or vice chairperson office, the Board shall hold an election for the vacant office at its next scheduled meeting.
- C. This Section is authorized by A.R.S. § 4-111(C).

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-702. Determining Whether to Grant a License for a Certain Location

- A. To determine whether public convenience requires and the best interest of the community will be substantially served by issuing or transferring a license at a particular unlicensed location, local governing authorities and the Board may consider the following criteria:
1. Petitions and testimony from individuals who favor or oppose issuance of a license and who reside in, own, or lease property within one mile of the proposed premises;
 2. Number and types of licenses within one mile of the proposed premises;
 3. Evidence that all necessary licenses and permits for which the applicant is eligible at the time of application have been obtained from the state and all other governing bodies;
 4. Residential and commercial population of the community and its likelihood of increasing, decreasing, or remaining static;
 5. Residential and commercial population density within one mile of the proposed premises;
 6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers;
 7. Effect on vehicular traffic within one mile of the proposed premises;
 8. Compatibility of the proposed business with other activity within one mile of the proposed premises;

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9. Effect or impact on the activities of businesses or the residential neighborhood that might be affected by granting a license at the proposed premises;
10. History for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant received a detailed report of the violations and criminal activity at least 20 days before the hearing by the Board;
11. Comparison of the hours of operation at the proposed premises to the hours of operation of existing businesses within one mile of the proposed premises; and
12. Proximity of the proposed premises to licensed childcare facilities as defined by A.R.S. § 36-881.

B. This Section is authorized by A.R.S. § 4-201(I).

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-703. Rehearing or Review of a Decision

- A. As permitted under A.R.S. § 41-1092.09, a party may file with the Board a motion for rehearing or review of a decision issued by the Board.
- B. A party may amend a motion for rehearing or review at any time before the Board rules on the motion.
- C. The Board may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
 1. Irregularity in the proceedings or any order or abuse of discretion that deprived the moving party of a fair hearing;
 2. Misconduct of the Director or Board, Department staff, or an administrative law judge;
 3. Accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
 5. Excessive or insufficient penalty;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings; and
 7. The findings of fact or decision is not justified by the evidence or is contrary to law.
- D. The Board may affirm or modify a decision or grant a rehearing or review to all or some of the parties on all or some of the issues for any of the reasons listed in subsection (C). The Board shall specify with particularity the grounds for an order modifying a decision or granting a rehearing or review. If a rehearing or review is granted, the rehearing or review shall cover only the matters specified in the order.
- E. Not later than 30 days after the date of a decision and after giving the parties notice and an opportunity to be heard, the Board may, on its own initiative, order a rehearing or review of the decision for any reason it might have granted a rehearing or review on motion of a party. The Board may grant a motion for rehearing or review, timely served, for a reason not stated in a motion. The Board shall specify with particularity the grounds on which a rehearing or review is granted under this subsection.
- F. When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. This period may be extended by the Board for five additional days for good cause or by written stipulation of the parties. Reply affidavits may be permitted.

- G. If, in a particular decision, the Board makes a specific finding that the immediate effectiveness of the decision is necessary for preservation of the public health, safety, or welfare and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review.
- H. This Section is authorized by A.R.S. §§ 4-210.02 and 41-1092.09.

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-704. Submitting Documents to the Board

- A. To facilitate the Board's review of documents submitted to it, a party shall submit documents to the Board in printed form and:
 1. In an electronic format directed by the Board, or
 2. By means of a removable data-storage device such as a compact disc or flash drive.
- B. To provide the Board with time to consider adequately documents requiring its action, the following deadlines apply:
 1. An applicant, local governing body, or aggrieved party that wishes to submit information regarding an application shall submit the information at least 15 calendar days before the meeting at which the Board will consider the application;
 2. An applicant, local governing body, or aggrieved party that wishes to rebut information submitted under subsection (B)(1) shall submit the rebuttal information within five calendar days before the meeting at which the Board will consider the application; and
 3. An appellant shall submit a brief at least 21 calendar days before the meeting at which the Board will consider the appeal.
- C. A party who is unable to submit documents in an electronic format or by means of a removable data storage device may ask the Board for an exemption from the requirement in subsection (A).
- D. This Section is authorized by A.R.S. §§ 4-112(A)(2) and 4-201(E).

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

R19-1-705. Judicial Review

- A. A party may file a complaint for judicial review of a final decision of the Board under A.R.S. § 12-901 et seq.
- B. A party that files a complaint for judicial review of a final decision of the Board shall serve a copy of the complaint for judicial review on the Director at the Department's office in Phoenix, Arizona.
- C. This Section is authorized by A.R.S. §§ 4-211 and 12-901et seq.

Historical Note

New Section made by final rulemaking at 19 A.A.R. 1338, effective July 6, 2013 (Supp. 13-2).

ARTICLE 8. LEASING OFF-SALE PRIVILEGES**R19-1-801. Leasing Off-sale Privileges: Preliminary Considerations**

- A. Only a restaurant licensee may enter an agreement to lease the off-sale privileges of another licensee.

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- B. A restaurant licensee may enter an agreement with only a bar or liquor store licensee to lease the bar or liquor store licensee's privilege to sell mixed cocktails, as defined at A.R.S. § 4-101, for consumption off the licensed premises.
 - C. A restaurant licensee may enter an agreement with only a bar, beer and wine bar, or liquor store licensee to lease the bar, beer and wine bar, or liquor store licensee's privilege to sell spirituous liquor other than mixed cocktails for consumption off the licensed premises.
 - D. When the Director approves an agreement under subsection (B), the bar or liquor store licensee retains the bar or liquor store licensee's privilege to sell mixed cocktails for consumption off the licensed premises during the term of the lease.
 - E. When the Director approves an agreement under subsection (C), the Director transfers the off-sale privilege of the bar, beer and wine bar, or liquor store regarding spirituous liquor other than mixed cocktails to the restaurant licensee for the term of the lease and the bar, beer and wine bar, or liquor store licensee shall stop the off-sale of spirituous liquor other than mixed cocktails.
 - F. A restaurant licensee that wishes to enter a privileges lease agreement under subsection (B) or (C) shall apply to the Department under R19-1-802 or R19-1-803 and obtain the Director's approval.
 - G. This Section is authorized by A.R.S. §§ 4-203.06 and 4-203.07.
- C. Restaurant licensee responsibilities. A restaurant licensee whose application is approved under subsection (B)(1) shall:
 1. Pay in full to the Department the lease amount established under subsection (B)(3) when the application is approved under subsection (B)(1);
 2. Comply with all Department statutes and rules including:
 - a. A.R.S. § 4-203(S)(5) regarding the sale of menu food items, as defined at A.R.S. § 4-101;
 - b. A.R.S. § 4-205.02(M) regarding the percentage of gross revenue derived from the sale of food; and
 - c. A.R.S. § 4-206.01(G) regarding the percentage of spirituous liquor sales derived under the privileges lease agreement; and
 3. If desired, apply to the Department for renewal of the privileges lease agreement. To renew the privileges lease agreement, a restaurant licensee shall:
 - a. Submit to the Department a renewal application form that is available from the Department at its office or on the Department's website;
 - b. Pay a renewal fee that includes renewal of the restaurant license and is specified on the Department's website; and
 - c. Pay in full the lease amount established under subsection (B)(3).
 - D. This Section is authorized by A.R.S. § 4-203.06. Under A.R.S. § 4-203.06(A), this Section is not applicable on and after January 1, 2026.

Historical Note

New Section made by final exempt rulemaking at 28 A.A.R. 3436 (November 4, 2022), with an immediate effective date of October 13, 2022 (Supp. 22-4).

R19-1-802. Leasing an Off-sale Privilege Regarding Mixed Cocktails

- A. Applicant responsibilities. To apply under A.R.S. § 4-203.06 to lease the privilege of a bar or liquor store licensee to sell mixed cocktails for consumption off the licensed premises, a restaurant licensee shall submit to the Department:
 1. An application form that is available from the Department at its office or on the Department's website;
 2. A non-refundable application fee of \$200; and
 3. A privileges lease form, which is available from the Department at its office or on the Department's website, signed and dated by the restaurant licensee.
- B. Director responsibilities. The Director shall:
 1. Within 30 days after receiving an application under subsection (A), approve or deny the application based on the location or history of the applicant. If the Director denies the application, the Director shall provide to the restaurant licensee the notice required under R19-1-209(H);
 2. Randomly select a bar or liquor store licensee to enter a privileges lease agreement with the approved restaurant licensee to lease the bar or liquor store licensee's privilege to sell mixed cocktails for consumption off the licensed premises. A bar or liquor store licensee is not required to opt-in but may opt-out of being selected by the Director. The bar or liquor store licensee selected may be located in the same or a different county from the county of the restaurant licensee;
 3. Establish a lease amount to be paid by the restaurant licensee that fairly recognizes and is derived from the commercial value of the privilege being leased; and
 4. Act as a third-party facilitator of the funds paid under subsection (C)(1) to ensure the lease payment is made to the bar or liquor store licensee.

Historical Note

New Section made by final exempt rulemaking at 28 A.A.R. 3436 (November 4, 2022), with an immediate effective date of October 13, 2022 (Supp. 22-4).

R19-1-803. Leasing an Off-sale Privilege Regarding Spirituous Liquor other than Mixed Cocktails

- A. Applicant responsibilities. To apply under A.R.S. § 4-203.07 to lease the privilege of a bar, beer and wine bar, or liquor store licensee to sell spirituous liquor other than mixed cocktails for consumption off the licensed premises, a restaurant licensee shall submit to the Department within one of the lease windows established by the Department:
 1. An application form that is available from the Department at its office or on the Department's website;
 2. A non-refundable application fee of \$200; and
 3. A privileges lease form that is available from the Department at its office or on the Department's website; and:
 - a. Is signed and dated by both the restaurant licensee and the bar, beer and wine bar, or liquor store licensee, both of which are located in the same county; and
 - b. Specifies the lease amount to which the parties agree, which may be the amount determined by the Department under A.R.S. § 4-203.07(C).
- B. Director responsibilities. The Director shall:
 1. Establish and make available on the Department's website:
 - a. At least four windows throughout a calendar year during which leases may be made;
 - b. Suggested lease amounts under the terms specified at A.R.S. § 4-203.07(C).
 2. Within 30 days after receiving an application under subsection (A), approve or deny the application:
 - a. If the Director denies the application, the Director shall provide to the restaurant licensee the notice required under R19-1-209(H), and

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- b. If the Director approves the application, the Director shall transfer to the restaurant licensee the privilege of the bar, beer and wine bar, or liquor store licensee to sell spirituous liquor other than mixed cocktails for consumption off the licensed premises; and
 - 3. Act as a third-party facilitator of the funds paid under subsection (C)(1) to ensure the lease payment is made to the bar, beer and wine bar, or liquor store licensee.
 - C. Restaurant licensee responsibilities. A restaurant licensee whose application is approved under subsection (B)(2) shall:
 - 1. Pay in full to the Department the lease amount established under subsection (A)(3)(b) when the privileges lease agreement is made;
 - 2. Comply with all Department statutes and rules including:
 - a. A.R.S. § 4-205.02(M) regarding the percentage of gross revenue derived from the sale of food, and
 - b. A.R.S. § 4-206.01(G) regarding the percentage of spirituous liquor sales derived under the privileges lease agreement; and
 - 3. If desired, apply to the Department for renewal of the privileges lease agreement. To renew the privileges lease agreement, a restaurant licensee shall:
 - a. Submit to the Department a renewal application form that is available from the Department at its office or on the Department's website;
 - b. Submit to the Department an updated privileges lease form that is signed and dated by both the restaurant licensee and the bar, beer and wine bar, or liquor store licensee and specifies the lease amount to which the parties agree;
 - c. Pay a renewal fee that includes renewal of the restaurant license and is specified on the Department's website; and
 - d. Pay in full the lease amount established under subsection (C)(3)(b).
 - D. This Section is authorized by A.R.S. § 4-203.07.

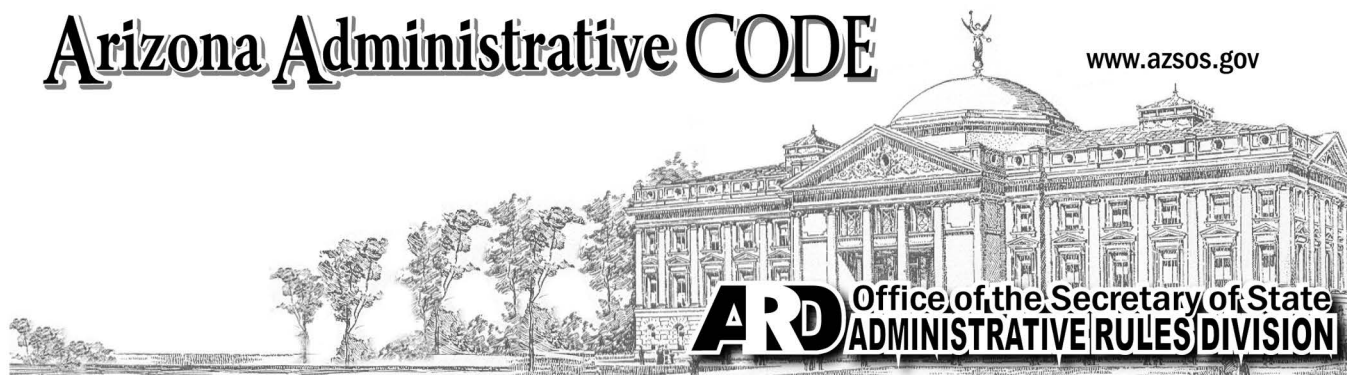
Historical Note

New Section made by final exempt rulemaking at 28 A.A.R. 3436 (November 4, 2022), with an immediate effective date of October 13, 2022 (Supp. 22-4).
- R19-1-804. Registration of an Alcohol Delivery Contractor**
- A. To register as an alcohol delivery contractor, as defined at A.R.S. § 4-101, an individual who is qualified under R19-1-201 shall submit to the Department:
 - 1. An application form that is available from the Department at its office or on the Department's website;
 - 2. Documentation, as described in A.R.S. § 41-1080(A), of U.S. citizenship or alien status indicating presence in the U.S. is authorized under federal law; and
 - 3. A non-refundable application fee of \$100.
 - B. Within 30 days after receiving an application under subsection (A), the Director shall approve or deny the application. If the Director denies the application for good cause, the Director shall provide the notice required under R19-1-209(H).
 - C. If required by the Director, a newly registered alcohol delivery contractor shall complete an approved training course regarding knowledge of liquor law and pass any required examination.
 - D. Operational limits for delivery of spirituous liquor. A registered alcohol delivery contractor shall ensure that delivery of spirituous liquor as authorized under A.R.S. § 4-203(T):
 - 1. Is made only to an individual who is at least 21 years old;
 - 2. Is made only after an inspection of identification that complies with A.R.S. § 4-241(K) shows the individual accepting delivery of the spirituous liquor is of legal drinking age;
 - 3. Is made on the same business day, as defined at A.R.S. § 4-203(T), as the order for delivery of spirituous liquor is placed;
 - 4. Is not made to an intoxicated or disorderly individual; and
 - 5. Is not made to the licensed premises of a licensed retailer.
 - E. A registered alcohol delivery contractor shall refuse to complete a delivery if the registered alcohol delivery contractor believes the delivery may constitute a violation of A.R.S. Title 4 or this Chapter.
 - F. To renew a registration as an alcohol delivery contractor, the registered alcohol delivery contractor shall, by April 30 of each year:
 - 1. Submit to the Department a renewal application form that is available from the Department at its office or on the Department's website; and
 - 2. Pay the renewal fee of \$25.
 - G. This Section is authorized by A.R.S. §§ 4-203(T) and 4-205.13.

Historical Note

New Section made by final exempt rulemaking at 28 A.A.R. 3436 (November 4, 2022), with an immediate effective date of October 13, 2022 (Supp. 22-4).

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20 A.A.C. 04

Supp. 24-1

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE
CHAPTER 4. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - FINANCIAL INSTITUTIONS

The table of contents on page one contains links to the referenced page numbers in this Chapter.
Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

At the request of the Department a correction has been made to Section R20-4-1220 (Supp. 24-1).

No other changes have been made to this Chapter since Supp. 23-3.

Questions about these rules? Contact:

Department: Department of Insurance and Financial Institutions
Address: 100 N. 15th Ave., Suite 261
Phoenix, AZ 85007-2630
Website: <https://difi.az.gov>
Name: Mary E. Kosinski
Telephone: (602) 364-3476
Email: mary.kosinski@difi.az.gov

The release of this Chapter in Supp. 24-1 replaces Supp. 23-3, 1-49 pages.

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

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

PERSONAL USE/COMMERCIAL USE

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division

The Arizona Secretary of State electronically publishes each A.A.C. Chapter with a digital certificate. The certificate-based signature displays the date and time the document was signed and can be validated in Adobe Acrobat Reader.

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 4. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - FINANCIAL INSTITUTIONS

Authority: A.R.S. § 20-124

Supp. 24-1

Editor's Note: The name of the Arizona Department of Financial Institutions was changed to the Department of Insurance and Financial Institutions under Laws 2019, Ch. 252, effective July 1, 2020 (Supp. 22-2).

Editor's Note: The Banking Department's name was changed to the Arizona Department of Financial Institutions under the authority of A.R.S. § 6-110, originally enacted as Laws 2004, Ch. 188, effective January 1, 2006 (Supp. 06-1).

Editor's Note: Title 20, formerly Commerce, Banking, and Insurance, is now Commerce, Financial Institutions, and Insurance. This change became effective when the Banking Department changed its name to the Department of Financial Institutions, effective January 1, 2006 (Supp. 06-1).

20 A.A.C. 4, consisting of R20-4-101 through R20-4-106, R20-4-201 through R20-4-215, R20-4-301 through R20-4-331, R20-4-401 through R20-4-402, R20-4-501 through R20-4-536, R20-4-601 through R20-4-620, R20-4-701 through R20-4-707, R20-4-801 through R20-4-816, R20-4-901 through R20-4-924, R20-4-1001, R20-4-1101 through R20-4-1102, R20-4-1201 through R20-4-1220, R20-4-1401 through R20-4-1410, R20-4-1501 through R20-4-1530, R20-4-1601 through R20-4-1604, and R20-4-1701 through R20-4-1706, recodified from 4 A.A.C. 4, consisting of R4-4-101 through R4-4-106, R4-4-201 through R4-4-215, R4-4-301 through R4-4-331, R4-4-401 through R4-4-402, R4-4-501 through R4-4-536, R4-4-601 through R4-4-620, R4-4-701 through R4-4-707, R4-4-801 through R4-4-816, R4-4-901 through R4-4-924, R4-4-1001, R4-4-1101 through R4-4-1102, R4-4-1201 through R4-4-1220, R4-4-1401 through R4-4-1410, R4-4-1501 through R4-4-1530, R4-4-1601 through R4-4-1604, and R4-4-1701 through R4-4-1706, pursuant to R1-1-102 (Supp. 95-1).

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Article 1, consisting of Sections R4-4-101 through R4-4-106 adopted effective August 16, 1991 (Supp. 91-3).

Article 1, consisting of Sections R4-4-101 through R4-4-104, repealed effective August 16, 1991 (Supp. 91-3).

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TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

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Former Article 6, consisting of Section R4-4-601, repealed effective October 26, 1978. R20-4-601 recodified from R4-4-601 (Supp. 95-1).

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TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

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ARTICLE 13. LOAN ORIGINATORS

Article 13, consisting of Sections R20-4-1301 through R20-4-1305, emergency expired on April 21, 2011. New Sections R20-4-1301 through R20-4-1305 were made by final rulemaking on effective April 22, 2011. Emergency rules removed from this Chapter for clarity. (Supp. 15-1).

Article 13, consisting of Sections R20-4-1301 through R20-4-1305, emergency rulemaking renewed at 16 A.A.R. 2165, effective October 24, 2010 for an additional 180 days (Supp. 10-4).

Article 13, consisting of Sections R20-4-1301 through R20-4-1305, made by emergency rulemaking at 16 A.A.R. 839, effective April 27, 2010 for 180 days (Supp. 10-2).

Article 13, consisting of Sections R20-4-1301 through R20-4-1305, emergency expired April 21, 2011; new Article consisting of Sections R20-4-1301 through R20-4-1305, made by final rulemaking at 16 A.A.R. 2401, effective April 22, 2011 (Supp. 10-4).

Article 13, consisting of Sections R20-4-1301 through R20-4-1305, emergency rulemaking renewed at 16 A.A.R. 2165, effective October 24, 2010 for an additional 180 days (Supp. 10-4).

Article 13, consisting of Sections R20-4-1301 through R20-4-1305, made by emergency rulemaking at 16 A.A.R. 839, effective April 27, 2010 for 180 days (Supp. 10-2).

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TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

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ARTICLE 1. GENERAL**R20-4-101. Scope of Article**

The rules in this Article apply to all activities of the Superintendent and to the interpretation of all Arizona statutes and rules administered by the Superintendent.

Historical Note

Former Rule 1. Former R4-4-101 repealed, new R4-4-101 adopted effective August 16, 1991 (Supp. 91-3).

R20-4-101 recodified from R4-4-101 (Supp. 95-1).

R20-4-102. Definitions

In this Chapter, unless otherwise specified:

1. "Active management" means directing a licensee's activities by a responsible individual, who:
 - a. Is knowledgeable about the licensee's Arizona activities;
 - b. Supervises compliance with:
 - i. The laws enforced by the Department of Financial Institutions as they relate to the licensee, and
 - ii. Other applicable laws and rules; and
 - c. Has sufficient authority to ensure compliance.
2. "Affiliate" has the meaning stated at A.R.S. § 6-901.
3. "Attorney General" means the Attorney General or an assistant Attorney General of the state of Arizona.
4. "Branch office" means any location within or outside Arizona, including a personal residence, but not including a licensee's principal place of business in Arizona, where the licensee holds out to the public that the licensee acts as a licensee.
5. "Business of a savings and loan association or savings bank" means receiving money on deposit subject to payment by check or any other form of order or request or on presentation of a certificate of deposit or other evidence of debt.
6. "Compensation" means, in applying that term's definition in A.R.S. §§ 6-901, 6-941, and 6-971, anything received in advance, after repayment, or at any time during a loan's life. This subsection expressly excludes the following items from those definitions of compensation:
 - a. Charges or fees customarily received after a loan's closing including prepayment penalties, termination fees, reinvestment fees, late fees, default interest, transfer fees, impound account interest and fees, extension fees, and modification fees. However, extension fees and modification fees are compensation if the lender advances additional funds or increases the credit limit on an open-end mortgage as part of the extension or modification;
 - b. Out-of-pocket expenses paid to independent third parties including appraisal fees, credit report fees, legal fees, document preparation fees, title insurance premiums, recording, filing, and statutory fees, collection fees, servicing fees, escrow fees, and trustee's fees;
 - c. Insurance commissions;
 - d. Contingent or additional interest, including interest based on net operating income; or
 - e. Equity participation.
7. "Commercial finance transaction," as that term is used in this Section's definitions of the terms "Engaged in the business of making mortgage loans" and "Engaged in the business of making mortgage loans or mortgage banking loans," means a loan made primarily for other than personal, family, or household purposes.
8. "Control of a licensee," as used in A.R.S. §§ 6-903, 6-944, or 6-978, does not include acquiring additional fractional equity interests in a licensee by any person who already has the power to vote 51% or more of the licensee's outstanding voting equity interests.
9. "Correspondent contract," as that term is used in A.R.S. §§ 6-941, 6-943, 6-971, or 6-973, means an agreement between a lender and a funding source under which the funding source may fund, or is required to fund, loans originated by the lender.
10. "Cushion," as that term is used in R20-4-1811 or R20-4-1908, means funds that a servicer or lender may require a borrower to pay into an escrow or impound account before the borrower's periodic payments are available in the account to cover unanticipated disbursements.
11. "Directly or indirectly makes, negotiates, or offers to make or negotiate" and "Directly or indirectly making, negotiating, or offering to make or negotiate," as those phrases are used in A.R.S. §§ 6-901, 6-941, or 6-971, mean:
 - a. Providing consulting or advisory services in connection with a mortgage loan transaction, mortgage banking loan transaction, or commercial mortgage loan transaction;
 - i. To an investor, concerning the location or identity of potential borrowers, regardless of whether the person providing consulting or advisory services directly contacts any potential borrowers; or
 - ii. To a borrower, concerning the location or identity of potential investors or lenders; or
 - b. Providing assistance in preparing an application for a mortgage loan transaction, mortgage banking loan transaction, or commercial mortgage banking loan transaction, regardless of whether the person providing assistance directly contacts any potential investor or lender; and
 - c. Processing a loan; but
 - d. "Directly or indirectly makes, negotiates, or offers to make or negotiate" and "Directly or indirectly making, negotiating, or offering to make or negotiate" do not include:
 - i. Providing clerical, mechanical, or word processing services to prepare papers or documents associated with a mortgage loan transaction, mortgage banking loan transaction, or commercial mortgage banking loan transaction;
 - ii. Purchasing, selling, negotiating to purchase or sell, or offering to purchase or sell a mortgage loan, mortgage banking loan, or commercial mortgage banking loan already funded;
 - iii. Making, negotiating, or offering to make additional advances on an existing open-ended mortgage loan, mortgage banking loan, or commercial mortgage loan including revolving credit lines;
 - iv. Modifying, renewing, or replacing a mortgage loan, a mortgage banking loan, or a commercial mortgage loan already funded, if the parties to and security for the loan are the same as the original loan immediately before the modifica-

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- tion, renewal, or replacement, and if no additional funds are advanced and no increase is made in the credit limit on an open-ended loan. Replacing a loan means making a new loan simultaneously with terminating an existing loan.
12. "Electronic record" has the meaning stated at A.R.S. § 44-7002(7).
 13. "Employee" means a natural person who has an employment relationship with a licensee that is acknowledged by both the person and the licensee, and:
 - a. The person is entitled to payment, or is paid, by the licensee;
 - b. The licensee withholds and remits, or is liable for withholding and remitting, payroll deductions for all applicable federal and state payroll taxes;
 - c. The licensee has the right to hire and fire the employee and the employee's assistants;
 - d. The licensee directs the methods and procedures for performing the employee's job;
 - e. The licensee supervises the employee's business conduct and the employee's compliance with applicable laws and rules; and
 - f. The rights and duties under subsections (13)(a) through (e) belong to the licensee regardless of whether another person also shares those rights and duties.
 14. "Engaged in the business of making mortgage loans," as that phrase is used in A.R.S. § 6-902, and "engaged in the business of making mortgage loans or mortgage banking loans," as that phrase is used in A.R.S. § 6-942, mean the direct or indirect making of a total of more than five mortgage banking loans or mortgage loans, or both in a calendar year. Each loan counts only once as of its closing date. A person is not "engaged in the business of making mortgage loans or mortgage banking loans" if the person makes loans solely in commercial finance transactions in which no more than 35% of the aggregate value of all security taken by the investor on the closing date is a lien, or liens, on real property.
 15. "Exclusive contract," as that term is used in A.R.S. §§ 6-912 and 6-991.02, means a written agreement in which a loan originator agrees to perform services as a loan originator subject to supervision and control by a person holding a certificate of exemption issued under A.R.S. § 6-912 on an exclusive basis. The agreement provides that the loan originator is expressly prohibited from performing loan origination or modification services for any other person during the time the agreement is in effect.
 16. "Generally accepted accounting principles" has the meaning used by the Financial Accounting Standards Board or the American Institute of Certified Public Accountants.
 17. "Holds out to the public," as used in this Section's definition of "branch office," means advertising or otherwise informing the public that mortgage banking loans, commercial mortgage loans, or mortgage loans are made or negotiated at a location. "Holds out to the public" includes listing a location on business cards, stationery, brochures, rate lists, or other promotional items. "Holds out to the public" does not include a clearly identified home or mobile telephone number on a business card or stationery.
 18. "Loan," as that term is used in A.R.S. §§ 6-126(C)(6) and (8), means all loans negotiated or closed, without regard to the location of the real property collateral or type of loan.
 19. "Loan Processing" means obtaining a loan application's supporting documents for use in underwriting.
 20. "Person" means a natural person or any legal or commercial entity including a corporation, business trust, estate, trust, partnership, limited partnership, joint venture, association, limited liability company, limited liability partnership, or limited liability limited partnership.
 21. "Property insurance," as that term is used in A.R.S. §§ 6-909 and 6-947, does not include flood insurance as that term is used in the Flood Disaster Protection Act of 1973, as modified by the National Flood Insurance Reform Act of 1994. 42 U.S.C. 4001, et seq.
 22. "Reasonable investigation of the background," as that term is used in A.R.S. §§ 6-903, 6-943, or 6-976 means a licensee, at a minimum:
 - a. Collects and reviews all the documents authorized by the Immigration Reform and Control Act of 1986, 8 U.S.C. 1324a;
 - b. Obtains a completed Employment Eligibility Verification (Form I-9);
 - c. Obtains a completed and signed employment application;
 - d. Obtains a signed statement attesting to all of an applicant's felony convictions, including detailed information regarding each conviction;
 - e. Consults with the applicant's most recent or next most recent employer, if any;
 - f. Inquiries regarding the applicant's qualifications and competence for the position;
 - g. If for a loan officer, loan originator, loan processor, branch manager, supervisor, or similar position, obtains a current credit report from a credit reporting agency; and
 - h. Investigates further if any information received in the above inquiries raises questions as to the applicant's honesty, truthfulness, integrity, or competence. An inquiry is sufficient after two attempts to contact a person, including at least one written inquiry.
 23. "Record" has the meaning stated at A.R.S. § 44-7002(13).
 24. "Registered to do business in this state" means:
 - a. If an Arizona corporation, it is incorporated under A.R.S. Title 10, Chapter 2, Article 1;
 - b. If a foreign corporation, it either transfers its domicile under A.R.S. Title 10, Chapter 2, Article 2, or obtains authority to transact business in Arizona under A.R.S. Title 10, Chapter 15, Article 1;
 - c. If a business trust, it obtains authority to transact business in Arizona under A.R.S. Title 10, Chapter 18, Article 4;
 - d. If an estate, it acts through a personal representative duly appointed by this state's Superior Court, under the provisions of A.R.S. Title 14, Chapter 3 or 4;
 - e. If a trust, it delivers to the Superintendent an executed copy of the trust instrument creating the trust together with:

All the current amendments, or

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A true copy of the trust instrument certified accurate and complete by a trustee of the trust before a notary public;

- f. If a general partnership, limited partnership, limited liability company, limited liability partnership, or limited liability limited partnership, it is organized under A.R.S. Title 29;
 - g. If a foreign general partnership, limited partnership, limited liability company, limited liability partnership, or limited liability limited partnership, it is registered with the Arizona Secretary of State's office under A.R.S. Title 29;
 - h. If a joint venture, association, or any entity not specified in this subsection, it is organized and conducts its business in compliance with Arizona law; or
 - i. The entity is exempt from registration.
25. "Registered Exempt Person" means a person who is exempt from licensure pursuant to A.R.S. § 6-912 and A.R.S. Title 6, Chapter 9, Articles 1, 2 and 3 as a federally chartered savings bank that is registered with the nationwide mortgage licensing system and registry and holds a certificate of exemption.
26. "Resident of this state" means a natural person domiciled in Arizona.
27. "Responsible individual" or "responsible person", as those terms are used in A.R.S. §§ 6-903, 6-943, 6-973, and 6-976, means a resident of this state who:
- a. Lives in Arizona during the entire period of designation as the responsible individual on a license;
 - b. Is in active management of a licensee's affairs;
 - c. Meets the qualifications listed in A.R.S. §§ 6-903, 6-943, or 6-973; and
 - d. Is an officer, director, member, partner, employee, or trustee of a licensed entity.

Historical Note

Former Rule 2. Former R4-4-102 repealed, new R4-4-102 adopted effective August 16, 1991 (Supp. 91-3).
 R20-4-102 recodified from R4-4-102 (Supp. 95-1).
 Amended by final rulemaking at 5 A.A.R. 2094, effective June 10 (Supp. 99-2). Amended by final rulemaking at 7 A.A.R. 668, effective January 10, 2001 (Supp. 01-1).
 Amended by final rulemaking at 8 A.A.R. 145, effective December 10, 2001 (Supp. 01-4). Amended by final rulemaking at 18 A.A.R. 2622, effective December 2, 2012 (Supp. 12-4).

R20-4-103. Fingerprints

- A. A licensee or applicant shall deliver fingerprints requested or required by the Superintendent on fingerprint cards provided by the Superintendent.
- B. A licensee or applicant shall bear any costs incurred in obtaining or submitting fingerprints.
- C. A licensee or applicant shall arrange to have fingerprints taken, signed, and dated by:
 - 1. A municipal police department,
 - 2. A local sheriff's office, or
 - 3. Another law enforcement authority recognized by the Superintendent.

Historical Note

Former Rule 3. Former R4-4-103 repealed, new R4-4-103 adopted effective August 16, 1991 (Supp. 91-3).
 R20-4-103 recodified from R4-4-103 (Supp. 95-1).
 Amended by final rulemaking at 6 A.A.R. 4670, effective

November 14, 2000 (Supp. 00-4).

R20-4-104. Acceptance of Other Forms

If another entity's applications and forms provide all the information required by Arizona law, the Superintendent has the discretion to accept them, even if another provision of this Chapter requires use of a specific Department of Financial Institutions form. The Superintendent's exercise of the discretion to accept alternative forms does not limit the Superintendent's power to require additional information necessary to complete an application or other form.

Historical Note

Former Rule 4. Former R4-4-104 repealed, new R4-4-104 adopted effective August 16, 1991 (Supp. 91-3).
 R20-4-104 recodified from R4-4-104 (Supp. 95-1).
 Amended by final rulemaking at 6 A.A.R. 4670, effective November 14, 2000 (Supp. 00-4).

R20-4-105. Claims Against a Deposit in Place of Bond

- A. As used in this Section:
 - 1. "Deposit" means cash or alternatives to cash deposited by a licensee with the Superintendent in place of a bond.
 - 2. "Depositor" means licensee or an employee of the licensee who makes a deposit with the Superintendent.
 - 3. "Verified claim" means a claim filed with the Superintendent under subsection (B).
 - 4. "Award" means an amount of money granted under subsection (F).
- B. A person may file a claim against a deposit by delivering documentation of the claim to the Superintendent. The claim shall be based on a final judgment in favor of the claimant, entered by a court of competent jurisdiction. To support a claim, the judgment shall be:
 - 1. Against a depositor;
 - 2. For injury caused by the depositor's wrongful act, default, fraud, or misrepresentation committed in the course of the depositor's licensed business activity; and
 - 3. Documented by:
 - a. A certified copy of the complaint in the action;
 - b. A certified copy of the judgment in the action;
 - c. A statement that execution of the judgment has not been stayed, or an explanation of the terms and reason for any stay;
 - d. A statement of any amounts recovered on the judgment; and
 - e. A sworn and notarized statement that the claim is true and correct to the best of the claimant's knowledge and belief.
- C. A claimant shall file a claim with the Superintendent, and all required supporting documentation, not more than six months after entry of the judgment asserted in the claim. However, if execution of the asserted judgment is stayed during the first six months after its entry, the claimant may file a verified claim only during the six months after the stay is lifted. The Department shall process a timely-filed verified claim as a request for hearing under R20-4-1208.
- D. The claimant shall notify the depositor of the filing of a verified claim under this Section, and make the depositor a party to all proceedings on the claim. To do so, the claimant shall send the depositor a copy of all documents filed under subsection (B). The claimant shall make this delivery no more than 10 days after the original filing with the Superintendent under subsection (B). The Department considers a proceeding on a verified claim to be a contested case, governed by the provisions of 20 A.A.C. 4, Article 12.

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- E. The Superintendent shall, after a hearing, deny a verified claim if the hearing produces evidence of any of the following circumstances:
1. The judgment is not for an injury caused by the depositor and described in subsection (B)(2);
 2. The judgment was awarded by default, stipulation, or consent, and no showing is made in the hearing of an injury caused by the depositor and described in subsection (B)(2);
 3. The judgment's execution has been stayed for any reason;
 4. The judgment was procured through fraud or collusion;
 5. The judgment has been satisfied from other sources; or
 6. The action that produced the judgment was barred by the applicable statute of limitations at the time it was commenced.
- F. If the Superintendent grants a verified claim, the Superintendent shall do so in the amount of the compensatory damages awarded against the depositor in the judgment, exclusive of:
1. Attorney's fees, and
 2. Amounts previously paid on the judgment.
- G. A person injured by a depositor shall give the Superintendent written notice at the time of filing a civil action if the claims alleged could be made as a verified claim under this Section. The written notice shall include a statement of the amount of compensatory damages sought against the depositor. The injured person shall provide further information about the civil action to the Superintendent upon request.
- H. If the Superintendent grants a verified claim under subsection (F), the Superintendent shall authorize the State Treasurer, in writing, to release the deposit to the claimant in the amount stated in subsection (F) if the Superintendent has not received notice of another pending civil action under subsection (G).
- I. If given notice under subsection (G), the Superintendent shall determine whether the deposit is sufficient to satisfy all claims under subsection (F). The Superintendent shall determine award amounts for each claim of which the Superintendent has notice, and authorize payment, as follows:
1. If the deposit is sufficient to satisfy all claims under subsection (F), the Superintendent shall authorize its release as described in subsection (H).
 2. If the deposit is not sufficient to satisfy all claims under subsection (F), the Superintendent shall calculate the award on each claim as follows:
 - a. Each granted claim shall receive a pro rata share of the total deposit.
 - b. Each pro rata share shall be a dollar amount calculated by multiplying the total deposit by a fraction.
 - i. The numerator of the fraction is the amount of the Superintendent's award for the verified claim.
 - ii. The denominator of the fraction is the sum of the amount of the Superintendent's award for the verified claim plus the total compensatory damages sought in all other civil actions against the same depositor disclosed to the Superintendent under subsection (G).
 - c. The Superintendent shall authorize the State Treasurer to release the pro rata portion of the deposit calculated for each verified claim.
- J. A depositor or former licensee may request return of its deposit if it substitutes a bond for the deposit, or if its license is surrendered, revoked, or expired, and if all statutory conditions for release of the deposit have been satisfied. The Superintendent shall not release any part of a deposit to a depositor

or former licensee until the Superintendent determines whether there are any awards on verified claims unsatisfied because of an apportionment under subsection (I). The Superintendent shall use the deposit amount to pay any unsatisfied portion of those awards. If the deposit amount is not sufficient to pay in full all unsatisfied awards, the Superintendent shall pay the remaining amount of the deposit to claimants in the ratio their awards bear to the total of all awards granted against the deposit.

- K. The court supervising a licensee in receivership may order the release of a deposit to persons injured by conduct described in subsection (B). In that event, the receiver shall deliver a certified copy of the court's order to the Superintendent. The copy may be uncertified if the receiver is the Superintendent or any other officer or agency of the state of Arizona. The Superintendent shall then authorize the State Treasurer, in writing, to release the deposit to the receiver. The receiver shall distribute the deposit as ordered by the receivership court, rather than under this Section.

Historical Note

Adopted effective August 16, 1991 (Supp. 91-3). R20-4-105 recodified from R4-4-105 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 4670, effective November 14, 2000 (Supp. 00-4).

R20-4-106. Bankruptcy

An enterprise licensee or consumer lender licensee shall immediately deliver written notice to the Superintendent if it files a voluntary bankruptcy petition, or if its creditors name the licensee a debtor in an involuntary bankruptcy petition. On the date of each of the following documents' filing with the bankruptcy court, the licensee shall deliver to the Superintendent a copy of the:

1. Petition for relief,
2. Schedule of assets and liabilities,
3. Statement of financial affairs,
4. List of creditors, and
5. Plan of reorganization.

Historical Note

Adopted effective August 16, 1991 (Supp. 91-3). R20-4-106 recodified from R4-4-106 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 145, effective December 10, 2001 (Supp. 01-4).

R20-4-107. Licensing Time-frames

- A. As used in this Section, "application" means a document specified or described in this Title, or in any statute enforced by the Department, requesting any permit, certificate, approval, registration, charter, or similar permission described in Table A, together with all supporting documentation required by statute or rule.
- B. The time-frames in Table A apply solely to applications received by the Department after the effective date of this Section. Each overall time-frame consists of an administrative completeness review time-frame, and a substantive review time-frame. The administrative completeness review time-frame begins to run upon receipt of an application by the Department.
1. Within the administrative completeness review time-frame in Table A, the Department shall notify the applicant in writing whether the application is complete. If the application is incomplete, the notice shall specify the missing information or component.
 2. An applicant whose application is incomplete shall supply the missing information within 60 days after the date

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of the notice. If an applicant shows good cause in writing before the expiration of the 60 day time limit, the Superintendent shall extend the period for administrative completion of an application. The administrative completeness review time-frame stops running on the postmark date of the Department's written notice of an incomplete application, and resumes when the Department receives a complete application. If the applicant fails to submit a complete application within the specified time limit, the Department shall reject the application and close the file. An applicant may reapply.

3. The substantive review time-frame begins to run on the postmark date of the Department's written notice that the application is administratively complete.
4. Within the overall time-frame set forth in Table A the Department shall send the applicant written notice of its decision to approve, conditionally approve, or deny a license, unless the time-frame is extended by mutual

agreement under A.R.S. § 41-1075. If the Department denies an application, it shall provide written justification for the denial and a written explanation of the applicant's right to a hearing or appeal in the form required by A.R.S. § 41-1076.

5. The Department shall calculate time limits prescribed in this Section under R2-19-107.
- C. The time-frames in this Section apply solely to actions taken by the Department. Nothing in this Section relieves a licensee or applicant of a duty to fulfill any other legal or regulatory requirement that is a condition of its power and authority to engage in business.

Historical Note

Adopted effective September 9, 1998 (Supp. 98-3).
Amended by final rulemaking at 8 A.A.R. 145, effective December 10, 2001 (Supp. 01-4).

Table A. Licensing Time-frames

| No. | License Type | Legal Authority | Administrative Completeness Review (Days) | Substantive Review (Days) | Overall Time-Frame (Days) |
|-----------|-------------------------------------------------|-----------------------------------|-------------------------------------------|---------------------------|---------------------------|
| 1 | Bank | A.R.S. § 6-203, et seq. | | | |
| | Initial Application | R20-4-211 | 45 | 45 | 90 |
| 2 | Bank Trust Dept. | A.R.S. § 6-381 | | | |
| | Initial Application | A.R.S. § 6-203, A.R.S. § 6-204(C) | 45 | 45 | 90 |
| 3 | Savings & Loan | A.R.S. § 6-401, et seq. | | | |
| | Initial Application | A.R.S. § 6-408, R20-4-327 | 75 | 75 | 150 |
| 4 | Credit Union | A.R.S. § 6-501, et seq. | | | |
| | Initial Application | A.R.S. § 6-506(A) | 60 | 60 | 120 |
| 5 | Trust Company | A.R.S. § 6-851, et seq. | | | |
| | Initial Application | A.R.S. § 6-854(A) | 75 | 75 | 150 |
| 6 | Consumer Lender | A.R.S. § 6-601, et seq. | | | |
| | Initial Application | A.R.S. § 6-603(C) | 60 | 60 | 120 |
| 7 | Debt Management | A.R.S. § 6-701, et seq. | | | |
| | Initial Application | A.R.S. § 6-704(A), R20-4-602(A) | 30 | 30 | 60 |
| 8 | Escrow Agent | A.R.S. § 6-801, et seq. | | | |
| | Initial Application | A.R.S. § 6-814 | 60 | 60 | 120 |
| 9 | Mortgage Broker or Commercial Mortgage Broker | A.R.S. § 6-901, et seq. | | | |
| | Initial Application | A.R.S. § 6-903(C) & (D) | 60 | 60 | 120 |
| 10 | Mortgage Banker | A.R.S. § 6-941, et seq. | | | |
| | Initial Application | A.R.S. § 6-943(D) | 60 | 60 | 120 |
| 11 | Commercial Mortgage Banker | A.R.S. § 6-971, et seq. | | | |
| | Initial Application | A.R.S. § 6-974(A) | 60 | 60 | 120 |
| 12 | Acquisition of Control of Financial Institution | R20-4-1602, R20-4-1702 | | | |

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

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| | | | | | |
|-----------|--------------------------|---------------------------------|----|----|-----|
| | Initial Application | A.R.S. 6-1104 | 30 | 30 | 60 |
| 13 | Money Transmitter | A.R.S. § 6-1201, et seq. | | | |
| | Initial Application | A.R.S. § 6-1204(A) | 60 | 60 | 120 |
| 14 | Advance Fee Loan Broker | A.R.S. § 6-1301, et seq. | | | |
| | Initial Application | A.R.S. § 6-1303(A) | 30 | 30 | 60 |
| 15 | Premium Finance Co. | A.R.S. § 6-1401, et seq. | | | |
| | Initial Application | A.R.S. § 6-1402(C) | 60 | 60 | 120 |
| 16 | Collection Agency | A.R.S. § 32-1001, et seq. | | | |
| | Initial Application | A.R.S. § 32-1021, R20-4-1502 | 30 | 15 | 45 |
| 17 | Motor Vehicle Dealer | A.R.S. § 44-281, et seq. | | | |
| | Initial Application | A.R.S. § 44-282(B) | 30 | 15 | 45 |
| 18 | Sales Finance Co. | A.R.S. § 44-281, et seq. | | | |
| | Initial Application | A.R.S. § 44-282(B) | 30 | 15 | 45 |
| 19 | Certificate of Exemption | A.R.S. § 6-912 | | | |
| | Initial Application | A.R.S. § 6-912(B) | 45 | 45 | 90 |
| 20 | Loan Originators | A.R.S. § 6-991, et seq. | | | |
| | Initial Application | A.R.S. § 6-991.04(A) | 60 | 60 | 120 |

Historical Note

Table A adopted effective September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 8 A.A.R. 145, effective December 10, 2001 (Supp. 01-4). Amended by final rulemaking at 18 A.A.R. 2622, effective December 2, 2012 (Supp. 12-4).

ARTICLE 2. BANK ORGANIZATION AND REGULATION**R20-4-201. Articles of Incorporation**

A licensee shall deliver to the Director a copy of each amendment to the licensee's articles of incorporation within 30 days after the amendment is filed with the Arizona Corporation Commission. Before delivery to the Director, an officer of the licensee shall certify the copy delivered in compliance with this Section, in writing, signed by the certifying officer, attesting to the completeness, accuracy, and authenticity of the certified copy.

Historical Note

Former Rule 1. R20-4-201 recodified from R4-4-201 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 811, effective January 10, 2001 (Supp. 01-1). Amended by final rulemaking at 29 A.A.R. 1919 (September 1, 2023), effective October 8, 2023 (Supp. 23-3).

R20-4-202. Bylaws

A licensee shall deliver to the Director a copy of each amendment to the licensee's bylaws within 30 days after the amendment is adopted. An officer of the licensee shall certify the copy delivered in compliance with this Section, in writing, attesting to the completeness, accuracy, and authenticity of the certified copy.

Historical Note

Former Rule 2. R20-4-202 recodified from R4-4-202 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 811, effective January 10, 2001 (Supp. 01-1). Amended by final rulemaking at 29 A.A.R. 1919 (September 1, 2023), effective October 8, 2023 (Supp. 23-3).

R20-4-203. Repealed**Historical Note**

Former Rule 3; Amended subsection (C) effective Sep-

tember 4, 1981 (Supp. 81-5). R20-4-203 recodified from R4-4-203 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-204. Repealed**Historical Note**

Former Rule 4. R20-4-204 recodified from R4-4-204 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-205. Repealed**Historical Note**

Former Rule 5. R20-4-205 recodified from R4-4-205 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 3188, effective August 3, 2000 (Supp. 00-3).

R20-4-206. Bankers Blanket Bond Coverage - A.R.S. § 6-188

- A.** Each bank shall carry at least the following basic blanket bond coverage listed in Table B.
- B.** Each bank shall supplement the bankers blanket bond coverage with at least a \$2,000,000 excess fidelity bond.

Historical Note

Former Rule 6. R20-4-206 recodified from R4-4-206 (Supp. 95-1). Amended by final rulemaking at 29 A.A.R. 1919 (September 1, 2023), effective October 8, 2023 (Supp. 23-3).

Table B. Basic Blanket Bond Coverage

| Banks with Deposits of: | | Amounts: |
|-------------------------|---------------|-----------|
| Less than \$25,000,000 | | \$300,000 |
| 25,000,000 | to 35,000,000 | 350,000 |

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

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| | | | |
|---------------------|----|----------------|------------|
| 35,000,000 | to | 50,000,000 | 450,000 |
| 50,000,000 | to | 75,000,000 | 550,000 |
| 75,000,000 | to | 100,000,000 | 700,000 |
| 100,000,000 | to | 150,000,000 | 850,000 |
| 150,000,000 | to | 250,000,000 | 1,200,000 |
| 250,000,000 | to | 500,000,000 | 1,700,000 |
| 500,000,000 | to | 1,000,000,000 | 2,500,000 |
| 1,000,000,000 | to | 2,000,000,000 | 4,000,000 |
| 2,000,000,000 | to | 5,000,000,000 | 6,000,000 |
| 5,000,000,000 | to | 20,000,000,000 | 9,000,000 |
| Over 20,000,000,000 | | | 10,000,000 |

Historical Note

Table B removed from R20-4-206(A) to conform with the codification scheme of this Chapter and amended by final rulemaking at 29 A.A.R. 1919 (September 1, 2023), effective October 8, 2023 (Supp. 23-3).

R20-4-207. Capital Obligations

- A.** An applicant for a Director's order of approval to issue a capital obligation shall submit the following documents to the Director and shall not issue any capital obligation before the Director issues the order of approval. The required documents are:
1. A certified copy of the resolution adopted by the Board of Directors, or a certified copy of the unanimous written consent of the Board of Directors, authorizing the sale of the capital obligation;
 2. A copy of the agreement underlying the capital obligation;
 3. A copy of the note or debenture intended to represent the capital obligation; and
 4. A copy of the prospectus, if any, proposed for use in the sale of the capital obligation.
- B.** Each document evidencing a capital obligation shall:
1. Bear on its face, in bold face type, the following: This obligation is not a deposit and is not insured by the Federal Deposit Insurance Corporation.
 2. Have a maturity provision that either:
 - a. Gives the obligation a maturity of at least five years, or
 - b. In the case of an obligation or issue that provides for scheduled repayments of principal, gives an average maturity of at least five years. The restriction on maturity stated in this subsection does not apply to any obligation that otherwise meets all the requirements of this Section if the Director determines that exigent circumstances require the issuance of the obligation without regard to any restriction on maturity. The provisions of this subsection do not apply to mandatory convertible debt obligations or issues.
 3. State expressly on its face that the obligation:
 - a. Is subordinated and junior in right of payment to the issuing bank's obligations to its depositors and to the bank's other obligations to its general and secured creditors, and
 - b. Is ineligible as collateral for a loan by the issuing bank, except as provided in A.R.S. § 6-354.
 4. Be unsecured.
 5. State expressly on its face that the issuing bank may not retire any part of its capital obligation without the Director's prior written order of approval, and the prior written consent of the Federal Deposit Insurance Corporation.

6. Include, if the obligation is issued to a depository institution, a specific waiver of the right of offset by the lending depository institution.
 7. State that, in the event of liquidation, all depositors and other creditors of the bank are to be paid in full before any payment of principal or interest is made on a capital obligation.
- C.** No payment shall be made under an optional right of payment reserved to the bank without the separate authorization of the Director. The Director may grant that authority in the initial order of approval or in a later order of approval.

Historical Note

Former Rule 7. R20-4-207 recodified from R4-4-207 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 2155, effective May 4, 2001 (Supp. 01-2). Amended by final rulemaking at 29 A.A.R. 1919 (September 1, 2023), effective October 8, 2023 (Supp. 23-3).

R20-4-208. Repealed**Historical Note**

Former Rule 8. R20-4-208 recodified from R4-4-208 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 3188, effective August 3, 2000 (Supp. 00-3).

R20-4-209. Notice of Permanent Closing of Banking Office

A bank may close fewer than all of its banking offices. Before closing any office, a bank shall deliver a letter to the Director specifying the banking office it plans to close and the closing date. The bank shall ensure that the Director receives the letter at least 10 days before the closing date. Closing the banking office shall terminate the bank's authority to maintain that banking office on the date of the actual closure.

Historical Note

Former Rule 9. R20-4-209 recodified from R4-4-209 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 5388, effective November 9, 2001 (Supp. 01-4). Amended by final rulemaking at 29 A.A.R. 1919 (September 1, 2023), effective October 8, 2023 (Supp. 23-3).

R20-4-210. Repealed**Historical Note**

Former Rule 10. R20-4-210 recodified from R4-4-210 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 3188, effective August 3, 2000 (Supp. 00-3).

R20-4-211. Application for a Banking Permit

- A.** Before an application is filed, the representatives of the potential applicant shall meet with the Director to discuss capitalization, location, and management of the proposed bank.
- B.** After the meeting required by subsection (A), persons who wish to proceed with the application process shall submit an application in the form the Director prescribes. The applicant shall support the application with sufficient information to enable the Director to make a determination.

Historical Note

Former Rule 11. R20-4-211 recodified from R4-4-211 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 3188, effective August 3, 2000 (Supp. 00-3). Amended by final rulemaking at 29 A.A.R. 1919 (September 1, 2023), effective October 8, 2023 (Supp. 23-3).

R20-4-212. Repealed

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Historical Note

Former Rule 12. Amended effective September 4, 1981 (Supp. 81-4). R20-4-212 recodified from R4-4-212 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-213. Repealed**Historical Note**

Former Rule 13. Repealed effective September 13, 1981 (Supp. 81-5). R20-4-213 recodified from R4-4-213 (Supp. 95-1).

R20-4-214. Preservation of Records

- A.** Every bank shall keep its corporate and business records as originals or as copies of the originals made by reproduction methods that accurately and permanently preserve the records. Copies complying with this subsection, when satisfactorily identified, have the same evidentiary status as an original. A bank may keep its records as electronic records if the bank can generate all information and copies required by this Section within the timeframe set by the Department for examination or other purposes.
- B.** A bank shall keep its corporate and business records for the period required by this Section. These periods are measured from the date of the last entry or final action date. A bank shall have and comply with its own record retention schedule that is consistent with this Section. A bank may comply with this Section by complying with a preemptive federal regulation, even if the federal regulation requires a shorter retention period than is listed in this Section. This Section does not prohibit record retention for longer periods than these state-required minimums for any reason, including a retention period established by preemptive federal law or regulation. Likewise, this Section does not prohibit a bank from keeping any type of record not required in subsection (D).
- C.** Beginning on the effective date of this Section, corporate and business records of a bank operating in the state of Arizona are classified, and their retention periods are prescribed, according to the schedule in subsection (D). Retention periods are listed in subsection (D) using the notations, acronyms, and abbreviations listed in subsections (C)(1) through (20).
1. A numerical designation refers to a period of years unless a shorter period of time is specified in the schedule.
 2. "AC" means after closure.
 3. "ACH" means automated clearing house.
 4. "AE" means after expiration.
 5. "ALC" means after last contact.
 6. "AP" means after paid.
 7. "ATD" means after termination date.
 8. "CTR" means a cash transaction report required by the Federal Bank Secrecy Act.
 9. "FDIC" means the Federal Deposit Insurance Corporation.
 10. "FHA" means the Federal Housing Administration.
 11. "FHLMC" means the Federal Home Loan Mortgage Corporation.
 12. "FNMA" means the Federal National Mortgage Association.
 13. "GNMA" means the Government National Mortgage Association.
 14. "IRS" means the United States Department of the Treasury's Internal Revenue Service.
 15. "M" means months.
 16. "P" means the bank shall keep the record permanently.
 17. "PMI" means private mortgage insurance.

18. "SAR" means a suspicious activity report required by the Federal Bank Secrecy Act.
19. "TTL" means a treasury, tax, and loan account maintained by a bank.
20. "UCC" means the Uniform Commercial Code as it is in effect in Arizona.

D. Retention Schedule

1. Accounting and Auditing

| | | |
|----|----------------------------------------------|---|
| a. | Accrual and bond amortization | 3 |
| b. | Audit report | 6 |
| c. | Audit work papers | 3 |
| d. | Bank call, income and dividend report | 5 |
| e. | Bill, statement, or invoice – paid | 7 |
| f. | Budget work papers | 2 |
| g. | Collateral vault "in-and-out" ticket | 1 |
| h. | Daily reserve computation | 1 |
| i. | Earnings report | 7 |
| j. | Expense voucher or invoice | 7 |
| k. | Financial statement | 7 |
| l. | Interoffice reconciliation | 1 |
| m. | Interoffice transaction | 1 |
| n. | Periodic statement for account owned by bank | 2 |
| o. | Reconcilement of deposits – due to bank | 2 |
| p. | Reconcilement register – due from bank | 2 |
| q. | Return and cash item register | 1 |
| r. | Service contract | 2 |
| s. | Treasury tax and loan account | 2 |
| t. | Unclaimed property record | 5 |
2. Administration

| | | |
|----|----------------------------------------------------------------------------------|-------|
| a. | Articles of incorporation or association, bylaws or other record of organization | P |
| b. | Bankers blanket bond-record showing compliance | 5AE |
| c. | Bank examiner's report | 7 |
| d. | Capital note issuance and transfer record | P |
| e. | Depreciation record – office equipment | 3 |
| f. | Dividend check and register | 7 |
| g. | Dividend check – outstanding | P |
| h. | Expired policy insuring the bank | 3 AE |
| i. | FDIC assessment base, record | 5 |
| j. | FDIC certificate | P |
| k. | Insurance policy number, record of premium paid and amount recovered | 3 AE |
| l. | Legal proceedings when completed | 5 |
| m. | Minute book of: | |
| | i. Meetings of the board of directors | P |
| | ii. Meeting of committees of the board of directors | P |
| | iii. Shareholders' meetings | P |
| n. | Postage meter record book (from date of final entry) | 1 |
| o. | Real estate documentation | 5 ATD |
| p. | Report to directors | 3 |
| q. | Stock issuance and transfer record | P |
| r. | Required report to supervisory agency | 3 |
| s. | Tax controversy or proceeding when completed | 7 |
| t. | Tax record not material to any controversy | 7 |
| u. | Voting list and proxies | 3 |
3. Collections

| | | |
|----|----------------------------------|---|
| a. | Collection payment record | 1 |
| b. | Collection receipt – carbon | 1 |
| c. | Collection register | 1 |
| d. | Coupon cash letter – outgoing | 1 |
| e. | Coupon envelope | 1 |
| f. | Customer file copy | 1 |
| g. | Incoming collection letter | 1 |
| h. | Incoming contract or note letter | 1 |

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| | | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|------------------------------------------------------------------------------------------------|-------|
| 4. Customer service | | c. Draft – original | 7 |
| a. Broker account holder – identification | 5 | d. Draft register or copy | 1 AP |
| b. Broker's confirmation | 3 | e. Duplicate check – information and documentation pertaining to issuance | 7 |
| c. Broker's invoice | 3 | f. Reconciliation register | 1 |
| d. Broker's statement | 3 | 8. Due to banks | |
| e. E-Bond application | 2 | a. Account opened and account closed – reports | 1 |
| f. E-Bond sold or redeemed – record | 2 | b. Advice – copy | 1 |
| g. E-Bond transmittal letter | 2 | c. Incoming cash letter memo for credit | 1 |
| h. Lock box daily receipts | 1 | d. Incoming cash letter for remittance | 1 |
| i. Night depository agreement | 1 AC | e. Reconciliation register (TTL) | 2 |
| j. Night depository daily record | 1 | f. Reconciliation verification | 1 |
| k. Safekeeping record and receipt | 5 | g. Resolution | 2 AC |
| l. Securities buy order and sell order | 3 | h. Signature card | 6 AC |
| 5. Data processing (management information systems) | | i. Trial balance (fiche) | 7 |
| a. Back-up data (for reconstruction) daily, end of month, quarter, or year | 1 | j. Undelivered statement, reconstruction available from bank records | 1 |
| b. Disaster recovery program | P | k. Undelivered statement, reconstruction not possible | 7 |
| c. Film copy of every IRS financial reporting form | 6 | 9. General | |
| d. Program change | P | a. Address change order | 1 |
| e. System, program and procedure manual | P | b. Affidavit from customer including affidavit of loss, forgery, or non-use of cashier's check | 1 |
| 6. Deposits | | c. Writ of attachment or garnishment | 5 |
| a. Account opened and account closed | 1 | d. Attachment, release | 5 |
| b. Certificate of deposit purchase record | 7 | e. Armored car receipt | 1 |
| c. Check paid, withdrawal slip, and other debits to account | 7 | f. Check book order | 1 |
| d. Club account check register | 1 | g. Check book – receipt | 1 |
| e. Club account coupon | 1 | h. Court order memorandum record | 5 |
| f. SAR – for suspicious transaction under \$10,000 | 5 | i. Notice of Protest | 1 |
| g. CTR – for transaction exceeding \$10,000 | 5 | j. Vault record – opening and closing | 1 |
| h. Customer authorization, resolution, and signature card | 6 AC | k. Wire transfer debit entry and credit entry | 7 |
| i. Deposit account record needed to reconstruct | 7 | 10. General ledger | |
| j. Deposit and other credits | 7 | a. Daily statement of condition | 3 |
| k. Dormant account – after closed or escheated | 7 ALC | b. General journal – if byproduct of posting the general ledger | 3 |
| l. Form 1096 and 1099 reports to IRS | 7 | c. General journal – if used as book of original entry with description | 3 |
| m. Individual retirement account record | 7 | d. General ledger | 5 |
| n. Interest check or other record of interest payment and reports | 7 | e. General ledger ticket – debit and credit | 2 |
| o. Internal management reports: | | 11. International department | |
| i. Large balance | 1 | a. Broker account holder – identification | 5 |
| ii. Overdraft | 1 | b. Cable copy | 7 |
| iii. Public funds | 1 | c. Cable requisition | 7 |
| iv. Service charges | 1 | d. Collection paid | 1 |
| v. Stop payment | 1 | e. Correspondence | 2 |
| vi. Uncollected funds | 1 | f. Draft | 7 |
| vii. Unposted item | 1 | g. Foreign collection register | 6 |
| viii. Zero balance | 1 | h. Foreign draft application | 6 |
| p. Ledger card | 5 AC | i. Foreign draft – carbon | 2 ATD |
| q. Power of attorney document | 7 ATD | j. Foreign exchange remittance sheet or book | 6 |
| r. Receipt for statement held at customer's request | 1 | k. Foreign financial account – record | 7 |
| s. Record showing compliance with the following federal regulations. The state retention period applies unless, and until, it is preempted by federal law: | | l. Foreign mail transfer application | 6 |
| i. Regulation CC, Expedited Funds Availability Act | 2 | m. Foreign mail transfer – carbon | 2 ATD |
| ii. Regulation DD, Truth in Savings Act | 2 | n. Foreign outstanding cash | 2 |
| iii. Regulation E, Electronic Funds Transfer Act | 2 | o. Foreign payment – incoming | 2 |
| t. Returned statement and canceled checks | 6 | p. Letter of credit application | 2 |
| u. Statement | 6 | q. Letter of credit ledger sheet | 7 |
| v. Stop payment order | 6 AE | r. Transfer outside of the United States in excess of \$10,000 – record | 5 |
| w. Document used to request and receive Tax Identification Number | 6 | 12. Investments | |
| x. Transaction journal | 6 | a. Bonds | |
| y. Trial balance | 6 | i. Amortization record | 6 |
| 7. Due from banks | | ii. Confirmation | 3 |
| a. Advice from correspondent bank | 1 | iii. Safekeeping receipt | 2 |
| b. Bank statement | 1 | b. Broker's securities | |
| | | i. Broker's invoice | 3 |
| | | ii. Broker's statement | 3 |
| | | iii. Report of lost or stolen securities | 3 |
| | | iv. Safekeeping advice | 2 |
| | | v. Taxpayer identification number | 5 |

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| | | | |
|---------------------------------------------------------------|------|---------------------------------------------------|---------|
| c. Commercial paper | | vi. Overdraft loan agreement | 6 |
| i. Broker's advice | 2 | vii. Promissory note and modification | 6 |
| ii. Purchase order | 2 | agreement – copy | |
| iii. Remittance advice | 2 | viii. Title documentation | 6 |
| d. Mortgage-backed securities | | ix. UCC filing – copy | 6 |
| i. Buy-and-sell agreement | 3 | d. Real estate loans | |
| ii. Commitment letter | 7 | i. Assignment of escrow | 6 |
| iii. FHLMC and FNMA loan file | 7 | ii. Assumption | 6 |
| iv. GNMA certificate | 7 | iii. Commitment letter | 6 |
| v. Interest accrual record | 7 | iv. Copy of deed of trust or mortgage note, as | 6 |
| vi. Monthly remittance report | 7 | it may have been modified | |
| 13. Loans. A bank shall keep each loan record listed for the | | v. Escrow analysis record | 6 |
| period required by this subsection. These periods are | | vi. Evidence of any FHA or PMI insurance | |
| measured from the date of final activity. A bank shall | | required | 6 |
| have and comply with its own record retention schedule | | vii. Hazard insurance | life of |
| that is consistent with this subsection. A bank may com- | | | loan |
| ply with this subsection by complying with a preemptive | | viii. Proof of insurance excluding hazard | 6 |
| federal regulation, even if the federal regulation requires | | ix. Sales contract | 6 |
| a shorter retention period than is listed in this subsection. | | x. Settlement sheet | 6 |
| This subsection does not prohibit record retention for lon- | | xi. Survey | 6 |
| ger periods than these state-required minimums for any | | xii. Title documentation | 6 |
| reason, including a retention period established by pre- | | e. Construction loans. In addition to the | |
| emptive federal law or regulation. Likewise, this Section | | documents specified in subsection (d), a bank | |
| does not prohibit a bank from keeping any type of record | | shall keep a record for a construction loan as | |
| not required by this subsection. | | specified in this subsection: | |
| a. All loans – general | | i. Certificate of occupancy | 6 |
| i. Application for loan approval | 6 | ii. Construction progress report | 6 |
| ii. Appraisal | 6 | iii. Contractor's cost breakdown | 6 |
| iii. Borrower's financial statement | 6 | iv. Disbursement documentation | 6 |
| iv. Charge-off record | 10 | v. Inspection report | 6 |
| v. Charged off note | 10 | vi. Residential construction specifications | |
| vi. Collateral file | 6 | and material list | 6 |
| vii. Correspondence | 6 | 14. Official checks and drafts | |
| viii. Credit file- all documentation | 6 | a. Affidavit, bond, indemnity agreement, other | |
| ix. Credit report | 6 | documentation supporting the issuance of a | |
| x. Daily proof and record | 6 | duplicate check or draft | 7 |
| xi. Loan committee minutes | P | b. Bank draft | 3 |
| xii. Miscellaneous loan reports including new | | c. Cashier's check – canceled | 7 |
| loan journal, paid loan journal, past due | | d. Cashier's check register – copy | 7 |
| report, and transaction journal as original | | e. Expense check – canceled | 7 |
| entry | 6 | f. Expense check register – copy | 7 |
| xiii. Other documentation for reconstruction of | | g. Expense voucher or invoice | 7 |
| loan | 2 | h. Money order – bank or personal | 7 |
| b. Commercial loans | | i. Money order register – copy | 7 |
| i. Application for loan denied | 12 M | j. Official check outstanding | P |
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Historical Note

Former Rule 14. R20-4-214 recodified from R4-4-214 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 4142, effective September 12, 2001 (Supp. 01-3). Missing notation in subsection (D)(1)(j) corrected as proposed at 7 A.A.R. 2491 (Supp. 20-1). Amended by final rulemaking at 29 A.A.R. 1919 (September 1, 2023), effective October 8, 2023 (Supp. 23-3).

R20-4-215. Trust Business

Each bank authorized to conduct trust business under their banking permit shall comply with the applicable requirements of R20-4-808 through R20-4-816.

Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). R20-4-215 recodified from R4-4-215 (Supp. 95-1). Amended by final rulemaking at 29 A.A.R. 1919 (September 1, 2023), effective October 8, 2023 (Supp. 23-3).

ARTICLE 3. EXPIRED**R20-4-301. Expired****Historical Note**

Former Rule 1. R20-4-301 recodified from R4-4-301 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 841, effective March 14, 2017 (Supp. 17-1).

R20-4-302. Repealed**Historical Note**

Former Rule 2; Repealed effective January 19, 1984 (Supp. 84-1). R20-4-302 recodified from R4-4-302 (Supp. 95-1).

R20-4-303. Expired**Historical Note**

Former Rule 3. R20-4-303 recodified from R4-4-303 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 841, effective March 14, 2017 (Supp. 17-1).

R20-4-304. Expired**Historical Note**

Former Rule 4. R20-4-304 recodified from R4-4-304 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 841, effective March 14, 2017 (Supp. 17-1).

R20-4-305. Repealed**Historical Note**

Former Rule 5. R20-4-305 recodified from R4-4-305 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-306. Repealed**Historical Note**

Former Rule 6. R20-4-306 recodified from R4-4-306 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

(Supp. 96-3).

R20-4-307. Repealed**Historical Note**

Former Rule 7. R20-4-307 recodified from R4-4-307 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-308. Repealed**Historical Note**

Former Rule 8. R20-4-308 recodified from R4-4-308 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-309. Expired**Historical Note**

Former Rule 9. R20-4-309 recodified from R4-4-309 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 841, effective March 14, 2017 (Supp. 17-1).

R20-4-310. Reserved**R20-4-311. Repealed****Historical Note**

Former Rule 11; Repealed effective January 19, 1984 (Supp. 84-1). R20-4-311 recodified from R4-4-311 (Supp. 95-1).

R20-4-312. Repealed**Historical Note**

Former Rule 12. R20-4-312 recodified from R4-4-312 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-313. Reserved**R20-4-314. Repealed****Historical Note**

Former Rule 14. R20-4-314 recodified from R4-4-314 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-315. Repealed**Historical Note**

Former Rule 15. R20-4-315 recodified from R4-4-315 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-316. Repealed**Historical Note**

Former Rule 16. R20-4-316 recodified from R4-4-316 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-317. Repealed**Historical Note**

Former Rule 17; Repealed effective January 19, 1984 (Supp. 84-1). R20-4-317 recodified from R4-4-317 (Supp. 95-1).

R20-4-318. Expired**Historical Note**

Former Rule 18. R20-4-318 recodified from R4-4-318 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J)

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at 23 A.A.R. 841, effective March 14, 2017 (Supp. 17-1).

R20-4-319. Repealed**Historical Note**

Former Rule 19. R20-4-319 recodified from R4-4-319 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-320. Repealed**Historical Note**

Former Rule 20. R20-4-320 recodified from R4-4-320 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-321. Repealed**Historical Note**

Former Rule 21. R20-4-321 recodified from R4-4-321 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-322. Repealed**Historical Note**

Former Rule 22; Repealed effective January 19, 1984 (Supp. 84-1). R20-4-322 recodified from R4-4-322 (Supp. 95-1).

R20-4-323. Repealed**Historical Note**

Former Rule 23. R20-4-323 recodified from R4-4-323 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-324. Expired**Historical Note**

Former Rule 24. R20-4-324 recodified from R4-4-324 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 841, effective March 14, 2017 (Supp. 17-1).

R20-4-325. Expired**Historical Note**

Former Rule 25. R20-4-325 recodified from R4-4-325 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 841, effective March 14, 2017 (Supp. 17-1).

R20-4-326. Expired**Historical Note**

Former Rule 26. R20-4-326 recodified from R4-4-326 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 841, effective March 14, 2017 (Supp. 17-1).

R20-4-327. Expired**Historical Note**

Former Rule 27. R20-4-327 recodified from R4-4-327 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 841, effective March 14, 2017 (Supp. 17-1).

R20-4-328. Expired**Historical Note**

Former Rule 28. R20-4-328 recodified from R4-4-328 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 841, effective March 14, 2017 (Supp. 17-1).

R20-4-329. Repealed**Historical Note**

Former Rule 29. R20-4-329 recodified from R4-4-329 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-330. Expired**Historical Note**

Original Rule. R20-4-330 recodified from R4-4-330 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 841, effective March 14, 2017 (Supp. 17-1).

R20-4-331. Repealed**Historical Note**

Original Rule. R20-4-331 recodified from R4-4-331 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

ARTICLE 4. CREDIT UNIONS**R20-4-401. Fidelity Bond Coverage**

- A. A credit union shall have a fidelity bond in the form and in the amount required to maintain federal insurance on its accounts.
- B. A fidelity bond purchased by a credit union to comply with this Section shall include faithful-performance-of-duty coverage.
- C. A credit union shall purchase its fidelity bond from an insurer that holds a certificate of authority from the Director to transact surety business in Arizona.

Historical Note

Former Rule 1. R20-4-401 recodified from R4-4-401 (Supp. 95-1). Amended effective April 21, 1995 (Supp. 95-2). Amended by final rulemaking at 7 A.A.R. 2229, effective May 3, 2001 (Supp. 01-2). Amended by final rulemaking at 29 A.A.R. 1937 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-402. Repealed**Historical Note**

Former Rule 2. R20-4-402 recodified from R4-4-402 (Supp. 95-1). Repealed effective April 21, 1995 (Supp. 95-2).

ARTICLE 5. CONSUMER LENDERS**R20-4-501. Repealed****Historical Note**

Former Rule 1. R20-4-501 recodified from R4-4-501 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-502. Repealed**Historical Note**

Former Rule 2. R20-4-502 recodified from R4-4-502 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 3380, effective August 3, 2000 (Supp. 00-3).

R20-4-503. Adjustments in Precomputed Charges

A licensee shall adjust the total precomputed charges if the first installment period is more or less than one month in duration. The licensee's records shall reflect the adjustment's collection in one of three ways.

1. In the first installment payment,
2. Amortized over the life of the contract, or
3. As part of the final payment.

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Historical Note

Former Rule 3. R20-4-503 recodified from R4-4-503 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 4605, effective November 14, 2000 (Supp. 00-4). Amended by final rulemaking at 29 A.A.R. 1942 (September 1, 2023), effective October 7, 2023 (Supp. 23-3).

R20-4-504. Repealed**Historical Note**

Former Rule 4. R20-4-504 recodified from R4-4-504 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 4605, effective November 14, 2000 (Supp. 00-4).

R20-4-505. Repealed**Historical Note**

Former Rule 5. R20-4-505 recodified from R4-4-505 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-506. Repealed**Historical Note**

Former Rule 6. R20-4-506 recodified from R4-4-506 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 3380, effective August 3, 2000 (Supp. 00-3).

R20-4-507. Repealed**Historical Note**

Former Rule 7. R20-4-507 recodified from R4-4-507 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-508. Cut-off Date for Computing Refunds upon Early Repayment in Full

If a borrower repays a loan before the due date of the final installment, the licensee shall calculate any refund or credit due on the precomputed loan using the following rules:

1. A licensee shall credit any full repayment, made on or before the 15th day following an installment date, as if received on the last previous installment date.
2. A licensee shall credit any full repayment, made on or after the 16th day following an installment date, as if received on the next installment date.

Historical Note

Former Rule 8. R20-4-508 recodified from R4-4-508 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 4605, November 14, 2000 (Supp. 00-4). Amended by final rulemaking at 29 A.A.R. 1942 (September 1, 2023), effective October 7, 2023 (Supp. 23-3).

R20-4-509. Repealed**Historical Note**

Former Rule 9. R20-4-509 recodified from R4-4-509 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-510. Repealed**Historical Note**

Former Rule 10. R20-4-510 recodified from R4-4-510 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-511. Repealed**Historical Note**

Former Rule 11. R20-4-511 recodified from R4-4-511

(Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-512. Reserved**R20-4-513. Repealed****Historical Note**

Former Rule 13. R20-4-513 recodified from R4-4-513 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-514. Repealed**Historical Note**

Former Rule 14. R20-4-514 recodified from R4-4-514 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-515. Repealed**Historical Note**

Former Rule 15. R20-4-515 recodified from R4-4-515 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-516. Repealed**Historical Note**

Former Rule 16. R20-4-516 recodified from R4-4-516 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 4605, effective November 14, 2000 (Supp. 00-4).

R20-4-517. Repealed**Historical Note**

Former Rule 17. R20-4-517 recodified from R4-4-517 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-518. Deferral Fee

- A. A licensee may collect a deferral fee at the time it agrees to a deferment or at any time after the assessment of a deferral fee. If a licensee receives a payment after it agrees to a deferment, it may apply the payment first to the deferral fee. Any remainder of the payment shall be applied to the balance of the loan.
- B. If a licensee receives a payment that is large enough to pay in full a delinquent installment and all allowable delinquency fees, the licensee shall apply the payment first to the delinquent installment and fees. The licensee shall not show the paid installment as deferred, and shall not collect a deferral fee.

Historical Note

Former Rule 18. R20-4-518 recodified from R4-4-518 (Supp. 95-1). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 4605, effective November 14, 2000 (Supp. 00-4). Amended by final rulemaking at 29 A.A.R. 1942 (September 1, 2023), effective October 7, 2023 (Supp. 23-3).

R20-4-519. Deferment Statement

A licensee shall give the borrower a statement at the time it agrees to a deferment and shall retain a copy of the statement in the borrower's credit file. The statement shall contain the following information:

1. The amount of the deferral fee,
2. The date of the borrower's next scheduled payment,
3. The amount of the borrower's next scheduled payment, and
4. The extended maturity date of the loan.

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Historical Note

Former Rule 19. R20-4-519 recodified from R4-4-519 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 4605, effective November 14, 2000 (Supp. 00-4). Amended by final rulemaking at 29 A.A.R. 1942 (September 1, 2023), effective October 7, 2023 (Supp. 23-3).

R20-4-520. Repealed**Historical Note**

Former Rule 20. R20-4-520 recodified from R4-4-520 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 3380, effective August 3, 2000 (Supp. 00-3).

R20-4-521. Repealed**Historical Note**

Former Rule 21. R20-4-521 recodified from R4-4-521 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 3380, effective August 3, 2000 (Supp. 00-3).

R20-4-522. Repealed**Historical Note**

Former Rule 22. R20-4-522 recodified from R4-4-522 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-523. Repealed**Historical Note**

Former Rule 23. R20-4-523 recodified from R4-4-523 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-524. Books, Accounts, and Records

- A. A licensee may keep its books, accounts, and records as electronic records if the licensee can generate all information and copies required by this Section within the timeframe set by the Department for examination or other purposes.
- B. A licensee authorized under A.R.S. Title 6, Chapter 5 shall:
 1. Keep its books, accounts, and records of operations separate from the books, accounts, and records of its other business activities; and
 2. In addition to any statutory requirements, the books, accounts, and records of operations shall include the following:
 - a. A file containing a record of all legal actions brought during the fiscal year which the licensee shall keep until the Department conducts its examination of the licensee;
 - b. An itemized record of disbursement of the proceeds of each loan which shall also include, if the licensee makes precomputed loans, the amount of refund on each loan that is renewed or refinanced;
 - c. A record of the receipt of all allowable fees;
 - d. A record for each borrower and each loan that contains documentary evidence of filing or recording each instrument of record for the loan; and
 - e. A record of the borrower's voluntary election to purchase any insurance in connection with a loan if that insurance is sold by the licensee.

Historical Note

Former Rule 24. R20-4-524 recodified from R4-4-524 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 4605, effective November 14, 2000 (Supp. 00-4). Amended by final rulemaking at 29 A.A.R. 1942 (Sep-

tember 1, 2023), effective October 7, 2023 (Supp. 23-3).

R20-4-525. Repealed**Historical Note**

Former Rule 25. R20-4-525 recodified from R4-4-525 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 4605, effective November 14, 2000 (Supp. 00-4).

R20-4-526. Repealed**Historical Note**

Former Rule 26. R20-4-526 recodified from R4-4-526 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 4605, effective November 14, 2000 (Supp. 00-4).

R20-4-527. Repealed**Historical Note**

Former Rule 27. R20-4-527 recodified from R4-4-527 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-528. Repealed**Historical Note**

Former Rule 28. R20-4-528 recodified from R4-4-528 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-529. Repealed**Historical Note**

Former Rule 29. R20-4-529 recodified from R4-4-529 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 4605, effective November 14, 2000 (Supp. 00-4).

R20-4-530. Repealed**Historical Note**

Former Rule 30. R20-4-530 recodified from R4-4-530 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 4605, effective November 14, 2000 (Supp. 00-4).

R20-4-531. Repealed**Historical Note**

Former Rule 31. R20-4-531 recodified from R4-4-531 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-532. Repealed**Historical Note**

Former Rule 32. R20-4-532 recodified from R4-4-532 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 3380, effective August 3, 2000 (Supp. 00-3).

R20-4-533. Reserved**R20-4-534. Insurance**

- A. A licensee shall obtain written evidence of the borrower's voluntary election to purchase insurance in connection with a loan if the licensee's sale of insurance to the borrower is intended to secure repayment of a loan. The licensee shall retain this evidence of voluntary election in its records as required by statute. A document sufficient to comply with this Section shall read substantially as follows:

TO SECURE REPAYMENT OF MY LOAN, I ELECT
TO PURCHASE INSURANCE IN THE AMOUNT OF
\$ _____.

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I UNDERSTAND THAT MY TOTAL LOAN OBLIGATION IS THE SUM OF \$ _____.

- B.** A licensee shall obtain written evidence of the borrower's voluntary election to purchase property insurance in connection with a loan if the licensee's sale of property insurance to the borrower is intended to secure repayment of a loan. The licensee shall retain this evidence of voluntary election in its records as required by statute. A document sufficient to comply with this Section shall read substantially as follows:

TO SECURE REPAYMENT OF MY LOAN, I ELECT TO PURCHASE PROPERTY INSURANCE IN THE AMOUNT OF

\$ _____.

I UNDERSTAND THAT MY TOTAL LOAN OBLIGATION IS THE SUM OF \$ _____.

I ATTEST THAT THE VALUE OF MY PROPERTY INSURED IN CONNECTION WITH THIS LOAN IS THE SUM OF

\$ _____.

Historical Note

Former Rule 34. R20-4-534 recodified from R4-4-534 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 4605, effective November 14, 2000 (Supp. 00-4).

Amended by final rulemaking at 29 A.A.R. 1942 (September 1, 2023), effective October 7, 2023 (Supp. 23-3).

R20-4-535. Reserved

R20-4-536. Repealed

Historical Note

Former Rule 36. R20-4-536 recodified from R4-4-536 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 3380, effective August 3, 2000 (Supp. 00-3).

ARTICLE 6. DEBT MANAGEMENT COMPANIES

Article 6, consisting of Sections R4-4-601 through R4-4-620, adopted effective October 26, 1978, except that Sections R4-4-603, R4-4-604 and R4-4-607 shall become effective January 1, 1979. R20-4-601 through R20-4-620 recodified from R4-4-601 through R4-4-620 (Supp. 95-1).

Former Article 6 consisting of Section R4-4-601 repealed effective October 26, 1978. R20-4-601 recodified from R4-4-601 (Supp. 95-1).

R20-4-601. Repealed

Historical Note

Former Rule 1; Former Section R4-4-601 repealed, new Section R4-4-601 adopted effective October 26, 1978 (Supp. 78-5). R20-4-601 recodified from R4-4-601 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-602. Applications

- A.** An applicant for a debt management company license shall send the Department an application on the form required by the Director. If the Director determines that a credit report is required as authorized under A.R.S. § 6-704(A), the applicant shall order a credit report from a credit reporting agency disclosing the credit history of the applicant's principals or managing agents and submit the credit report to the Department. A complete application shall include the credit report required by this Section and all of the following:

1. The surety bond required by A.R.S. § 6-704(B);

2. Fidelity bonds if required by the Director under A.R.S. § 6-704(D);
3. The nonrefundable application fee specified in A.R.S. § 6-126(A)(14);
4. An original license fee described in A.R.S. §§ 6-126(B), 6-126(D)(2), and 6-706;
5. A sample of the contract intended to be used by the applicant required by A.R.S. § 6-704(E);
6. Current financial statements as described in R20-4-604(A)(5);
7. A copy of the current articles of incorporation, by-laws, partnership agreement or other organizing documents used to form the applicant business entity;
8. The name and address information required under A.R.S. § 6-704(A); and
9. A background check, on the form required by the Department, for each of the applicant's principals, principal officers, trustees, partners, and managing agents.

- B.** A debt management company applying to operate a branch office or use an agency shall send the Department an application on the form required by the Director.

- C.** A debt management company applying to renew a license shall deliver, on or before June 15 of each year, an application to the Department on the form required by the Director. A debt management company shall apply separately to renew each authorized business location. With each application for renewal, a debt management company shall include the renewal fee described in A.R.S. § 6-706 and specified in A.R.S. § 6-126(D)(2).

- D.** The Department may require additional information the Director considers necessary in connection with an application under this Section.

Historical Note

Adopted effective October 26, 1978 (Supp. 78-5). R20-4-602 recodified from R4-4-602 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 2708, effective June 6, 2002 (Supp. 02-2). Amended by final rulemaking at 29 A.A.R. 1945 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-603. Reports

- A.** Each debt management company and each nonprofit corporation or association exempt from licensure under A.R.S. § 6-702(4) and (5), shall send the Department an annual report of its business and operations for each place of business during the previous year beginning July 1 and ending June 30, using the form required by the Director. A debt management company shall deliver its report to the Department on or before August 15.
- B.** Each debt management company shall notify the Department of any change in its ownership or in the names of its officers, directors, trustees, partners, or managing agents within 30 days of the change.

Historical Note

Adopted effective January 1, 1979 (Supp. 78-5). R20-4-603 recodified from R4-4-603 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 2708, effective June 6, 2002 (Supp. 02-2). Amended by final rulemaking at 29 A.A.R. 1945 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-604. Records

- A.** A debt management company shall keep books, accounts, and records adequate to provide a clear and readily understandable

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record of all its business activity. A debt management company may keep its books, accounts, and records as electronic records if the debt management company can generate all information and documentation required by this Section in the timeframe set by the Department for examination or other purposes. A debt management company's books, accounts, and records shall include:

1. A file for each account containing:
 - a. A copy of all correspondence concerning the account;
 - b. Evidence of the notice given to creditors of the debt management contract;
 - c. A subsidiary ledger disclosing all financial transactions concerning the account;
 - d. A copy of each written statement of account given to the debtor;
 - e. The original budget analysis required under R20-4-607; and
 - f. The original contract between the debt management company and the debtor, including all amendments.
2. A trust account general ledger, which is kept current daily, which reflects each deposit to and disbursement from the trust account.
3. Each reconciliation of the debt management company's trust account, prepared at least once a month.
4. A general ledger, kept current monthly, which reflects each financial transaction by the debt management company except those recorded in its trust account general ledger.
5. A financial statement produced in accordance with generally accepted accounting principles at least once every three months, or more frequently if directed by the Director, which reflects the financial condition of the debt management company. The financial statement shall include:
 - a. A balance sheet,
 - b. A statement of income and retained earnings,
 - c. A statement of changes in financial condition, and
 - d. Appropriate footnotes that either:
 - i. Explain entries in the documents listed in subsections (A)(5)(a), (b), and (c);
 - ii. Contain material information not required or not reportable in documents listed in subsections (A)(5)(a), (b), or (c); or
 - iii. Contain other disclosures required by generally accepted accounting principles.
6. A record of all litigation naming the debt management company as a party including:
 - a. For pending litigation:
 - i. A copy of the complaint;
 - ii. A copy of any answer filed by the debt management company in response to the complaint; and
 - iii. A copy of any motion filed by the debt management company; and
 - b. For any litigation that is no longer pending, a copy of any judgment showing the settlement date, dismissal, or other final order disposing of the litigation.
- B. All records required under this Section may be maintained at the debt management company's office in Arizona. A debt management company may keep its records outside this state if it:

1. Makes the records available to the Director, for examination or other purposes, in this state not more than three business days after demand; and
 2. Allows its debtor customers to call toll free to obtain information from the records that are not available from the debt management company's office in Arizona.
- C. Each debt management company shall preserve its books, accounts, and records for the period required by A.R.S. §§ 6-709(J) and 6-710(1).

Historical Note

Adopted effective January 1, 1979 (Supp. 78-5). R20-4-604 recodified from R4-4-604 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 2708, effective June 6, 2002 (Supp. 02-2). Amended by final rulemaking at 29 A.A.R. 1945 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-605. Reserved

R20-4-606. Reserved

R20-4-607. Budget Analysis

- A. A debt management company shall not accept an account unless it first concludes that the debtor can reasonably meet the payments agreed upon by the debt management company and the debtor. The debt management company's conclusion shall be supported by a written budget analysis kept in the company's records.
- B. The written budget analysis shall either be part of an application form or a separate document. The debtor shall date and sign the written budget analysis before the debt management company draws any conclusions from the budget analysis.
- C. The budget analysis shall disclose the disposable income available for payment to the debt management company after the debtor pays their reasonable and necessary living expenses including taxes, insurance, child support, alimony, and residential rent or mortgage payments.

Historical Note

Adopted effective January 1, 1979 (Supp. 78-5). R20-4-607 recodified from R4-4-607 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 2708, effective June 6, 2002 (Supp. 02-2). Amended by final rulemaking at 29 A.A.R. 1945 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-608. Reserved

R20-4-609. Repealed

Historical Note

Adopted effective October 26, 1978 (Supp. 78-5). R20-4-609 recodified from R4-4-609 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-610. Repealed

Historical Note

Adopted effective October 26, 1978 (Supp. 78-5). R20-4-610 recodified from R4-4-610 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-611. Advertising

- A. A debt management company shall not use advertising, communication, or sales material that contains:
 1. A false, misleading, or deceptive statement about the debt management company's services or charges. A statement is a violation of this Section if the person making the

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statement does not state a material fact necessary to make the statement true, in light of the circumstances under which it is made;

2. A claim, direct or implied, that the debt management company consolidates debts or makes loans; or
3. A schedule of payments in any form.

- B.** A debt management company's advertising, communication, and sales material shall contain the following legend, conspicuously displayed in at least 12 point type and in bold print: "NOT A LOAN COMPANY."

Historical Note

Adopted effective October 26, 1978 (Supp. 78-5). R20-4-611 recodified from R4-4-611 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 2708, effective June 6, 2002 (Supp. 02-2). Amended by final rulemaking at 29 A.A.R. 1945 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-612. Solvency and Minimum Liquid Assets

- A.** A debt management company shall not operate if it is insolvent. For purposes of this Section "insolvent" has the same meaning as in A.R.S. § 47-1201(23).
- B.** To determine compliance with A.R.S. § 6-709(A), a debt management company's liquid assets include funds held in its trust account. Liquid assets do not include goodwill and other intangible assets. A debt management company's total liquid assets shall exceed by \$2,500.00 the total of all its current business liabilities together with all balances held for debtors as reflected in the company's subsidiary ledgers.
- C.** Except as otherwise provided by this Section, or in a specific ruling by the Director, a debt management company shall use generally accepted accounting principles to compute assets and liabilities.

Historical Note

Adopted effective October 26, 1978 (Supp. 78-5). R20-4-612 recodified from R4-4-612 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 2708, effective June 6, 2002 (Supp. 02-2). Amended by final rulemaking at 29 A.A.R. 1945 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-613. Reserved

R20-4-614. Reserved

R20-4-615. Reserved

R20-4-616. Reserved

R20-4-617. Reserved

R20-4-618. Reserved

R20-4-619. Reserved

R20-4-620. Repealed

Historical Note

Adopted effective October 26, 1978 (Supp. 78-5). R20-4-620 recodified from R4-4-620 (Supp. 95-1). Section repealed by final rulemaking at 8 A.A.R. 2708, effective June 6, 2002 (Supp. 02-2).

ARTICLE 7. ESCROW AGENTS**R20-4-701. Change in Location of Business**

An escrow agent shall submit to the Director notice of any change in the location of the escrow agent's business. The escrow agent

shall ensure that the Director receives the notice at least five days before the escrow agent conducts business at the new location. The escrow agent shall remit the fee required by A.R.S. § 6-126(A), to the Director with the notice of the location change.

Historical Note

Former Rule 1. R20-4-701 recodified from R4-4-701 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 5385, effective November 9, 2001 (Supp. 01-4). Amended by final rulemaking at 29 A.A.R. 1949 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-702. Account Practices and Records

An escrow agent shall maintain records to enable the Director to reconstruct the details of each escrow transaction. The records shall include the following:

1. The seller's name and address;
2. The buyer's name and address;
3. The lender's name and address, if any;
4. The borrower's name and address, if any;
5. The real estate agent's name and address, if any;
6. Complete escrow instructions;
7. Records and supporting documentation for each receipt and disbursement made through the escrow; and
8. A copy of the escrow settlement.

Historical Note

Former Rule 2. R20-4-702 recodified from R4-4-702 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 5385, effective November 9, 2001 (Supp. 01-4). Amended by final rulemaking at 29 A.A.R. 1949 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-703. Preservation of Records

An escrow agent shall preserve the records, books, and accounts pertaining to each escrow transaction for at least three years following the final settlement date of the transaction. An escrow agent may keep its records as electronic records if the escrow agent can generate all information and copies of documents required by A.R.S. § 6-831 within the timeframe set by the Department for examination or other purposes.

Historical Note

Former Rule 3. R20-4-703 recodified from R4-4-703 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 5385, effective November 9, 2001 (Supp. 01-4). Amended by final rulemaking at 29 A.A.R. 1949 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-704. Subsidiary Account Records

An escrow agent shall maintain subsidiary account records that identify the funds deposited in each escrow account. The total of all credit balances in the subsidiary accounts shall always equal the balance of the general ledger control account.

Historical Note

Former Rule 4. R20-4-704 recodified from R4-4-704 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 5385, effective November 9, 2001 (Supp. 01-4). Amended by final rulemaking at 29 A.A.R. 1949 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-705. Reserved

R20-4-706. Repealed

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Historical Note

Former Rule 6. R20-4-706 recodified from R4-4-706 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 5385, effective November 9, 2001 (Supp. 01-4).

R20-4-707. Expired**Historical Note**

Adopted effective June 25, 1993 (Supp. 93-2). R20-4-707 recodified from R4-4-707 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 21 A.A.R. 411, effective September 30, 2014 (Supp. 15-1).

R20-4-708. Financial Condition and Resources

The Director shall consider the following criteria in evaluating an escrow agent's, other escrow agent's, or applicant's financial condition and resources under A.R.S. § 6-817:

1. Amount of positive net worth,
2. Amount of tangible net worth,
3. Amount of liquid assets,
4. Amount of cash provided by operations,
5. Ratio of debt to net worth,
6. Owner's personal financial resources,
7. Outside resources available,
8. Profitability,
9. Projected operating results,
10. Status as agent for a title insurance company, and
11. Sources of new business.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5385, effective November 9, 2001 (Supp. 01-4). Amended by final rulemaking at 29 A.A.R. 1949 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

ARTICLE 8. TRUST COMPANIES**R20-4-801. Definitions**

In addition to the definitions provided in A.R.S. § 6-851, the following terms apply to this Article unless the context otherwise requires:

"Account" means the trust, estate, or other fiduciary relationship established with a trust department or trust company.

"Affiliate" has the meaning stated at A.R.S. § 6-801.

"Director" has the meaning stated at A.R.S. § 20-102.

"Governing instrument" means a document, and all its operative amendments, that:

- Creates a trust and regulates the trustee's conduct,
- Creates an agency relationship between a trust department or trust company and a client, or
- Otherwise evidences a fiduciary relationship between a trust department or trust company and a client.

"Investment responsibility" means full and unrestricted discretion to invest trust funds without direction from anyone as to any matter, including the terms of the trade or the identity of the broker.

"Person" has the meaning stated at A.R.S. § 20-105.

"Trust asset" means any property or property right held by a trust department or trust company for the benefit of another.

"Trust department" means a permittee under both A.R.S. § 6-201 et seq. and Article 2 of this Chapter that possesses a banking permit authorizing it to engage in trust business.

"Trust funds" means any money held by a trust department or trust company for the benefit of another.

"Trustor" means a person who creates or funds a trust, or both.

Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). R20-4-801 recodified from R4-4-801 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2). Amended by final rulemaking at 29 A.A.R. 1952 (September 1, 2023), effective October 8, 2023 (Supp. 23-3).

R20-4-802. Reserved**R20-4-803. Reserved****R20-4-804. Repealed****Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). R20-4-804 recodified from R4-4-804 (Supp. 95-1). Repealed by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2).

R20-4-805. Reports

- A. Within 90 days following each December 31, each trust department and trust company shall file an annual report of trust assets with the Director on the form prescribed by the Director. The annual report shall include the current market value of all trust assets held by the trust department or trust company as of December 31. The report shall also identify and briefly describe all transactions conducted in the report period that are regulated by subsections R20-4-812(E) through (G).
- B. Each trust company shall deliver a copy of its annual report and certificate of disclosure to the Director within 10 days of filing the report and certificate at the Arizona Corporation Commission. A report or certificate covered by this subsection is one filed under the authority of A.R.S. §§ 10-202 or 10-1622. A copy delivered to the Director, as required in this subsection, shall be date-stamped by the Arizona Corporation Commission to confirm the actual filing date.
- C. Each trust company shall notify the Director of any change in the directors or officers of the company within 10 days of the change. Any trust company with more than 25 officers may, after obtaining the Director's written approval, limit the officers covered by this subsection to those with substantial involvement in the trust company's corporate operations or in the trust company's trust business in this state.

Historical Note

Adopted effective September 1, 1977 (Supp. 77-3). R20-4-805 recodified from R4-4-805 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2). Amended by final rulemaking at 29 A.A.R. 1952 (September 1, 2023), effective October 8, 2023 (Supp. 23-3).

R20-4-806. Records

- A. Every trust company shall keep its records as originals or as copies of the originals made by reproduction methods that accurately and permanently preserve the records. A trust company may keep its records as electronic records if the trust company can generate all information and copies required by

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this Section within the timeframe set by the Department for examination or other purposes.

- B.** A trust department or trust company shall keep books, accounts, and records adequate to provide clear and readily understandable evidence of all business conducted by the trust department or trust company, including the following:
1. A file for each account that includes:
 - a. The governing instrument,
 - b. All contracts and other legal documents,
 - c. Copies of all correspondence,
 - d. Accounting records disclosing all the financial transactions, and
 - e. A listing of all the account's assets and liabilities.
 2. An investment file for each account that includes:
 - a. All original documentary evidence of the account's assets; or
 - b. Copies of the original documentary evidence of the account's assets, together with written evidence of custody or receipt of the originals by an authorized holder; and
 - c. A record of the initial and annual investment reviews for the account.
 3. The corporate general ledger kept current on a daily basis. This record shall identify and segregate all financial transactions conducted by the trust department or trust company for itself, distinguishing them from those relating to the trust department's or trust company's trust business;
 4. Unaudited financial statements. A trust department or trust company shall produce these statements quarterly or more frequently when required by the Director. The financial statements shall include at least:
 - a. A balance sheet; and
 - b. A statement of income, expenses, and retained earnings.
 5. Adequate records of all pending litigation that names the trust department or trust company as a party.
- C.** A trust department shall keep its fiduciary records separate and distinct from the trust department's corporate records.
- D.** A trust department or trust company shall keep records described in subsections (B)(1) and (2) for at least three years after closing an account. If litigation occurs concerning a particular account, the trust department or trust company shall keep that account's records, described in subsections (B)(1) and (2), for three years after the litigation is resolved.

Historical Note

Adopted effective September 1, 1977 (Supp. 77-3). R20-4-806 recodified from R4-4-806 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2). Amended by final rulemaking at 29 A.A.R. 1952 (September 1, 2023), effective October 8, 2023 (Supp. 23-3).

R20-4-807. Unsafe or Unsound Condition

For purposes of A.R.S. §§ 6-863 and 6-865, a trust company conducts business in an unsafe manner or its affairs are in an unsound condition if it:

1. Violates any fiduciary duty or obligation, including those listed in Sections R20-4-809 through R20-4-815;
2. Violates any state or federal requirement for operating or maintaining trusts, common trust funds, or other accounts;

3. Violates any applicable federal or state law or regulation regarding corporations or securities;
4. Employs an officer or director who violates a corporate fiduciary duty;
5. Is insolvent; or
6. Engages in any conduct that the Director determines constitutes an unsafe or unsound business practice jeopardizing the trust company's financial condition or the interests of a stockholder, creditor, trustor, beneficiary, or trust company's principal.

Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). R20-4-807 recodified from R4-4-807 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2). Amended by final rulemaking at 29 A.A.R. 1952 (September 1, 2023), effective October 8, 2023 (Supp. 23-3).

R20-4-808. Administration of Fiduciary Powers

- A.** The board of directors and the officers share responsibility for the exercise of fiduciary powers by a trust department or trust company. The board of directors is responsible for determining policy; investing and disposing of trust assets; and directing and reviewing the actions of all directors, officers, and committees of the board that exercise fiduciary powers. The board of directors may delegate the necessary power and authority to perform the trust department's or trust company's duties as a fiduciary to selected directors, officers, employees, or committees of the board if the delegation is consistent with the corporate charter. The minutes of the board's meetings shall duly reflect all those delegations.
- B.** A trust department or trust company shall not accept a new account without first obtaining the board's approval, or that of the directors, officers, or committees that the board may have authorized to approve new accounts. The trust department or trust company shall keep a written record of each new account approval and of the closing of each account. The trust department or trust company shall conduct an asset review within 60 days after it accepts each new account if it has investment responsibility for that account. The trust department's or trust company's board shall ensure that an annual review of account assets is conducted for each account in which the trust department or trust company has investment responsibility, to determine whether to retain or dispose of the assets.
- C.** A trust department or trust company exercising fiduciary powers shall use independent legal counsel admitted to practice in Arizona to advise and inform the trust department or trust company on fiduciary matters and all other legal issues presented to the trust department or trust company by the conduct of its trust business.

Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). R20-4-808 recodified from R4-4-808 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2). Amended by final rulemaking at 29 A.A.R. 1952 (September 1, 2023), effective October 8, 2023 (Supp. 23-3).

R20-4-809. Fiduciary Duties

A trust department or trust company shall perform all fiduciary duties imposed upon it by law, including the following:

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1. Administer accounts strictly according to the governing instrument and solely in the account beneficiary's interests;
2. Use reasonable care and skill to make the account productive;
3. Provide complete and accurate information about the nature and amount of assets held to each account's beneficiary or principal and permit the beneficiary, principal, or any person duly authorized by the beneficiary or principal to inspect the account's records at any time during normal business hours. The information provided in compliance with this subsection shall be delivered at least quarterly, unless:
 - a. The trust department or trust company and its account's beneficiary, principal, or authorized person agree otherwise in writing;
 - b. The governing instrument provides otherwise; or
 - c. A different frequency is established by a lawful course of dealing before the effective date of this Section; and
4. Comply with all lawful provisions of the governing instrument.

Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). R20-4-809 recodified from R4-4-809 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2). Amended by final rulemaking at 29 A.A.R. 1952 (September 1, 2023), effective October 8, 2023 (Supp. 23-3).

R20-4-810. Funds Awaiting Investment or Distribution

- A. Trust funds held by a trust department or trust company awaiting investment or distribution shall not remain uninvested or undistributed any longer than is reasonable for the account's proper management.
- B. A trust department or trust company may keep trust funds in deposit accounts maintained by the trust department or trust company unless prohibited by law or by the governing instrument. The trust department or trust company shall set aside collateral security for all deposited trust funds under a third party's control. The collateral shall be the following types of securities, in any combination:
 1. Direct obligations of the United States or any agency, department, division, or administration of the federal government;
 2. Any other obligations fully guaranteed by the United States government as to principal and interest;
 3. Obligations of a Federal Reserve Bank;
 4. Obligations of any state, political subdivision of a state, or public authority organized under the laws of a state; or
 5. Readily marketable securities that either:
 - a. Qualify as investment securities under the Investment Securities regulations of the Comptroller of the Currency, 12 CFR, Chapter 1, Part 1; or
 - b. Satisfy state pledging requirements under A.R.S. § 6-245(C).
- C. The securities set aside under subsection (B) shall, at all times, have a market value no less than the amount of trust funds deposited. No collateral security is required to the extent the Federal Deposit Insurance Corporation, or its successor, insures the deposited trust funds.

Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). R20-4-810 recodified from R4-4-810 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2). Amended by final rulemaking at 29 A.A.R. 1952 (September 1, 2023), effective October 8, 2023 (Supp. 23-3). Amended by final rulemaking at 29 A.A.R. 1952 (September 1, 2023), effective October 8, 2023 (Supp. 23-3).

R20-4-811. Investment of Trust Funds

- A. A trust department or trust company shall invest trust funds according to:
 1. The governing instrument; and
 2. All applicable laws, including A.R.S. §§ 6-862, 14-7402, and 14-7501 through 14-7512
- B. A trust department or trust company shall make any collective investment of trust funds exclusively under the terms of R20-4-815.

Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). R20-4-811 recodified from R4-4-811 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2). Amended by final rulemaking at 29 A.A.R. 1952 (September 1, 2023), effective October 8, 2023 (Supp. 23-3).

R20-4-812. Self-dealing

- A. A trust department or trust company shall not invest trust funds in the following types of property unless expressly authorized by the governing instrument, applicable state or federal law, or court order:
 1. Its own securities;
 2. Other types of property acquired from the trust department or trust company;
 3. Property acquired from the trust department's or trust company's directors, officers, or employees;
 4. Property acquired from the trust department's or trust company's affiliates;
 5. Property acquired from its affiliates' directors, officers, or employees; or
 6. Property acquired from other individuals or organizations with an interest in the trust department or trust company if that interest might affect the trust department's or trust company's exercise of discretion to the detriment of its trust clients.
- B. A trust department or trust company may use trust funds to purchase its own securities, or its affiliates' securities:
 1. If the trust department or trust company has authority under subsection (A), and
 2. If those securities are offered pro rata to all stockholders of the trust department or trust company.
- C. A trust department or trust company shall not sell or loan trust property to itself, or to the following types of persons, unless expressly authorized by the governing instrument, applicable state or federal law, or court order:
 1. Its directors, officers, or employees;
 2. Its affiliates;
 3. Its affiliates' directors, officers, or employees; or
 4. Other individuals or organizations with an interest in the trust department or trust company if that interest might affect the trust department's or trust company's exercise of discretion to the detriment of its trust clients.

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- D. However, a trust department or trust company may sell or loan trust property to persons prohibited by subsection (C) if either:
1. Its counsel has advised in writing that, by holding certain property, the trust department or trust company has incurred a contingent or potential liability for breach of fiduciary duty; and
 - a. The proposed sale or loan avoids the contingent or potential liability;
 - b. Its board of directors authorizes the sale or loan by an action duly noted in the trust department's or trust company's minutes;
 - c. Its board of directors' action expressly authorizes reimbursement to the affected account; and
 - d. The affected account is reimbursed, in cash, at no loss to that account; or
 2. The Director requires or approves, in writing, the sale or loan to otherwise prohibited parties.
- E. A trust department or trust company may sell trust property held in one account to another of its accounts if:
1. The transaction is fair to both accounts; and
 2. The transaction is not prohibited by the governing instruments, applicable state or federal law, or court order.
- F. A trust department or trust company may loan trust property held in one account to another of its accounts if:
1. The transaction is fair to both accounts; and
 2. The transaction is not prohibited by the governing instruments, applicable state or federal law, or court order.
- G. A trust department or trust company may make a loan to a trust account, taking trust assets of the borrowing account as security for repayment, if:
1. The transaction is fair to the borrowing account; and
 2. The transaction is not prohibited by the governing instrument, applicable state or federal law, or court order.

Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). R20-4-812 recodified from R4-4-812 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2). Amended by final rulemaking at 29 A.A.R. 1952 (September 1, 2023), effective October 8, 2023 (Supp. 23-3).

R20-4-813. Custody of Investments

- A. A trust department or trust company shall keep each account's investments separate from its own assets. A trust department or trust company shall place each account's assets in the joint control of at least two officers or employees of the trust department or trust company designated in writing for that purpose by:
1. The trust department's or trust company's board of directors, or
 2. One or more officers authorized by the trust department's or trust company's board of directors to make the designation.
- B. A trust department or trust company shall either:
1. Keep each account's investments separate from all other accounts' investments, except as provided in R20-4-815; or
 2. Adequately identify each account's property in the trust department's or trust company's records.

Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). R20-4-813 recodified from R4-4-813 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000

(Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2). Amended by final rulemaking at 29 A.A.R. 1952 (September 1, 2023), effective October 8, 2023 (Supp. 23-3).

R20-4-814. Compensation

- A. A trust department or trust company acting as a fiduciary may charge a reasonable fee for its services. The trust department or trust company shall receive the fee allowed by the court when it is acting under a court appointment. Any agreement as to fees in the governing instrument shall control the fee unless contrary to law, regulation, or court order.
- B. A trust department or trust company shall not permit any of its officers or employees to take any compensation for acting as a co-fiduciary with the trust department or trust company in the administration of an account.

Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). R20-4-814 recodified from R4-4-814 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2). Amended by final rulemaking at 29 A.A.R. 1952 (September 1, 2023), effective October 8, 2023 (Supp. 23-3).

R20-4-815. Collective Investments

- A. All collective investments made by a trust department or trust company shall be in a common trust fund established under A.R.S. § 6-871 and maintained by the trust department or trust company exclusively for the collective investment and reinvestment of funds contributed by the trust department or trust company acting as a fiduciary. A trust department or trust company shall not establish a common trust fund unless it first:
1. Prepares a written plan regarding the common trust fund; and
 2. Obtains its board of directors' approval of the plan, evidenced by a duly adopted resolution or the board's unanimous written consent.
- B. The plan shall describe the common trust fund's operational details, including a description of:
1. The trust department's or trust company's investment powers and investment policy over all funds deposited in the common trust fund,
 2. The manner for allocating the common trust fund's income and losses,
 3. The criteria for admission to or withdrawal from participating in the common trust fund, and
 4. The method for valuing assets in the common trust fund and the frequency of valuation.
- C. A trust department or trust company shall advise all persons having an interest in its common trust fund of the existence of the plan described in subsection (B), and shall provide a copy of the plan upon request.
- D. The annual report required under R20-4-805(A) shall include all common trust funds operated by the trust department or trust company.

Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). R20-4-815 recodified from R4-4-815 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2). Amended by

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final rulemaking at 29 A.A.R. 1952 (September 1, 2023),
effective October 8, 2023 (Supp. 23-3).

R20-4-816. Termination of Trust or Fiduciary Powers and Duties

- A. Any trust department that wants to surrender its trust powers shall file with the Director a certified copy of the appropriate resolution of its board of directors or of the board's unanimous written consent. If, after investigation, the Director concludes that the trust department has no remaining fiduciary duties, the Director shall notify the trust department that it no longer has authority to exercise trust powers.
- B. Any trust company that wants to surrender its certificate of authority to conduct trust business and wind up its affairs shall file with the Director a certified copy of the appropriate resolution of its board of directors or of the board's unanimous written consent. Upon receipt of the resolution or consent, the Director shall cancel the trust company's certificate of authority, and the trust company shall not accept new trust accounts.
- C. After winding up its affairs, any trust company that wants to surrender its rights and obligations as a fiduciary and remove itself from the Director's supervision shall file with the Director a certified copy of the appropriate resolution of its board of directors or of the board's unanimous written consent. If, after investigation, the Director concludes that the trust company has no further fiduciary duties, the Director shall notify the trust company that it no longer has authority to exercise fiduciary powers.
- D. Any trust department or trust company that surrenders its powers, rights, obligations, or certificate under this Section or that has them canceled, suspended, or revoked shall continue to be regulated under A.R.S. § 6-864 and this Article until it winds up its affairs. No action under this Section impairs any liability or cause of action, existing or incurred, against any trust department or trust company or its stockholders, directors, or officers.

Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). R20-4-816 recodified from R4-4-816 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2). Amended by final rulemaking at 29 A.A.R. 1952 (September 1, 2023), effective October 8, 2023 (Supp. 23-3).

Appendix A. Repealed**Historical Note**

Appendix A repealed by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2).

Appendix B. Repealed**Historical Note**

Appendix B repealed by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2).

ARTICLE 9. MORTGAGE BROKERS**R20-4-901. Reserved****Historical Note**

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-901 recodified from R4-4-901 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-902. Reserved**Historical Note**

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-902 recodified from R4-4-902 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-903. Exemption for an Entity Regulated by an Agency of this State, Other States, or by the United States

- A. The exemption under A.R.S. § 6-902 (A)(1) only applies to a person whose offers to make or negotiate a mortgage loan, as defined in A.R.S. § 6-901, and all mortgage loans made or negotiated by the person are regulated directly by an agency of this state, any other state, or the United States.
- B. The required regulation of the transactions listed in subsection (A) includes:
1. Rules governing a claimant's accounting and recordkeeping practices;
 2. The authority to examine a claimant's books and records relating to its mortgage lending activities; and
 3. The ability to place a claimant in a receivership or conservatorship with regard to the claimant's mortgage lending activities.

Historical Note

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-903 recodified from R4-4-903 (Supp. 95-1). Amended by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-904. Reserved**Historical Note**

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-904 recodified from R4-4-904 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-905. Repealed**Historical Note**

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-905 recodified from R4-4-905 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-906. Equivalent and Related Experience

- A. An applicant may satisfy the three years' experience requirement of A.R.S. § 6-903 by the types of lending-related experience listed in this subsection. The Department counts each month in the following types of work experience toward the three years required for a mortgage broker license, under A.R.S. § 6-903(B), or as a responsible individual, under A.R.S. § 6-903(E). The Department counts a fractional month of experience, at least 15 days long, as a full month.
1. Mortgage broker with an Arizona license, responsible individual, or branch manager for a licensee;
 2. Mortgage banker with an Arizona license, responsible individual, or branch manager for a licensee;
 3. Loan officer with responsibility primarily for loans secured by lien interests on real property;
 4. Lender's branch manager with responsibility primarily for loans secured by lien interests on real property;
 5. Mortgage broker with license from another state, or responsible individual for a mortgage broker licensed in another state;

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6. Mortgage banker with license from another state, or responsible individual for a mortgage banker licensed in another state;
7. Attorney certified by any state as a real estate specialist.
- B.** An applicant with insufficient actual experience of the types listed in subsection (A) may satisfy the remainder of the three years' experience requirement of A.R.S. § 6-903 by the types of related experience listed in this subsection. The Department counts each month in the following types of work experience according to the ratio listed below, of actual experience to equivalent experience, credited towards qualifying for a license, under A.R.S. § 6-903(B), or as a responsible individual, under A.R.S. § 6-903(E). The Department counts a fractional month of experience, at least 15 days long, as a full month. An applicant receives credit in only one area listed and for not more than three years' actual experience. The remaining years of experience required to qualify for a license shall be obtained from types of work experiences listed in subsection (A).
1. Attorney without state bar certified real estate specialty...3:2
 2. Paralegal with experience in real estate matters...3:2
 3. Loan underwriter...3:2
 4. Mortgage broker or mortgage banker from another state without license...3:2
 5. Real estate broker with an Arizona license or license from a state with substantially equivalent licensing requirements...3:2
 6. Escrow officer...3:2
 7. Trust officer with a title company...3:2
 8. Executive, supervisor, or policy maker involved in administering or operating a mortgage-related business...3:1.5
 9. Title officer with a title company...3:1.5
 10. Real estate broker, not qualified under subsection (B)(5)...3:1.5
 11. Loan processor with responsibility primarily for loans secured by lien interests on real property...3:1.5
 12. Lender's branch manager with responsibility primarily for loans not secured by lien interests on real property...3:1.5
 13. Real property salesperson with an Arizona license or a license from a state with substantially equivalent licensing requirements...3:1
 14. Loan officer, with responsibility primarily for loans not secured by lien interests on real property...3:1
- Historical Note**
Adopted effective August 14, 1991 (Supp. 91-3). R20-4-906 recodified from R4-4-906 (Supp. 95-1). Amended by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).
- R20-4-907. Course of Study**
- A.** A course of study shall be satisfactorily completed if the applicant has:
1. Attended at least 24 hours of class, and
 2. Received a passing grade on the final exam.
- B.** A course of study shall meet all the following requirements:
1. The following items shall be submitted by the school to the Superintendent on an annual basis:
 - a. Course materials;
 - b. Class content outlines on a session-by-session basis; and
 - c. Sample final exam.
 2. The following subjects shall be taught:
 - a. Mortgage, deed of trust, and security agreement law;
 - b. Negotiable instrument law;
 - c. Mortgage broker law;
 - d. Escrow agent law;
 - e. Recordkeeping requirements of R20-4-917;
 - f. Federal Housing Administration, Veterans Administration, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation requirements;
 - g. Ethics;
 - h. Principal and agent law;
 - i. Arithmetical computations common to mortgage brokerage;
 - j. Real estate lending principles;
 - k. Real estate law;
 - l. Real Estate Settlement Procedures Act, 12 U.S.C. 2601 through 2617, and Consumer Credit Protection Act, 15 U.S.C. 1601 through 1666j; and
 - m. Securities law.
 3. A final exam shall be given that substantially tests the student's knowledge of the subjects described above.
- C.** The Superintendent shall review the items submitted to the Department and determine within 60 days of submission whether the proposed course of study is satisfactory. The Superintendent may audit a course of study at any time. If the Superintendent finds that a course of study is unsatisfactory, or if the Superintendent has not received the course materials, course content outlines, and sample final exam within the prior 13 months, the Superintendent may withhold or suspend approval.
- Historical Note**
Adopted effective August 14, 1991 (Supp. 91-3). R20-4-907 recodified from R4-4-907 (Supp. 95-1).
- R20-4-908. Reserved**
- Historical Note**
Adopted effective August 14, 1991 (Supp. 91-3). R20-4-908 recodified from R4-4-908 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).
- R20-4-909. Reserved**
- Historical Note**
Adopted effective August 14, 1991 (Supp. 91-3). R20-4-909 recodified from R4-4-909 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).
- R20-4-910. Reserved**
- Historical Note**
Adopted effective August 14, 1991 (Supp. 91-3). R20-4-910 recodified from R4-4-910 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).
- R20-4-911. Qualified Replacement Responsible Individual**
If a licensee chooses an individual to serve as a replacement responsible individual and that individual has not satisfactorily completed

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the course of study required by A.R.S. § 6-903(B)(2) or passed the mortgage broker examination required by A.R.S. § 6-903(B)(3), and is not given the opportunity to do so prior to the expiration of the 90-day time period provided in A.R.S. § 6-903(F), but otherwise meets the requirements of A.R.S. § 6-903(B), the individual shall be qualified as a replacement responsible individual until the next course of study has been held and, if the person successfully completes the course of study, until the mortgage broker examination next following the completion of the course of study has been held and the results of the examination are available. If the individual fails to satisfactorily complete the course of study or fails the mortgage broker examination, the licensee shall then have a new 90-day time period within which to place itself under the active management of a qualified responsible individual. Notwithstanding the foregoing, a licensee shall have no longer than 180 days within which to place the license under the active management of a qualified responsible individual unless the Superintendent grants additional time to the licensee for good cause shown.

Historical Note

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-911 recodified from R4-4-911 (Supp. 95-1).

R20-4-912. Restrictions on the Term of a Cash Alternative

If an applicant or a licensee elects to place with the Superintendent a deposit in the form of a certificate of deposit or investment certificate, in addition to the requirements of A.R.S. § 6-903(J), the certificate of deposit or investment certificate shall not be renewable, nor expire, earlier than 12 months from the date of issuance.

Historical Note

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-912 recodified from R4-4-912 (Supp. 95-1).

R20-4-913. Reserved**Historical Note**

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-913 recodified from R4-4-913 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-914. Reserved**Historical Note**

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-914 recodified from R4-4-914 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-915. Requirements for a Person Intended to Oversee a Branch Office

A person designated to oversee the operations of a branch office shall be knowledgeable about the branch activities of the licensee, shall supervise compliance by the branch with applicable law and rules, and shall have sufficient authority to ensure such compliance. One person may oversee more than one branch.

Historical Note

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-915 recodified from R4-4-915 (Supp. 95-1).

R20-4-916. Notification of Change of Address

If the address of the principal place of business or of any branch office is changed, the licensee shall notify the Superintendent of the change within five business days after the occurrence of the change of location. Together with such notice, the licensee shall provide to the Department the license for the office changing addresses

together with the fee required by A.R.S. § 6-126 for changing the address of an office. A copy of such license shall continue to be displayed at the place of business until a new license is issued.

Historical Note

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-916 recodified from R4-4-916 (Supp. 95-1).

R20-4-917. Recordkeeping Requirements

- A. The Superintendent shall approve a licensee's use of a computer or mechanical recordkeeping system if the licensee gives the Superintendent advanced written notice that it intends to do so. The Department shall not require a licensee to keep a written copy of the records if the licensee can generate all information required by this Section in a timely manner for examination or other purposes. A licensee may add, delete, modify, or customize an approved computer or mechanical recordkeeping system's hardware or software components. When requested, or in response to a written notice of an examination, a licensee shall report to the Superintendent any alteration in the approved system's fundamental character, medium, or function if the alteration changes:
 1. Any approved computer or mechanical system back to a paper-based system;
 2. An approved mechanical system to a computer system; or
 3. An approved computer system to a mechanical system.
- B. In addition to any statutory requirement regarding records, a record maintained by a mortgage broker shall include the following:
 1. A list of all executed loan applications or executed fee agreements that includes the following information:
 - a. Applicant's name;
 - b. Application date;
 - c. Amount of initial loan request;
 - d. Final disposition date;
 - e. Disposition (funded, denied, etc.); and
 - f. Name of loan officer;
 2. A record, such as a cash receipts journal, of all money received in connection with a mortgage loan including:
 - a. Payor's name;
 - b. Date received;
 - c. Amount; and
 - d. Receipt's purpose, including identification of a related loan, if any;
 3. A sequential listing of checks written for each bank account relating to the mortgage broker business, such as a cash disbursement journal, including:
 - a. Payee's name;
 - b. Amount;
 - c. Date; and
 - d. Payment's purpose, including identification of a related loan, if any;
 4. Bank account activity source documents for the mortgage broker business including receipted deposit tickets, numbered receipts for cash, bank account statements, paid checks, and bank advices.
 5. A trust subsidiary ledger for each borrower that deposits trust funds showing:
 - a. Borrower's name or co-borrowers' names;
 - b. Loan number, if any;
 - c. Amount received;
 - d. Purpose for the amount received;
 - e. Date received;
 - f. Date deposited into trust account;
 - g. Amount disbursed;

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- h. Date disbursed;
- i. Disbursement's payee and purpose; and
- j. Balance;
- 6. A file for each application for a mortgage loan containing:
 - a. The agreement with the customer concerning the broker's services, whether as a loan application, fee agreement, or both;
 - b. Document showing the application's final disposition, such as a settlement statement, or a denial or withdrawal letter;
 - c. Correspondence sent, received, or both by the licensee;
 - d. Contract, agreement, and escrow instructions to or with any depository;
 - e. Documents showing compliance with the Consumer Credit Protection Act's (15 U.S.C. §§ 1601 through 1666j) and the Real Estate Settlement Procedures Act's (12 U.S.C. §§ 2601 through 2617) disclosure requirements, to the extent applicable;
 - f. If the loan is funded by an investor that is not a financial institution, an enterprise, a licensed real estate broker or salesman, a profit sharing or pension trust or, an insurance company, the documents provided to the investor under A.R.S. § 6-907, a copy of the executed note and executed deed of trust or mortgage, and any assignment by the broker to the investor;
 - g. If the loan is closed in the mortgage broker's name, a copy of all closing documents including: closing instructions, any applicable rescission notice, HUD-1 settlement statement, final truth-in-lending disclosure, executed note, executed deed of trust or mortgage, and each assignment of beneficial interest by the licensee; and
 - h. Itemized list of all fees taken in advance including appraisal fee, credit report fee, and application fee;
- 7. Samples of every piece of advertising relating to the mortgage broker's business in Arizona;
- 8. Copies of governmental or regulatory compliance reviews;
- 9. If the licensee is not a natural person, a file containing:
 - a. Organizational documents for the entity;
 - b. Minutes;
 - c. A record, such as a stock or ownership transfer ledger, showing ownership of all proportional equity interests in the licensee, ascertainable as of any given record date; and
 - d. Annual report, if required by law;
- 10. If the licensee or anyone directly or indirectly owning more than 20% of the licensee has a felony conviction, a copy of the judgment or other record of conviction;
- 11. If the licensee or anyone directly or indirectly owning more than 20% of the licensee has, in the previous seven years, been named a defendant in any civil suit, a copy of the complaint, any answer filed by the licensee, and any judgment, dismissal, or other final order disposing of the action; and
- 12. If the Superintendent has granted approval to maintain records outside this state, the specific address where the records are kept, and a person's name to contact for them.
- C. If 10 or fewer transactions have occurred during the prior calendar quarter, a licensee shall reconcile and update all records specified in subsection (B) at least once each calendar quarter.

A licensee shall reconcile and update all records specified in subsection (B) monthly if more than 10 transactions occurred during the prior calendar quarter. In addition to reconciling each trust bank account, a licensee shall verify each trust balance to each trust subsidiary ledger at each reconciliation.

- D. A licensee shall retain the documents described in subsections (B)(1) and (B)(6) for the length of time provided in A.R.S. § 6-906. For the purposes of A.R.S. § 6-906, a mortgage loan's closing date, on a loan application that did not result in the making of a loan, is either:
 - 1. The date a licensee receives a written cancellation notice from an applicant; or
 - 2. The date a licensee mails written notice to an applicant that the application has been denied, as required by federal law.
- E. A licensee shall maintain all records described in this Section, and not included in subsection (D), for at least two years.

Historical Note

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-917 recodified from R4-4-917 (Supp. 95-1). Amended by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-918. Repealed**Historical Note**

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-918 recodified from R4-4-918 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-919. Deposit of Monies Received by a Mortgage Broker

All monies received by a mortgage broker which are required to be deposited into an escrow account with an escrow agent licensed pursuant to A.R.S. § 6-801 et seq. shall be so deposited by 5:00 p.m. on the next business day after receipt of the funds.

Historical Note

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-919 recodified from R4-4-919 (Supp. 95-1).

R20-4-920. Requirements for the Testing Committee

- A. No licensee shall submit more than five names as nominees to serve on the testing committee. The resumes of the nominees shall be included. The names and resumes shall be submitted to the Superintendent no later than August 1 of each even-numbered year. On or before September 30 of each even-numbered year, the Superintendent shall appoint four persons from the nominees submitted and one employee of the Department as members of the testing committee. A person may serve more than one two-year term. If the Superintendent does not find at least four persons from the list to be acceptable, the Superintendent shall solicit additional nominees from licensees.
- B. In the event of a vacancy on the testing committee, the remaining members of the committee shall submit a list of nominees within 45 days of the vacancy to the Superintendent containing not less than two nominees for each vacancy. The Superintendent shall then appoint a nominee from the list to fill each vacancy for the remainder of the term. If the Superintendent does not find at least one person from the list to be acceptable to fill each vacancy, the remaining members of the committee shall, upon request, submit an additional list of nominees to the Superintendent.

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- C. The Superintendent may remove any member of the committee at any time without cause.
- D. The committee shall review and revise questions on the test not less than once every two years. All questions used on the test shall first be submitted to and approved by the Superintendent.
- E. The committee shall inform the applicant of the applicant's score on the test in writing within 30 days of administration of the test.
- F. The handbook for mortgage brokers shall be updated by the committee as necessary to reflect changes in the law.

Historical Note

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-920 recodified from R4-4-920 (Supp. 95-1).

R20-4-921. Authorizations to Complete Blank Spaces

An authorization, under A.R.S. § 6-909, allowing a licensee or escrow agent to complete certain blank spaces in a document after it is signed by a party to the transaction shall:

1. Specifically identify the document and the blank spaces to be completed;
2. Be in writing, dated, and signed by the authorizing parties; and
3. Contain the following notice, conspicuously printed on its face: YOUR SIGNATURE BELOW AUTHORIZES YOUR MORTGAGE BROKER OR ESCROW AGENT TO FILL IN SPACES YOU LEFT BLANK IN SPECIFIED LOAN DOCUMENTS YOU ARE ABOUT TO SIGN OR MAY HAVE ALREADY SIGNED. UNDER STATE LAW YOU CAN GIVE THIS AUTHORITY, BUT YOU ARE NOT REQUIRED TO DO SO. YOU CAN REFUSE TO SIGN ANY DOCUMENTS UNTIL ALL BLANKS ARE COMPLETELY FILLED IN.

Historical Note

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-921 recodified from R4-4-921 (Supp. 95-1). Amended by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-922. Determining Loan Amounts

In determining the amount of a mortgage loan pursuant to A.R.S. § 6-909(D) or (G), only the principal amount of the loan shall be considered and not any points, interest, finance charges, insurance premiums of any kind, compensation paid to third parties or compensation retained by the mortgage broker or its agents.

Historical Note

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-922 recodified from R4-4-922 (Supp. 95-1).

R20-4-923. Delay or Cause Delay

A mortgage broker shall not be deemed to have delayed or caused delay if such delay occurs due to events outside the control of the mortgage broker.

Historical Note

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-923 recodified from R4-4-923 (Supp. 95-1).

R20-4-924. Receipt and Disbursement of Monies

A licensee is not receiving or disbursing monies in servicing or arranging a mortgage loan if the licensee, at the request of the lender or servicing agent, on an infrequent basis, assists in the collection or servicing of a mortgage loan by receiving from the borrower a check or draft payable to the lender or servicing agent and forwarding such instrument to the lender or servicing agent not later

than 5:00 p.m. on the next business day after receipt by the licensee. For the purposes of this rule, an infrequent basis means, with regard to a particular loan, for not more than 25% of the regularly scheduled payments of the mortgage loan during any calendar year.

Historical Note

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-924 recodified from R4-4-924 (Supp. 95-1).

R20-4-925. Waiver of Examination and Course of Study

The Superintendent's waiver of the examination and course of study requirement under A.R.S. § 6-903 extends to a person designated as a responsible individual by either an applicant or a licensee under A.R.S. § 6-903.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-926. Acquisition of Additional Interest in Licensee by Majority Owner

A person that owns 51% or more of a licensee's outstanding voting equity interests, and that acquires the power to vote additional fractional equity interests, shall deliver written notice of the acquisition to the Superintendent. The person shall deliver the notice before completing the acquisition. Within 10 days after completing the acquisition, the person shall deliver documentation evidencing the acquisition to the Superintendent.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-927. Conversion to Commercial Mortgage Broker License

- A. Under A.R.S. § 6-913, a mortgage broker licensee shall only be permitted to convert his or her license to a commercial mortgage broker license during the renewal period established by A.R.S. § 6-904.
- B. The licensee seeking conversion shall not be subject to the 12 continuing education units as prescribed by A.R.S. § 6-903(V).
- C. The licensee seeking conversion shall submit:
 1. The renewal fees required by A.R.S. § 6-126 for commercial mortgage brokers, and
 2. The information and documents required by A.R.S. § 6-903.

Historical Note

New Section adopted by final rulemaking at 18 A.A.R. 2622, effective December 2, 2012 (Supp. 12-4).

R20-4-928. Certificate of Exemption Application and Renewal

- A. Under A.R.S. § 6-912(C), upon application for a certificate of exemption, an applicant shall pay a nonrefundable fee of \$300.
- B. A person holding a certificate of exemption shall pay a renewal fee of \$150.00 on or before December 31 of each year. Certificates of exemption not renewed by December 31 are automatically suspended, and the certificate holder shall not act as a registered exempt person until the certificate is renewed or a new certificate is issued pursuant to A.R.S. § 6-912. While the certificate is suspended, the licensed loan originators sponsored by the registered exempt person may not transact business as a loan originator. A registered exempt person may renew an automatically suspended certificate by paying the renewal fee plus \$25.00 for each day after December 31 that a renewal fee is not received by the Superintendent and

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applying for renewal as prescribed by the Superintendent. A certificate of exemption that is not renewed by January 31 expires. A certificate of exemption shall not be granted to the holder of an expired certificate of exemption except as provided in A.R.S. § 6-912 for the issuance of an original certificate of exemption. Each licensed loan originator that is sponsored by a registered exempt person whose certificate has expired shall have his or her license placed on inactive status and shall not transact business in Arizona as a loan originator pursuant to A.R.S. § 6-991.02(M).

- C. In addition to the application fee, on issuance of the certificate of exemption, the Superintendent shall collect the first year's renewal fee prorated according to the number of quarters remaining until the date of the next annual renewal, as required by A.R.S. § 6-126(B).
- D. The following fees are payable to the Department:
 1. To change the name of the federally chartered savings bank on a certificate of exemption: \$250.00.
 2. To change the responsible individual for the exempt entity: \$250.00.
 3. To issue a duplicate or replace a lost certificate of exemption: \$100.00.
 4. To change the address of the federally chartered savings bank on a certificate of exemption: \$50.00.

Historical Note

New Section adopted by final rulemaking at 18 A.A.R. 2622, effective December 2, 2012 (Supp. 12-4).

ARTICLE 10. SAFE DEPOSIT AND SAFEKEEPING CODE**R20-4-1001. Notice of Change of Location of Safe Deposit Repository**

- A. A corporation or association that moves a repository shall give written notice of the location change to the Director and to its customers.
 1. A corporation or association shall provide notice of the location change to the Director by mailing the notice required under this subsection by first class mail no less than 30 days before the scheduled moving date. The corporation or association shall include a copy of the notice to customers required under subsection (B).
 2. A corporation or association shall provide notice of the location change to its customers by:
 - a. Publishing notice of the change of location in:
 - i. An English language newspaper of general circulation in the county where the repository will be closed,
 - ii. In a weekly newspaper for two consecutive publications, or
 - iii. In a daily newspaper for three consecutive days; and
 - b. Publishing the notice no more than 90 days, and no less than 30 days, before the scheduled moving date.
- B. The corporation or association shall include all the following information in the notice:
 1. The date the corporation or association intends to move the repository,
 2. The earliest date a customer can remove contents and transact other business related to the move,
 3. The latest date a customer can remove contents and transact other business related to the move,
 4. The street address of the repository to be closed, and
 5. The street address of the new repository.

Historical Note

Former Rule 1. R20-4-1001 recodified from R4-4-1001 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 5227, effective February 4, 2003 (Supp. 02-4). Preceding Historical Note entry corrected to read 2003 instead of 2002 (Supp. 03-1). Amended by final rulemaking at 29 A.A.R. 1937 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

ARTICLE 11. PUBLIC DEPOSITORIES FOR PUBLIC MONIES**R20-4-1101. Capital Structure of Banks; Defined**

"Capital structure" as the term is applied to banks under Article 2.1, Chapter 2, Title 35, Arizona Revised Statutes, means the sum of the following reserves and capital accounts of the institution as stated in the institution's report of condition required by the supervisory banking authority for the year end next preceding the institution's bid for deposit:

1. Reserve for bad debt losses on loans,
2. Other reserves on loans,
3. Reserves on securities,
4. Capital notes and debentures,
5. Preferred stock – total par value,
6. Common stock – total par value,
7. Surplus,
8. Undivided profits, and
9. Reserve for contingencies and other capital reserves.

Historical Note

Adopted as an emergency effective July 29, 1975 (Supp. 75-1). Amended effective December 26, 1975 (Supp. 75-2). R20-4-1101 recodified from R4-4-1101 (Supp. 95-1). Amended by final rulemaking at 29 A.A.R. 1937 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1102. Expired**Historical Note**

Adopted as an emergency effective July 29, 1975 (Supp. 75-1). Amended effective December 26, 1975 (Supp. 75-2). R20-4-1102 recodified from R4-4-1102 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 26 A.A.R. 382, effective February 5, 2020 (Supp. 20-1).

ARTICLE 12. RULES OF PRACTICE AND PROCEDURE BEFORE THE DIRECTOR**R20-4-1201. Scope of Article; Definitions**

- A. Scope. This Article, Title 6, Title 32, Chapters 9 and 36, and Title 44, Chapter 2.1 of the Arizona Revised Statutes govern administrative hearings before the Department. The Department shall use the authority of A.R.S. Title 41, Chapter 6, Article 10, the Office of Administrative Hearings' procedural rules and this Article to govern the initiation and conduct of administrative hearings. In an administrative hearing, special procedural requirements in state statute or another Section in this Article shall also govern the proceedings unless the requirements are inconsistent with either A.R.S. Title 41, Chapter 6, Article 10, the Office of Administrative Hearings' rules, or this Article. Except as otherwise provided in Section R20-4-1220 for rulemaking petitions, this Article does not apply to rulemaking or to investigative proceedings before the Director. Unless expressly applicable by rule or statute, the Arizona Rules of Civil Procedure do not apply to administrative hearings.

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- B.** In addition to the definitions provided in A.R.S. §§ 41-1001 and 41-1092, the following terms apply to this Article:

“Administrative Hearing” means an appealable agency action as defined by A.R.S. § 41-1092(3) or a contested case as defined by A.R.S. § 41-1001(5) subject to A.R.S. Title 41, Chapter 6, Article 10.

“Attorney General” means the Attorney General of Arizona, and the Attorney General’s assistants and special agents.

“Department” means the Arizona Department of Insurance and Financial Institutions – Financial Institutions Division.

“Director” has the meaning stated at A.R.S. § 20-102.

“Party” has the meaning prescribed at A.R.S. § 41-1001(16) and includes any person or entity subject to the jurisdiction of the Department under A.R.S. Title 6, Title 32 - Chapter 9, Title 32 - Chapter 36, and Title 44 - Chapter 2.1.

Historical Note

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1201 recodified from R4-4-1201 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3). Amended by final rulemaking at 28 A.A.R. 3620 (November 25, 2022), effective January 1, 2023 (Supp. 22-4).

R20-4-1202. Appearance and Practice before the Director for Administrative Hearings

- A.** A party may appear on their own behalf or through counsel.
- B.** When an attorney other than the Attorney General appears or intends to appear before the Director or the Department, they shall promptly disclose their name and contact information and the name and contact information of the party on whose behalf they intend to appear.

Historical Note

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1202 recodified from R4-4-1202 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 28 A.A.R. 3620 (November 25, 2022), effective January 1, 2023 (Supp. 22-4).

R20-4-1203. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1203 recodified from R4-4-1203 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1204. Filing; Service

- A.** A document filed by a party with the Department is filed on the date it is received by the Department as established by the Department’s earliest stamped date on the face of the document or by some other method of affixing a received date by the Department.
- B.** If a party is represented by an attorney, service is effectuated by service upon the attorney unless additional service upon the represented party is required by an administrative law judge or the Department.
- C.** A document is served upon a party as provided for under A.R.S. § 41-1092.04 and Section R2-19-108. A party effectuating service is responsible for producing proof of service if requested by the Department.

Historical Note

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1204 recodified from R4-4-1204 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3). Amended to correct a typographical error in subsection (B) (Supp. 01-4). Amended by final rulemaking at 28 A.A.R. 3620 (November 25, 2022), effective January 1, 2023 (Supp. 22-4).

R20-4-1205. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1205 recodified from R4-4-1205 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1206. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1206 recodified from R4-4-1206 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1207. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1207 recodified from R4-4-1207 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1208. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1208 recodified from R4-4-1208 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3). Repealed by final rulemaking at 28 A.A.R. 3620 (November 25, 2022), effective January 1, 2023 (Supp. 22-4).

R20-4-1209. Answer to Notice of an Administrative Hearing

- A.** The Department may, in a notice of hearing, direct one or more parties to file a written answer to the allegations contained in the notice of hearing. Even if not directed to do so, any party to the proceeding may file an answer.
- B.** A party directed to file an answer shall do so within 20 days after issuance of a notice of hearing, unless the notice of hearing states a different period for the answer. The Department may require any party to answer, in a reasonable time, amendments to the assertions in the notice made after service of the original notice.
- C.** An answer filed under this Section shall briefly state the party’s position or defense to the proceeding and shall specifically admit or deny each of the allegations in the notice of hearing. An answering party who does not have, or cannot easily obtain, knowledge or information sufficient to admit or deny an allegation shall state that inability which shall have the effect of a denial. Any allegation not denied is admitted. A party who intends to deny only a part of an allegation, shall expressly admit as much of that allegation as is true and shall deny the remainder.
- D.** A party who fails to file an answer required by this Section within the time allowed is in default. The Director may resolve

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the proceeding against a defaulting party. In doing so, the Director may regard any allegations in the notice of hearing as admitted by the defaulting party.

- E. Defenses not raised in the answer are waived.

Historical Note

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1209 recodified from R4-4-1209 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3). Amended by final rulemaking at 28 A.A.R. 3620 (November 25, 2022), effective January 1, 2023 (Supp. 22-4).

R20-4-1210. Stay Pending a Hearing

A person aggrieved by the Department's action or order who files a timely written request for a hearing may ask, in the request for a hearing, that the Director stay an action or any part of an order that will become effective before a hearing. The Director may, in the Director's discretion, stay the legal effectiveness of any action or order until the matter can be heard and finally decided if the aggrieved person's request demonstrates that:

1. The person has a reasonable defense that might prevail on the merits at the hearing,
2. The person will suffer irreparable injury unless the Director grants the stay,
3. The stay would not substantially or irreparably harm other interested persons, and
4. The stay would not jeopardize the public interest or contravene public policy.

Historical Note

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1210 recodified from R4-4-1210 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3). Amended by final rulemaking at 28 A.A.R. 3620 (November 25, 2022), effective January 1, 2023 (Supp. 22-4).

R20-4-1211. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1211 recodified from R4-4-1211 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3). Repealed by final rulemaking at 28 A.A.R. 3620 (November 25, 2022), effective January 1, 2023 (Supp. 22-4).

R20-4-1212. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1212 recodified from R4-4-1212 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1213. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1213 recodified from R4-4-1213 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1214. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1214 recodified from R4-4-1214 (Supp. 95-1). Section

repealed by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1215. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1215 recodified from R4-4-1215 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1216. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1216 recodified from R4-4-1216 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1217. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1217 recodified from R4-4-1217 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1218. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1218 recodified from R4-4-1218 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1219. Request for Rehearing or Review

- A. Any party aggrieved by an administrative decision may file with the Director within time limits and other procedural guidelines contained in A.R.S. § 41-1092.09, a written motion for rehearing or review of the decision specifying the particular reason for the request.
- B. A party filing a motion under this Section may amend the motion at any time before a response to the motion is filed. An amended motion tolls the time for filing a response and the time for rendering a decision on the motion.
- C. A request for rehearing or review which is not timely filed is deemed waived for the purpose of judicial review.
- D. A motion for rehearing or review shall specify which of the grounds listed in subsection (G) it is based upon and shall set forth the specific facts and laws in support of the motion. A motion may cite relevant portions of testimony from the hearing if a transcript is provided with the motion and may cite hearing exhibits by reference to the exhibit number. The motion shall specify the relief sought by the request, such as a different finding of fact, conclusion of law or order and may seek multiple forms of relief in the alternative. When a motion for rehearing or review is based on an affidavit, the moving party shall attach the affidavit to the motion.
- E. A party may file a separate request for a stay of the Director's decision. Filing a stay request or a motion for rehearing or review does not stay an order filed by the Director. The Director may stay an order pending the resolution of a motion for rehearing or review.
- F. Each party served with a motion for rehearing or review shall be permitted to file a written response within 15 days after the motion has been filed. Affidavits may be attached to and filed with a response. A response may cite relevant portions of testimony from the hearing if a transcript is provided with the

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response and may cite hearing exhibits by reference to the exhibit number. The Director has the discretion to hear oral argument to consider a request for rehearing or review.

- G.** The Director may grant a motion for rehearing or review for any of the following causes:
1. Irregularity in the proceedings before the Department, in any order, or any abuse of discretion that deprives the moving party of a fair hearing;
 2. Misconduct by the Department, the administrative law judge, or the prevailing party;
 3. Accident or surprise that could not have been prevented by ordinary care;
 4. Newly discovered material evidence that could not reasonably have been discovered and produced at the original hearing;
 5. Excessive or insufficient penalties;
 6. Error in admitting or rejecting evidence or other legal errors occurring at the hearing; and
 7. The decision is not justified by the evidence or is contrary to law.
- H.** The Director may affirm or modify the decision or grant a rehearing as to all or any of the parties and on all or part of the issues for any reason listed in subsection (G). An order granting a rehearing shall specify the reason for granting the rehearing, and the rehearing shall cover only those matters specified.
- I.** The Director, within the time for filing a motion for rehearing, may without a motion for rehearing, order a rehearing for any reason that would allow the granting of a motion for rehearing by a party. The order for rehearing, granted without a motion, shall specify the reason for granting the rehearing.
- J.** The Director may grant a motion for rehearing, timely served, for a reason not stated in the motion. The order for rehearing, granted for a reason not stated in the motion, shall specify the reason for granting the rehearing.

Historical Note

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1219 recodified from R4-4-1219 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3). Amended by final rulemaking at 28 A.A.R. 3620 (November 25, 2022), effective January 1, 2023 (Supp. 22-4).

R20-4-1220. Petition for Rulemaking Action

- A.** The following definitions apply in this Section.
1. "Petitioner" means a person who petitions the Department for Rulemaking action as authorized under A.R.S. § 41-1033(A).
 2. "Rule" has the meaning stated at A.R.S. § 41-1001 and is enforceable by the Department.
 3. "Rulemaking action" means the process for formulation and finalization of a new rule, or amendment or repeal of an existing rule.
 4. "Substantive Policy Statement" has the meaning stated at A.R.S. § 41-1001, is advisory only, and is not enforceable by the Department.
- B.** Any person may petition the Department under A.R.S. § 41-1033(A) to either:
1. Make, amend, or repeal a final Rule; or
 2. Review an existing agency practice or Substantive Policy Statement that the Petitioner alleges to constitute a Rule.
- C.** A person who files a petition pursuant to A.R.S. § 41-1033(A), shall include the following information in the petition:
1. The Petitioner's name and contact information;

2. The name and address of any organization the Petitioner represents;
 3. Whether the Petitioner is petitioning the Department to:
 - a. Make, amend, or repeal a final Rule; or
 - b. Review an existing agency practice or Substantive Policy Statement that the Petitioner alleges to constitute a Rule;
 4. A detailed explanation of Petitioner's basis for submitting the petition;
 5. If the Petitioner is petitioning the Department to make a Rule, the language of the proposed new Section and the specific authority for the requested Rulemaking action;
 6. If the Petitioner is petitioning the Department to amend an existing Rule, a citation to the existing Section to be amended, the language of the proposed Rule amendment, and the specific authority for the requested Rulemaking action;
 7. If the Petitioner is petitioning the Department to repeal an existing Rule, a citation to the existing Section or subsection to be repealed, and an explanation of why the Rule should be repealed including, if applicable, how the Rule does not meet the requirements of A.R.S. § 41-1030;
 8. If the Petitioner is petitioning the Department to review an existing agency practice that the Petitioner alleges to constitute a Rule, a description of the Department's practice, an explanation of how the Department's practice constitutes a Rule being enforced by the Department, the language of the proposed new Rule, and the specific authority for the requested Rulemaking action;
 9. If the petitioner is petitioning the Department to review a Substantive Policy Statement that the Petitioner alleges to constitute a Rule, a citation to the Substantive Policy Statement, an explanation of how the Substantive Policy Statement is being enforced by the Department as a Rule, the language of the proposed new Rule, and the specific authority for the requested Rulemaking action; and
 10. The Petitioner's dated signature.
- D.** The petitioner may submit additional supporting information, including:
1. Statistical data; and
 2. A list of other persons and entities likely to be affected by the proposed Rulemaking action, with an explanation of the likely effects.
- E.** Within 60 days of the date the Department receives the petition, the Director shall send the petitioner a written decision indicating whether the Department is denying the petition or will initiate the requested Rulemaking action, with the reasons for the decision.

Historical Note

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1220 recodified from R4-4-1220 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3). Section repealed; new Section amended by final rulemaking at 28 A.A.R. 3620 (November 25, 2022), effective January 1, 2023 (Supp. 22-4). Subsections C(5) through (10), (D) and (E) omitted when codified in Supp. 22-4; the rule text has been published as promulgated at 28 A.A.R. 3620 (Supp. 24-1).

ARTICLE 13. LOAN ORIGINATORS

- R20-4-1301. Scope of Article**
This Article applies to:

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 4. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - FINANCIAL INSTITUTIONS

1. All loan originating activities of any person licensed under Arizona law as a loan originator, and
2. The conduct of any applicant for a loan originator license.

Historical Note

New Section made by emergency rulemaking at 16 A.A.R. 839, effective April 27, 2010 for 180 days (Supp. 10-2). Section renewed by emergency rulemaking and amended at 16 A.A.R. 2165, effective October 24, 2010 for 180 days (Supp. 10-4). Emergency expired April 21, 2011; new Section made by final rulemaking at 16 A.A.R. 2401, effective April 22, 2011 (Supp. 10-4). Since emergency expired, the emergency rulemaking has been removed. (Supp. 15-1).

R20-4-1302. Course of Study to Qualify for Licensure

- A. The Superintendent shall, under the authority of A.R.S. § 6-991.03(B)(1), approve a course of study that includes only those courses reviewed and approved by the Nationwide Mortgage Licensing System pursuant to A.R.S. § 6-991.03(E) and (F) and the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (P.L. 110-289; 122 Stat. 2810; 12 U.S.C. 5101 through 5116).
- B. An applicant for a loan originator license shall satisfactorily complete a course of study by:
 1. Attending at least 20 hours of instruction, and
 2. Receiving a passing grade of not less than 75 percent correct answers on both the national and Arizona state exam required by A.R.S. § 6-991.07 and the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (P.L. 110-289; 122 Stat. 2810; 12 U.S.C. 5101 through 5116).
- C. A pre-licensure course of study shall include 20 hours of instruction in the following areas:
 1. Federal law and regulation, including the Real Estate Settlement Procedures Act ("RESPA"), the Truth in Lending Act ("TILA"), good faith estimates, federal privacy laws, fair lending laws including the Equal Credit Opportunity Act ("ECOA") and the Fair Credit Reporting Act ("FCRA"): Three hours;
 2. Business ethics, including fraud, consumer protection laws, and fair lending practices: Three hours;
 3. Non-traditional mortgage product lending standards: Two hours;
 4. Arizona real estate and mortgage lending law, including loan origination and processing, Arizona law relating to agency and the obligations between principal and agent, and state privacy laws: Four hours;
 5. The remaining eight hours should be comprised of instruction in:
 - a. The obligations between principal and agent;
 - b. The statutory and regulatory laws governing loan originators;
 - c. Arithmetical computations common to mortgage lending;
 - d. Principles of real estate lending;
 - e. The purpose and effect of mortgages, deeds of trust, and security agreements;
 - f. The terms and conditions of conforming and non-conforming residential mortgages;
 - g. Real estate appraisal; and
 - h. The principles of appraisal independence.
- D. A continuing education course of study shall include eight hours of instruction each year in the following areas:
 1. Federal law and regulation, including the Real Estate Settlement Procedures Act ("RESPA"), the Truth in Lending

Act ("TILA"), good faith estimates, federal privacy laws, fair lending laws including the Equal Credit Opportunity Act ("ECOA") and the Fair Credit Reporting Act ("FCRA"): Three hours;

2. Business ethics, including fraud, consumer protection laws, and fair lending practices: Two hours;
3. Non-traditional mortgage product lending standards: Two hours;
4. Arizona real estate and mortgage lending law, including loan origination and processing, Arizona law relating to agency and the obligations between principal and agent, and state privacy laws: One hour.

Historical Note

New Section made by emergency rulemaking at 16 A.A.R. 839, effective April 27, 2010 for 180 days (Supp. 10-2). Section renewed by emergency rulemaking and amended at 16 A.A.R. 2165, effective October 24, 2010 for 180 days (Supp. 10-4). Emergency expired April 21, 2011; new Section made by final rulemaking at 16 A.A.R. 2401, effective April 22, 2011 (Supp. 10-4). Since emergency expired, the emergency rulemaking has been removed. (Supp. 15-1).

R20-4-1303. Financial Responsibility

An applicant for a loan originator license shall demonstrate financial responsibility, as required by A.R.S. § 6-991.03, by either:

1. Depositing with the Superintendent a bond as specified by A.R.S. § 6-991.03(B)(4) and paying to the Superintendent, for deposit into the Mortgage Recovery Fund, the sum of \$100 at the time of filing an original or a renewal application pursuant to A.R.S. § 6-991.03(B)(6); or
2. Depositing with the Superintendent a bond as specified by A.R.S. § 6-991.03(B)(4) and depositing with the Superintendent a bond as specified by A.R.S. § 6-991.03(B)(6).

Historical Note

New Section made by emergency rulemaking at 16 A.A.R. 839, effective April 27, 2010 for 180 days (Supp. 10-2). Section renewed by emergency rulemaking at 16 A.A.R. 2165, effective October 24, 2010 for 180 days (Supp. 10-4). Emergency expired April 21, 2011; new Section made by final rulemaking at 16 A.A.R. 2401, effective April 22, 2011 (Supp. 10-4). Since emergency expired, the emergency rulemaking has been removed. (Supp. 15-1).

R20-4-1304. Fees

Loan Originator program fees:

1. Initial application fee (non-refundable) pursuant to A.R.S. § 6-126(A)(33): \$350,
2. Initial license fee (prorated according to the number of quarters remaining until the next annual renewal) pursuant to A.R.S. § 6-126(B): \$150,
3. Annual renewal fee pursuant to A.R.S. § 6-126(C)(12) or fee for change to inactive status pursuant to A.R.S. §§ 6-126(C)(13) and 6-991.04(G): \$150,
4. Transfer license to new employer fee pursuant to A.R.S. § 6-126(A)(34): \$50,
5. Change of residence address fee pursuant to A.R.S. § 6-991.04(J): \$50,
6. Examination fee pursuant to A.R.S. § 6-991.07(E): the amount charged by the vendor,
7. Late renewal fee pursuant to A.R.S. § 6-991.04(E): \$25 per day after the filing deadline.

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Historical Note

New Section made by emergency rulemaking at 16 A.A.R. 839, effective April 27, 2010 for 180 days (Supp. 10-2). Section renewed by emergency rulemaking and amended at 16 A.A.R. 2165, effective October 24, 2010 for 180 days (Supp. 10-4). Emergency expired April 21, 2011; new Section made by final rulemaking at 16 A.A.R. 2401, effective April 22, 2011 (Supp. 10-4). Since emergency expired, the emergency rulemaking has been removed. (Supp. 15-1).

R20-4-1305. Practice and Procedure

Loan originators shall follow the practice outlined in 20 A.A.C. 4, Article 12 (Rules of Practice and Procedure Before the Superintendent) for challenging information the Superintendent enters into the Nationwide Mortgage Licensing System and Registry pursuant to A.R.S. §§ 6-991.03(K) and 6-991.04(M).

Historical Note

New Section made by emergency rulemaking at 16 A.A.R. 839, effective April 27, 2010 for 180 days (Supp. 10-2). Section repealed; new Section made by renewed emergency rulemaking at 16 A.A.R. 2165, effective October 24, 2010 for 180 days (Supp. 10-4). Emergency expired April 21, 2011; new Section made by final rulemaking at 16 A.A.R. 2401, effective April 22, 2011 (Supp. 10-4). Since emergency expired, the emergency rulemaking has been removed. (Supp. 15-1).

ARTICLE 14. INVESTIGATIONS**R20-4-1401. Definitions**

In this Article, unless the context otherwise requires:

1. "Examination" means reviewing an applicant's or licensee's operations, books, and records for any lawful purpose, including those listed in A.R.S. § 6-124(A).
2. "Investigation" means an inquiry, other than an examination, into the affairs of a licensed or unlicensed entity including a review of the entity's operations, books, and records, conducted by the Director for any lawful purpose, including those listed in A.R.S. § 6-124(A).
3. "Licensee" means a financial institution or enterprise licensed with the Department.

Historical Note

Adopted effective February 7, 1978 (Supp. 78-1). Former Section R4-4-1401 repealed, new Section R4-4-1401 renumbered from R4-4-1402 and amended effective August 14, 1991 (Supp. 91-3). Amended effective August 14, 1991 (Supp. 91-3). R20-4-1401 recodified from R4-4-1401 (Supp. 95-1). Amended by final rulemaking at 9 A.A.R. 4653, effective December 6, 2003 (Supp. 03-4). Amended by final rulemaking at 29 A.A.R. 1958 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1402. Repealed**Historical Note**

Former Section R4-4-1402 renumbered to R4-4-1401, new Section R4-4-1402 adopted effective August 14, 1991 (Supp. 91-3). R20-4-1402 recodified from R4-4-1402 (Supp. 95-1). Section repealed by final rulemaking at 9 A.A.R. 4653, effective December 6, 2003 (Supp. 03-4).

R20-4-1403. Subpoenas: Service; Amendment; Investigation or Examination not a Condition of the Director's Subpoena Power

The Director may serve a subpoena using any means intended to effectuate delivery of the subpoena. A Department employee, or an attorney or agent of the Attorney General's office, may accomplish service for the Director. The Director may amend a subpoena at any time, and may serve the amended subpoena as provided in this Section. Under A.R.S. §§ 6-123(3), 6-124(B), and 12-2212, the Director may compel testimony or document production, by subpoena or other means, regardless of whether an examination or investigation is in progress.

Historical Note

Adopted effective February 7, 1978 (Supp. 78-1). Former Section R4-4-1403 repealed, new Section R4-4-1403 renumbered from R4-4-1407 and amended effective August 14, 1991 (Supp. 91-3). R20-4-1403 recodified from R4-4-1403 (Supp. 95-1). Amended by final rulemaking at 9 A.A.R. 4653, effective December 6, 2003 (Supp. 03-4). Amended by final rulemaking at 29 A.A.R. 1958 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1404. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). Repealed effective August 14, 1991 (Supp. 91-3). R20-4-1404 recodified from R4-4-1404 (Supp. 95-1).

R20-4-1405. Background Information

- A. In connection with an examination or investigation, the Director may investigate the following persons' background:
 1. An applicant or a licensee, or a person whom the Director reasonably believes may be violating any statute or rule administered by the Director; and
 2. An officer, director, agent, employee, partner, joint venturer, affiliate, or other person associated with a person described in subsection (A)(1), if the other person has or had any involvement in or control over the activities of the person described in subsection (A)(1).
- B. In connection with an examination or investigation, the Director may require a person described in A.R.S. § 6-123.01(A) or (E) to submit a statement of personal history to the Department.

Historical Note

Adopted effective February 7, 1978 (Supp. 78-1). Former Section R4-4-1405 repealed, new Section R4-4-1405 renumbered from R4-4-1409 and amended effective August 14, 1991 (Supp. 91-3). R20-4-1405 recodified from R4-4-1405 (Supp. 95-1). Amended by final rulemaking at 9 A.A.R. 4653, effective December 6, 2003 (Supp. 03-4). Amended by final rulemaking at 29 A.A.R. 1958 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1406. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). Repealed effective August 14, 1991 (Supp. 91-3). R20-4-1406 recodified from R4-4-1406 (Supp. 95-1).

R20-4-1407. Renumbered**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). Renumbered to R4-4-1403 effective August 14, 1991

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(Supp. 91-3). R20-4-1407 recodified from R4-4-1407 (Supp. 95-1).

R20-4-1408. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1).
Repealed effective August 14, 1991 (Supp. 91-3). R20-4-1408 recodified from R4-4-1408 (Supp. 95-1).

R20-4-1409. Renumbered**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1).
Renumbered to R4-4-1405 effective August 14, 1991 (Supp. 91-3). R20-4-1409 recodified from R4-4-1409 (Supp. 95-1).

R20-4-1410. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1).
Repealed effective August 14, 1991 (Supp. 91-3). R20-4-1410 recodified from R4-4-1410 (Supp. 95-1).

ARTICLE 15. COLLECTION AGENCIES**R20-4-1501. Definitions**

In this Article, unless the context otherwise requires:

1. "Account" means a contractual arrangement between a client and a collection agency that obligates the collection agency to attempt to collect one or more debts on the client's behalf.
2. "Active Manager" means the person who is in active management of the conduct of the collection agency's business, and who meets the qualifications listed in A.R.S. § 32-1023(A).
3. "Client" means a person who has hired a collection agency to collect a debt.
4. "Collection agency" has the meaning in A.R.S. § 32-1001(2).
5. "Contact" means to communicate with, and includes attempted communications.
6. "Credit bureau" or "credit reporting agency" means any person engaged exclusively in the business of gathering, recording, and disseminating information about the credit-worthiness, financial responsibility, paying habits, and character of persons being considered for credit extension.
7. "Creditor" means a person who offers or extends credit creating a debt, or to whom a debt is owed. The term does not include a person that receives an assignment or transfer of a defaulted debt solely for use in collecting the debt for someone else.
8. "Debt" means a debtor's actual or claimed obligation to pay money, whether or not the obligation has been reduced to judgment.
9. "Debtor" means a person obligated to pay a debt. The term also means a person claimed to be obligated to pay a debt.
10. "Director" has the meaning stated at A.R.S. § 20-102.

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1501 recodified from R4-4-1501 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2). Amended by

final rulemaking at 29 A.A.R. 1961 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1502. Applications

- A. An applicant for a license shall complete and file an application, as required by the Department, by delivering the application to the Director, together with the following documents and payment:
 1. The bond required by A.R.S. § 32-1021;
 2. The nonrefundable investigation fee and original license fee required by A.R.S. § 32-1028 and stated in A.R.S. § 6-126;
 3. A current financial statement in the form required by the Department;
 4. A certified copy of the current articles of incorporation, by-laws, partnership agreement, or other organizational documents under which the applicant proposes to conduct business; and
 5. A statement of personal history for each principal officer, partner, and manager of the applicant, in the form required by the Department.
- B. An out-of-state collection agency applying for a license under A.R.S. § 32-1024 shall complete and file the application required by subsection (A), together with a signed statement declaring that:
 1. The requirements for securing the out-of-state license were, when issued, substantially the same or equivalent to the requirements imposed under A.R.S. Title 32, Chapter 9, Article 2. The statement shall also contain a complete description of those requirements.
 2. The state issuing the out-of-state license extends reciprocity to Arizona licensees under similar circumstances. The statement shall also contain a complete description of the conditions for reciprocity in the other state.
- C. A licensee applying for license renewal shall complete and file an application, as required by the Department, by delivering the renewal application to the Director before January 1, together with the renewal fee required by A.R.S. § 32-1028 and stated in A.R.S. § 6-126. An application for renewal shall also include a current financial statement in the form required by the Department.
- D. An applicant for a provisional license under A.R.S. § 32-1027 shall complete and file an application as required by the Department, by delivering the application to the Director within 30 days of the event justifying a provisional license. The applicant shall deliver the application together with each of the following:
 1. A bond that satisfies the requirements of A.R.S. § 32-1022;
 2. A current financial statement as required by the Department;
 3. A detailed description of the facts justifying the issuance of a provisional license; and
 4. Evidence that the licensee notified the Director as required by A.R.S. § 32-1023, in the event the licensee has terminated its active manager.
- E. An applicant for a provisional license shall, in each instance, be appropriate to the circumstances justifying the provisional license, as follows:
 1. A licensee's personal representative, or the personal representative's appointee, shall complete and file an application if the licensee, a natural person, has died;
 2. The surviving partners shall complete and file an application if the licensee, a partnership, has dissolved;

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3. A licensee shall complete and file an application if an active manager's employment was terminated.
- F. An applicant for a provisional license shall clearly label the top of the first page with the heading "APPLICATION FOR PROVISIONAL LICENSE UNDER A.R.S. § 32-1027."
- G. The Director may require additional information the Director considers necessary in connection with any application under this Section.

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1502 recodified from R4-4-1502 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 4742, effective November 13, 2000 (Supp. 00-4). Amended by final rulemaking at 29 A.A.R. 1961 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1503. Reports

A collection agency shall notify the Director in writing of any change in the officers, directors, partners, or active manager of the collection agency not more than 10 days after the change. With the notice, the collection agency shall provide the Director with a Statement of Personal History for each new officer, director, partner, or active manager on a form obtained from the Department.

Historical Note

Adopted effective December 18, 1979 (Supp. 79-6). R20-4-1503 recodified from R4-4-1503 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2). Amended by final rulemaking at 29 A.A.R. 1961 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1504. Records

- A. A licensee may keep its books, accounts, and records as electronic records if the licensee can generate all information and copies required by this Section within the timeframe set by the Department for examination or other purposes.
- B. All licensees shall keep and maintain books, accounts, and records adequate to provide a clear and readily understandable record of all business conducted by the collection agency, including:
 1. Records or books of account listing all clients' accounts. Each account shall reflect its true condition at each calendar month's end, and shall include:
 - a. The client's name and address;
 - b. Each debtor's name worked for collection in that month;
 - c. The amount, description, and date of each debit and each credit to the account; and
 - d. The balance due to, or owing from, the client.
 2. A record and history of each debt for collection that clearly shows:
 - a. The debtor's name;
 - b. The debt's principal amount;
 - c. The interest charged or collected;
 - d. The amount, and description, of any other charges;
 - e. The amount, and date, of each payment received or collected; and
 - f. The current balance due on the debt.
 3. An original of each written contract between the licensee and a client, including any contract amendments.

4. A trust general ledger reflecting all deposits to and payments from a trust account. A licensee shall post transactions to its trust general ledger at least every five business days. A licensee shall bring its trust general ledger current within 24 hours when requested by the Director.
5. The licensee's trust account reconciliation, prepared at least once a month.
6. Books, records, and files maintained so that the Director can easily conduct an unannounced spot check, as well as the examinations and investigations required by A.R.S. §§ 6-122 and 6-124.
7. A copy of all pleadings in pending litigation that names the collection agency as a defendant.
8. A record of fictitious names used by the agency's debt collectors as required by R20-4-1520.
- C. A person issuing a receipt for a collection agency shall sign the receipt using that person's true name. Each receipt shall also show the collection agency's name.
- D. A licensee shall maintain all records required under this Section and shall make them available for examination, investigation, or audit in Arizona within three working days after the Director demands the records.
- E. A licensee shall retain the records required by this Section for the following periods:
 1. A licensee shall retain all records described in subsections (B)(1), and (B)(3) through (8) for at least seven years following their creation.
 2. A licensee shall retain all records described in subsection (B)(2) for at least three years from an account's assignment to the licensee. If a licensee collects any money on an account, the licensee shall retain the records described in subsection (B)(2) for at least three years from the last collection date.

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). Amended effective December 18, 1979 (Supp. 79-6). R20-4-1504 recodified from R4-4-1504 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 4742, effective November 13, 2000 (Supp. 00-4). Amended by final rulemaking at 29 A.A.R. 1961 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1505. Trust Account

- A. A licensee that maintains an office in Arizona shall deposit all funds collected for a client in a trust account at a federally insured depository institution in Arizona. A licensee that does not maintain an office in Arizona shall deposit all funds collected for a client in a trust account at a federally insured depository institution in the state where the licensee maintains its principal office. A licensee shall deposit all client funds before the close of its business on the third business day after the licensee receives the funds. Client funds shall remain on deposit as required by this Section until:
 1. Paid over to a client, or
 2. Otherwise paid as provided in this Section.
- B. A licensee shall pay funds from the trust account either:
 1. By prenumbered printed checks, or
 2. By electronic payment.
- C. A licensee shall deposit in its trust account only the funds it has collected for its client. A licensee, its officers, directors, partners, managers, members, or employees shall not commin-

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gle, or permit the commingling of, their own funds with client funds. This prohibition includes any funds that a licensee, or any officer, director, partner, manager, member, or employee claims an interest in if that interest arises outside the licensee's contract with a client.

- D. A licensee shall keep unpaid client funds in its trust account. A licensee may maintain a separate trust account for dormant accounts into which the licensee deposits unpaid funds such as those of a client that cannot be located, or any trust account check issued to a client that is returned without being negotiated. As to all those unpaid funds, under A.R.S. § 44-307, a licensee shall file an abandoned property report at the Arizona Department of Revenue as and when required by law.
- E. A licensee shall withdraw from its trust account all fees and commissions due the licensee under its contract with a client and deposit them directly into its own operating account.
- F. A licensee shall not pay funds from its trust account except as:
 - 1. Provided in this Section,
 - 2. Expressly authorized in its contract with a client, or
 - 3. Authorized in writing by the Director.

Historical Note

Adopted effective December 18, 1979 (Supp. 79-6). R20-4-1505 recodified from R4-4-1505 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 4742, effective November 13, 2000 (Supp. 00-4). Amended by final rulemaking at 29 A.A.R. 1961 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1506. Articles of Incorporation; Bylaws; Organizing Documents

- A. A collection agency organized as a corporation shall file with the Director a copy of each amendment to its articles of incorporation within 30 days after the amendment is adopted. Before filing with the Director, an officer of the collection agency shall certify the copy filed in compliance with this Section, in writing, signed by the certifying officer, attesting to the completeness, accuracy, and authenticity of the certified copy.
- B. A collection agency organized as a corporation shall file with the Director a copy of each amendment to its bylaws within 10 days after the amendment is adopted. An officer of the collection agency shall certify the copy filed in compliance with this Section, in writing, attesting to the completeness, accuracy, and authenticity of the certified copy.
- C. A collection agency not organized as a corporation shall file with the Director a copy of each amendment to its organizing documents within 10 days after the amendment is adopted. A partner, active manager, or agent of the collection agency shall certify the copy filed in compliance with this Section, in writing, attesting to the completeness, accuracy, and authenticity of the certified copy.

Historical Note

Adopted effective December 18, 1979 (Supp. 79-6). R20-4-1506 recodified from R4-4-1506 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2). Amended by final rulemaking at 29 A.A.R. 1961 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1507. Representations of Collection Agency's Identity

In all communications with debtors, either orally or in writing, all the following rules apply:

- 1. A collection agency shall represent itself as a collection agency,

- 2. A collection agency shall not directly or indirectly claim to be a credit reporting agency or credit bureau if it is not,
- 3. A collection agency shall not directly or indirectly claim to be a law enforcement agency, and
- 4. A collection agency shall not directly or indirectly claim to be a law firm.

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1507 recodified from R4-4-1507 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2). Amended by final rulemaking at 29 A.A.R. 1961 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1508. Representations of the Law

A collection agency shall not:

- 1. Misrepresent the state of the law to a debtor;
- 2. Send a debtor written material that simulates legal process; or
- 3. Represent or imply that a debtor is, or may be, subject to criminal prosecution or arrest because of a failure to pay the debt.

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1508 recodified from R4-4-1508 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2). Amended by final rulemaking at 29 A.A.R. 1961 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1509. Representations as to Fees, Costs, and Legal Proceedings; Disinterested Counsel Required

- A. A collection agency shall not threaten to collect, or attempt to collect, an attorney's fee, collection cost, or other fee that the debtor is not obliged to pay under the debtor's contract with the collection agency's creditor client.
- B. A collection agency shall not inform a debtor that legal proceedings have been started unless, in fact, a lawsuit has been filed against the debtor.
- C. A collection agency shall not threaten to start legal proceedings against a debtor unless the collection agency actually intends, at the time of the threat, to sue.
- D. A collection agency shall not threaten to turn an account over to a lawyer unless the collection agency actually intends to do so at the time of the threat.
- E. A collection agency shall not file a lawsuit against a debtor unless the lawsuit is filed by an attorney who has no personal or financial interest in the collection agency filing the lawsuit against the debtor.

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1509 recodified from R4-4-1509 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2). Amended by final rulemaking at 29 A.A.R. 1961 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1510. Representations as to Rights Waived or Rem-

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edies Available

- A.** A collection agency shall not inform a debtor that:
1. The debtor waives any legal right or legal defense by a failure to contact the collection agency, and
 2. The collection agency has the power or right to bypass the legal process.
- B.** A collection agency shall not misrepresent the remedies available to the collection agency.

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1510 recodified from R4-4-1510 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2). Amended by final rulemaking at 29 A.A.R. 1961 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1511. Prohibition of Harassment

- A.** A collection agency shall not use unauthorized or oppressive tactics designed to harass any person to pay a debt.
- B.** A collection agency shall not use written or oral communications that ridicule, disgrace, or humiliate any person, or tend to ridicule, disgrace, or humiliate any person.
- C.** A collection agency shall not state, imply, or tend to imply, in written or oral communications, that any person is guilty of fraud or any other crime.
- D.** A collection agency shall not permit its agents, employees, representatives, debt collectors, or officers to use obscene or abusive language in efforts to collect a debt.
- E.** A collection agency or its agents, employees, representatives or officers are subject to penalties listed in A.R.S. § 32-1056(B) for any violation of this Article, as well as other liabilities imposed under any other provision of law.

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1511 recodified from R4-4-1511 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2). Amended by final rulemaking at 29 A.A.R. 1961 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1512. Contacts with Debtors and Others

- A.** A collection agency shall contact a debtor by telephone only during reasonable hours. A collection agency shall make a reasonable attempt to contact a debtor at the debtor's residence. A collection agency may contact a debtor at the debtor's place of employment if a reasonable attempt to contact the debtor at the debtor's residence has failed.
- B.** A collection agency shall not threaten to or contact a third party, including a debtor's friend, relative, neighbor, or employer and:
1. Inform the third party of the debt;
 2. Ask the third party to pressure the debtor into paying the debt; or
 3. Ask the third party to pay the debt, unless the third party is legally obligated to pay the debt.
- C.** Despite the other provisions of this Section, a collection agency may make lawful service on third parties, including employers, of a writ of garnishment or other writ in aid of execution after judgment has been entered against a debtor.

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1512 recodified from R4-4-1512 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2). Amended by final rulemaking at 29 A.A.R. 1961 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1513. Cessation of Communication with the Debtor

- A.** A collection agency shall stop contacting a debtor, directly or indirectly, if the debtor tells the collection agency that the debtor is represented by a lawyer and wants the collection agency to communicate with the debtor through the debtor's lawyer. The collection agency may later contact the debtor if the collection agency contacts the lawyer named by the debtor and learns that the lawyer does not represent the debtor.
- B.** A collection agency shall stop contacting a debtor, directly or indirectly, if the debtor gives the collection agency written notice that the debtor:
1. Refuses to pay the debt, or
 2. Wants the collection agency to stop all further communication with the debtor.
- C.** Despite the provisions of subsection (B), a collection agency may contact a debtor to inform the debtor that:
1. The collection agency has stopped trying to collect the debt, or
 2. The collection agency or the creditor may invoke specific remedies that are customarily used by the collection agency or the creditor.
- D.** The debtor's written notice under subsection (B) is effective upon receipt by the collection agency if delivered by mail.

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). Amended effective December 18, 1979 (Supp. 79-6). R20-4-1513 recodified from R4-4-1513 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2). Amended by final rulemaking at 29 A.A.R. 1961 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1514. Disclosure of Information to Debtor

- A.** Within five days after the initial communication with the debtor, a collection agency shall obtain and be able to inform the debtor of:
1. The name of the creditor;
 2. The time and place of the creation of the debt;
 3. The merchandise, services, or other value provided in exchange for the debt; and
 4. The date when the account was turned over to the collection agency by the creditor.
- B.** A collection agency shall give the debtor access to any of the collection agency's records that contain the information listed in subsection (A).
- C.** At the debtor's request, the collection agency shall give the debtor, free of charge, a copy of any document from its records that contains the information listed in subsection (A).

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978

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(Supp. 78-6). R20-4-1514 recodified from R4-4-1514 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2). Amended by final rulemaking at 29 A.A.R. 1961 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1515. Aiding and Abetting

A collection agency shall not help or encourage, directly or indirectly, any person to evade or violate any provision of:

1. This Article, or
2. A.R.S. Title 32, Chapter 9.

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1515 recodified from R4-4-1515 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2). Amended by final rulemaking at 29 A.A.R. 1961 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1516. Advertising

A collection agency shall not use any form of communication to state or imply that the collection agency is:

1. Approved, bonded by, or affiliated with the state of Arizona;
2. A state agency;
3. The director of any state agency; or
4. Authorized to practice law.

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1516 recodified from R4-4-1516 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2). Amended by final rulemaking at 29 A.A.R. 1961 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1517. Repealed**Historical Note**

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1517 recodified from R4-4-1517 (Supp. 95-1). Section repealed by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1518. Agreements with Clients

A collection agency's records shall document each client's account in writing. The records for an account shall include either a written agreement between the client creditor and the collection agency, or a written direction from the creditor to the collection agency concerning a specific debt placed for collection. The collection agency shall keep records that are specific, easily understood, and unambiguous. A provision of a written agreement or written direction that suggests the collection agency has authority to represent the client in court, or to practice law in any other way, is void and prohibited by this Section. The records for an account shall separately state:

1. The names of the parties to the agreement or written direction,
2. The terms or rate of compensation paid to the collection agency,

3. The length of time the agreement or written direction is intended to be in effect, and
4. Any conditions regarding collection of a particular debt.

Historical Note

Adopted effective December 18, 1979 (Supp. 79-6). R20-4-1518 recodified from R4-4-1518 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2). Amended by final rulemaking at 29 A.A.R. 1961 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1519. Licensee Names and Control

- A. The Department shall not issue a license with a name that is:
 1. Similar to, or that may be confused with, any federal, state, county, or municipal government function or agency;
 2. Descriptive of any business activity that the applicant does not actually conduct;
 3. The same as, or similar to, the name of any existing collection agency, or
 4. Otherwise deceptive or misleading.
- B. The Department may permit the use of a name otherwise prohibited under subsection (A)(3) based on its analysis of whether the name includes geographic or other information that distinguishes it from the existing collection agency.
- C. A collection agency shall not use a collection agency license to do business under more than one name. Each collection agency shall apply for and obtain a separate license for each business name it intends to use in Arizona.

Historical Note

Adopted effective December 18, 1979 (Supp. 79-6). R20-4-1519 recodified from R4-4-1519 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2). Amended by final rulemaking at 29 A.A.R. 1961 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1520. Representations of Collection Agency Employees' Identity or Position

- A. A collection agency shall not allow its debt collector, agent, representative, employee, or officer to:
 1. Misrepresent the person's true position with the collection agency;
 2. Claim to be, or imply that the person is, an attorney unless the person is licensed to practice law;
 3. Claim to be, or imply that the person is, a public official, peace officer, or any other type of public employee; or
 4. Claim to be, or imply that the person is, any other third party.
- B. In any communication with a debtor, a person working for a collection agency shall indicate that the person is a debt collector.
- C. A collection agency shall keep a record of all fictitious names used by its debt collectors during their employment. The collection agency shall record the information required by this subsection before permitting the use of a fictitious name. The collection agency shall file a copy of the record of fictitious names with the Department on July 1 and December 31 of each year. After filing the initial report, a collection agency shall identify all changes to the record on July 1 and December 31 of each year. The collection agency's record of fictitious names shall include:
 1. The true name of each debt collector that uses a fictitious name;

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2. Each fictitious name used by the debt collector, together with the dates when the name is used; and
3. The residential street address and residential mailing address of each debt collector that uses a fictitious name.

Historical Note

Adopted effective December 18, 1979 (Supp. 79-6). R20-4-1520 recodified from R4-4-1520 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2). Amended by final rulemaking at 29 A.A.R. 1961 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1521. Duty of Investigation

A collection agency shall give copies of its evidence of the debt to the debtor or the debtor's attorney upon request. After providing the evidence, but before continuing its collection efforts against the debtor, the collection agency shall investigate any claim by the debtor or the debtor's attorney that:

1. The debtor has been misidentified,
2. The debt has been paid,
3. The debt has been discharged in bankruptcy, or
4. Based on any other reasonable claim, the debt is not owed.

Historical Note

Adopted effective December 18, 1979 (Supp. 79-6). R20-4-1521 recodified from R4-4-1521 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2). Amended by final rulemaking at 29 A.A.R. 1961 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1522. Reserved**R20-4-1523. Reserved****R20-4-1524. Reserved****R20-4-1525. Reserved****R20-4-1526. Reserved****R20-4-1527. Reserved****R20-4-1528. Reserved****R20-4-1529. Reserved****R20-4-1530. Repealed****Historical Note**

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1530 recodified from R4-4-1530 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 4742, effective November 13, 2000 (Supp. 00-4).

ARTICLE 16. ACQUIRING CONTROL OF FINANCIAL INSTITUTIONS**R20-4-1601. Definitions**

In addition to the definitions provided in A.R.S. § 6-141, the following terms apply to this Article unless the context otherwise requires:

"Acquiring party" means a person who intends to acquire control of a bank, trust company, savings and loan association, or controlling person under A.R.S. Title 6, Chapter 1, Article 4.

"Bank" has the meaning stated in A.R.S. § 6-101.

"Director" has the meaning stated in A.R.S. § 6-101(7).

"Savings and loan association" means a person required to possess a permit issued by the Director under A.R.S. Title 6, Chapter 3.

"Target company" means a bank, savings and loan association, trust company, or controlling person to be acquired by an acquiring party.

"Trust company" has the meaning stated in A.R.S. § 6-851.

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective January 12, 1979 (Supp. 79-1). R20-4-1601 recodified from R4-4-1601 (Supp. 95-1). Amended by final rulemaking at 9 A.A.R. 5055, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 29 A.A.R. 1937 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1602. Application for Approval to Acquire Control of Financial Institution

- A. An applicant seeking approval to acquire control of a bank, savings and loan association, or controlling person of a bank or savings and loan association, under A.R.S. Title 6, Chapter 1, Article 4, shall file with the Director copies of all application documents filed with federal regulatory agencies in connection with the planned acquisition of control.
- B. As used in this subsection, "executive officer" includes the chairman of the board, president, each vice president, cashier, secretary, treasurer, and every other person who participates in major policymaking functions of the applicant. Under A.R.S. § 6-145(A), an applicant seeking approval to acquire control of a trust company or controlling person of a trust company, under A.R.S. Title 6, Chapter 1, Article 4 shall supply all information the Director requires under this subsection. The Director may require an applicant to supplement or amend its application based on issues raised by the initial submission. The initial application shall consist of the following items:
 1. A copy of the signed purchase agreement;
 2. The applicant's audited financial statement;
 3. A personal history statement, on a form supplied by the Department, for each executive officer and each director of the acquiring party;
 4. Each executive officer's and each director's personal financial statement;
 5. A full set of fingerprints for each executive officer and each director; and
 6. A copy of each executive officer's and each director's driver's license.

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective January 12, 1979 (Supp. 79-1). R20-4-1602 recodified from R4-4-1602 (Supp. 95-1). Amended by final rulemaking at 9 A.A.R. 5055, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 29 A.A.R. 1937 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1603. Repealed**Historical Note**

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective January 12, 1979 (Supp. 79-1). R20-4-1603 recodified from R4-4-1603 (Supp. 95-

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- 1). Section repealed by final rulemaking at 9 A.A.R. 5055, effective January 3, 2004 (Supp. 03-4).

R20-4-1604. Repealed**Historical Note**

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective January 12, 1979 (Supp. 79-1). R20-4-1604 recodified from R4-4-1604 (Supp. 95-1). Section repealed by final rulemaking at 9 A.A.R. 5055, effective January 3, 2004 (Supp. 03-4).

ARTICLE 17. ARIZONA INTERSTATE BANK AND SAVINGS AND LOAN ASSOCIATION ACT**R20-4-1701. Definitions**

In addition to the definitions provided in A.R.S. § 6-321, the following terms apply to this Article unless the context otherwise requires:

“Applicant” means an out-of-state financial institution that intends to acquire control of an in-state financial institution.

“Director” has the meaning stated in A.R.S. § 6-101(7).

Historical Note

Adopted effective October 1, 1986 (Supp. 86-5). R20-4-1701 recodified from R4-4-1701 (Supp. 95-1). Amended by final rulemaking at 11 A.A.R. 2031, effective July 2, 2005 (Supp. 05-2). Amended by final rulemaking at 29 A.A.R. 1937 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1702. Notice to the Director of Intent to Acquire Control of an In-state Financial Institution; Surrender of an Acquired Financial Institution’s Charter

- A. An applicant shall give written notice of an acquisition to the Director in the form of a courtesy copy of its federal application. The acquiring entity shall ensure that the notice is delivered to the Director not less than ten days before the effective date of the acquisition. No other application is required under the provisions of A.R.S. Title 6, Chapter 2, Article 7, the Arizona Interstate Bank and Savings and Loan Association Act. The Director may impose conditions on an acquisition under the authority of A.R.S. §§ 6-324 and 6-328.
- B. An acquired in-state financial institution shall surrender, by delivery to the Director, all permits and certificates issued by the Director within ten days after the effective date of the acquisition unless the acquired institution intends to continue operating, after the acquisition, as a stand-alone subsidiary under the authority of its existing Arizona banking permit.

Historical Note

Adopted effective October 1, 1986 (Supp. 86-5). R20-4-1702 recodified from R4-4-1702 (Supp. 95-1). Amended by final rulemaking at 11 A.A.R. 2031, effective July 2, 2005 (Supp. 05-2). Amended by final rulemaking at 29 A.A.R. 1937 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1703. Repealed**Historical Note**

Adopted effective October 1, 1986 (Supp. 86-5). R20-4-1703 recodified from R4-4-1703 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 2031, effective July 2, 2005 (Supp. 05-2).

R20-4-1704. Public Notice

- A. An applicant shall transmit to the Director one copy of each notice and the publisher’s affidavit of publication required by the Federal Reserve Board, the Federal Deposit Insurance Corporation, or other regulatory authority that has concurrent jurisdiction.
- B. An applicant shall provide the Director copies of any protests known to have been received by the Federal Reserve Board, the Federal Deposit Insurance Corporation, or other regulatory authority that has concurrent jurisdiction.

Historical Note

Adopted effective October 1, 1986 (Supp. 86-5). R20-4-1704 recodified from R4-4-1704 (Supp. 95-1). Amended by final rulemaking at 11 A.A.R. 2031, effective July 2, 2005 (Supp. 05-2). Amended by final rulemaking at 29 A.A.R. 1937 (September 1, 2023), effective October 2, 2023 (Supp. 23-3).

R20-4-1705. Repealed**Historical Note**

Adopted effective October 1, 1986 (Supp. 86-5). R20-4-1705 recodified from R4-4-1705 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 2031, effective July 2, 2005 (Supp. 05-2).

R20-4-1706. Repealed**Historical Note**

Adopted effective October 1, 1986 (Supp. 86-5). R20-4-1706 recodified from R4-4-1706 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 2031, effective July 2, 2005 (Supp. 05-2).

ARTICLE 18. MORTGAGE BANKERS**R20-4-1801. Exemption for an Entity Regulated by an Agency of this State, Other States, or by the United States**

- A. The exemption under A.R.S. § 6-942(A)(1) only applies to a person whose offers to make or negotiate a “mortgage banking loan” or a “mortgage loan,” as those terms are defined in A.R.S. § 6-941, and all mortgage banking loans and mortgage loans made or negotiated by the person are regulated directly by an agency of this state, any other state, or the United States.
- B. The required regulation of the transactions listed in subsection (A) includes:
1. Rules governing a claimant’s accounting and recordkeeping practices;
 2. The authority to examine a claimant’s books and records relating to its mortgage banking activities or mortgage lending activities, or both; and
 3. The ability to place a claimant in a receivership or conservatorship with regard to the claimant’s mortgage banking activities, mortgage lending activities, or both.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1802. Equivalent and Related Experience

- A. An applicant may satisfy the three years’ experience requirement of A.R.S. § 6-943 by the types of lending-related experience listed in this subsection. The Department counts each month in the following types of work experience toward the three years required either for a mortgage banker license, or as a responsible individual, both under A.R.S. § 6-943(C). The Department counts a fractional month of experience, at least 15 days long, as a full month.

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1. Mortgage banker with an Arizona license, responsible individual, or branch manager for a licensee;
 2. Mortgage broker with an Arizona license, responsible individual, or branch manager for a licensee;
 3. Loan officer with responsibility primarily for loans secured by lien interests on real property;
 4. Lender's branch manager with responsibility primarily for loans secured by lien interests on real property;
 5. Mortgage banker with license from another state, or responsible individual for the mortgage banker;
 6. Mortgage broker with license from another state, or responsible individual for the mortgage broker;
 7. Attorney certified by any state as a real estate specialist.
- B.** An applicant with insufficient actual experience of the types listed in subsection (A) may satisfy the remainder of the three years' experience requirement of A.R.S. § 6-943 by the types of related experience listed in this subsection. The Department counts each month in the following types of work experience according to the ratio listed below, of actual experience to equivalent experience, credited toward qualifying for a license, or as a responsible individual, both under A.R.S. § 6-943(C). The Department counts a fractional month of experience, at least 15 days long, as a full month. An applicant receives credit in only one area listed and for not more than three years' actual experience. The remaining years of experience required to qualify for a license shall be obtained from types of work experiences listed in subsection (A).
1. Attorney without state bar certified real estate specialty...3:2
 2. Paralegal with experience in real estate matters...3:2
 3. Loan underwriter...3:2
 4. Mortgage banker or mortgage broker from another state without license...3:2
 5. Real estate broker with an Arizona license or license from a state with substantially equivalent licensing requirements...3:2
 6. Escrow officer...3:2
 7. Trust officer with a title company...3:2
 8. Executive, supervisor, or policy maker involved in administering or operating a mortgage-related business...3:1.5
 9. Title officer with a title company...3:1.5
 10. Real estate broker, not qualified under subsection (B)(5)...3:1.5
 11. Loan processor with responsibility primarily for loans secured by lien interests on real property...3:1.5
 12. Lender's branch manager with responsibility primarily for loans not secured by lien interests on real property...3:1.5
 13. Real property salesperson, with an Arizona license or a license from a state with substantially equivalent licensing requirements...3:1
 14. Loan officer, with responsibility primarily for loans not secured by lien interests on real property...3:1

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1803. Restrictions on the Term of a Cash Alternative to a Surety Bond

A licensee or applicant shall not place a certificate of deposit or investment certificate as a cash alternative to a surety bond with the Superintendent that is renewable or expires earlier than 12 months from the date of issuance.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1804. Requirements for a Person Intended to Oversee a Branch Office

A person designated to oversee the operations of a branch office shall be knowledgeable about the branch activities of the licensee, supervise compliance by the branch with applicable law and rules, and have sufficient authority to ensure such compliance. One person may oversee more than one branch.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1805. Notification of Change of Address

If a licensee changes the licensee's principal place of business, or the location of a branch office, the licensee shall notify the Superintendent at least five business days before the address change. With the notice, a licensee shall provide the Superintendent with the license for the office changing its address and the fee required by A.R.S. § 6-126 for changing an office address. A copy of the license shall continue to be displayed at the place of business until a new license is issued.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2). Amended by final rulemaking at 8 A.A.R. 145, effective December 10, 2001 (Supp. 01-4).

R20-4-1806. Recordkeeping Requirements

- A.** The Superintendent shall approve a licensee's use of a computer or mechanical recordkeeping system if the licensee gives the Superintendent advanced written notice that it intends to do so. The Department shall not require a licensee to keep a written copy of the records if the licensee can generate all information required by this Section in a timely manner for examination or other purposes. A licensee may add, delete, modify, or customize an approved computer or mechanical recordkeeping system's hardware or software components. When requested, or in response to a written notice of an examination, a licensee shall report to the Superintendent any alteration in the approved system's fundamental character, medium, or function if the alteration changes:
1. Any approved computer or mechanical system back to a paper-based system; or
 2. An approved mechanical system to a computer system; or
 3. An approved computer system to a mechanical system.
- B.** In addition to any statutory requirement regarding records, a record maintained by a mortgage banker shall include the following:
1. A list of all executed loan applications or executed fee agreements that includes the following information:
 - a. Applicant's name;
 - b. Application date;
 - c. Amount of initial loan request;
 - d. Final disposition date;
 - e. Disposition (funded, denied); and
 - f. Name of loan officer;

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2. A record, such as a cash receipts journal, of all money received in connection with mortgage banking loans or mortgage loans including:
 - a. Payor's name;
 - b. Date received;
 - c. Amount; and
 - d. Receipt's purpose including identification of a related loan, if any;
 3. A sequential listing of checks written for each bank account relating to the mortgage banker business, such as a cash disbursement journal, including:
 - a. Payee's name;
 - b. Amount;
 - c. Date; and
 - d. Payment's purpose including identification of a related loan, if any;
 4. Bank account activity source documents for the mortgage banker business including receipted deposit tickets, numbered receipts for cash, bank account statements, paid checks, and bank advices;
 5. A trust subsidiary ledger for each borrower that deposits trust funds showing:
 - a. Borrower's name or co-borrowers' names;
 - b. Loan number, if any;
 - c. Amount received;
 - d. Purpose for the amount received;
 - e. Date received;
 - f. Date deposited into trust account;
 - g. Amount disbursed;
 - h. Date disbursed;
 - i. Disbursement's payee and purpose; and
 - j. Balance;
 6. A file for each application for a mortgage banking loan or a mortgage loan containing:
 - a. The agreement with the customer concerning the mortgage banker's services, whether as a loan application, fee agreement, or both;
 - b. Document showing the application's final disposition, such as a settlement statement, or a denial or withdrawal letter;
 - c. Correspondence sent, received, or both by the licensee;
 - d. Contract, agreement and escrow instructions to or with any depository;
 - e. Documents showing compliance with the Consumer Credit Protection Act's (15 U.S.C. §§ 1601 through 1666j) and the Real Estate Settlement Procedures Act's (12 U.S.C. §§ 2601 through 2617) disclosure requirements, to the extent applicable;
 - f. If the loan is closed in the licensee's name, and funded by a lender that is not an institutional investor as defined at A.R.S. § 6-943, a copy of the executed note, executed deed of trust or mortgage, and each assignment of beneficial interest by the licensee, if any. If any of the documents listed in this subsection have been recorded, the file shall also contain legible copies of the recorded documents, and;
 - g. Itemized list of all fees taken in advance including appraisal fee, credit report fee, and application fee;
 7. Samples of every piece of advertising relating to the mortgage banker's business in Arizona;
 8. Copies of governmental or regulatory compliance reviews;
 9. If the licensee is not a natural person, a file containing:
 - a. Organizational documents for the entity;
 - b. Minutes;
 - c. A record, such as a stock or ownership transfer ledger, showing ownership of all proportional equity interests in the licensee, ascertainable as of any given record date; and
 - d. Annual report, if required by law;
 10. If the licensee or anyone directly or indirectly owning more than 20% of the licensee has a felony conviction, a copy of the judgment or other record of conviction;
 11. If the licensee or anyone directly or indirectly owning more than 20% of the licensee has, in the previous seven years, been named a defendant in any civil suit, a copy of the complaint, any answer filed by the licensee, and any judgment, dismissal or other final order disposing of the action;
 12. If the Superintendent has granted approval to maintain records outside this state, the specific address where the records are kept, and a person's name to contact for them;
 13. If a licensee does business in other states, it must be able to separate Arizona loan information from information relating to other states to enable the Superintendent to conduct an examination.
 14. A licensee shall produce a trial balance of the general ledger monthly to evidence the mortgage banker's net worth.
- C.** If 10 or fewer transactions have occurred during the prior calendar quarter, a licensee shall reconcile and update all records specified in subsection (B) at least once each calendar quarter. A licensee shall reconcile and update all records specified in subsection (B) monthly if more than 10 transactions occurred during the prior calendar quarter. In addition to reconciling each trust bank account, a licensee shall verify each trust balance to each trust subsidiary ledger at each reconciliation.
- D.** A licensee shall retain the documents described in subsections (B)(1) and (6) for the length of time provided in A.R.S. § 6-946. For the purposes of A.R.S. § 6-946, the mortgage banking loan's closing date, on a loan application that did not result in the making of a loan, is either:
1. The date a licensee receives a written cancellation notice from an applicant; or
 2. The date a licensee mails written notice to an applicant that an application has been denied, as required by federal law.
- E.** A licensee shall maintain all other records described in this Section, and not included in subsection (D), for at least two years.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R.
2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1807. Providing Copies of Records

For each loan closed in an Arizona mortgage broker's name with a concurrent assignment of beneficial interest to a mortgage banker, the mortgage banker licensee shall provide to the mortgage broker in whose name the loan closed a copy of:

1. The closing instructions;
2. Any applicable rescission notice;
3. The HUD-1 settlement statement;
4. The final truth-in-lending disclosure;
5. The note;
6. The executed deed of trust or mortgage; and
7. Each assignment of beneficial interest by the mortgage banker licensee.

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Historical Note

New Section adopted by final rulemaking at 5 A.A.R.
2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1808. Authorization to Complete Blank Spaces

An authorization, under A.R.S. § 6-947, allowing a licensee or escrow agent to complete certain blank spaces in a document after it is signed by a party to the transaction shall:

1. Specifically identify the document and the blank spaces to be completed;
2. Be in writing, dated, and signed by the authorizing parties, and
3. Contain the following notice, conspicuously printed on its face: YOUR SIGNATURE BELOW AUTHORIZES YOUR MORTGAGE BANKER OR ESCROW AGENT TO FILL IN SPACES YOU LEFT BLANK IN SPECIFIED LOAN DOCUMENTS YOU ARE ABOUT TO SIGN OR MAY HAVE ALREADY SIGNED. UNDER STATE LAW YOU CAN GIVE THIS AUTHORITY, BUT YOU ARE NOT REQUIRED TO DO SO. YOU CAN REFUSE TO SIGN ANY DOCUMENTS UNTIL ALL BLANKS ARE COMPLETELY FILLED IN.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R.
2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1809. Determining Loan Amounts

The amount of a mortgage banking loan or a mortgage loan under A.R.S. § 6-947(E) or 6-947(K), is the principal amount of the loan and does not include any points, interest, finance charges, insurance premiums of any kind, compensation paid to third parties, or compensation retained by a mortgage banker or its agents.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R.
2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1810. Delay or Cause Delay

A mortgage banker does not delay or cause delay if the delay occurs due to events outside the control of the mortgage banker.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R.
2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1811. Impound Account

The total of all funds retained by a mortgage banker from all periodic payments made by a borrower to maintain a cushion, as defined in R20-4-102, shall not exceed 1/6th of the estimated total annual payments from the impound account.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R.
2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1812. Acquisition of Additional Interest in Licensee by Majority Owner

A person that owns 51% or more of a licensee's outstanding voting equity interests, and that acquires the power to vote additional fractional equity interests, shall deliver written notice of the acquisition to the Superintendent. The person shall deliver the notice before completing the acquisition. Within 10 days after completing the acquisition, the person shall deliver documentation evidencing the acquisition to the Superintendent.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R.
2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1813. Conversion to Mortgage Broker License

Under A.R.S. § 6-949 to apply for a conversion from a mortgage banker license to a mortgage broker license, the applicant shall submit during the renewal period all applicable renewal documents and renewal fees required by A.R.S. §§ 6-126 and 6-903 for mortgage brokers.

Historical Note

New Section adopted by final rulemaking at 18 A.A.R.
2622, effective December 2, 2012 (Supp. 12-4).

ARTICLE 19. COMMERCIAL MORTGAGE BANKERS**R20-4-1901. Exemption for an Institutional Investor**

- A.** The exemption from the licensure requirement for an institutional investor, solely as that term is used in A.R.S. §§ 6-971, 6-972, and this Article, applies only if a person claiming the exemption meets all the following criteria:
1. The claimant originates or directly or indirectly makes, negotiates, or offers to make or negotiate commercial mortgage loans that are all exclusively funded by the claimant's own resources, as defined in A.R.S. § 6-971;
 2. The claimant does so in the regular course of business;
 3. The claimant makes only commercial mortgage loans, as defined in A.R.S. § 6-971;
 4. The claimant makes each loan on the security of commercial property, as defined in A.R.S. § 6-971; and
 5. The claimant makes only loans of more than \$250,000.
- B.** If a claimant makes even one commercial mortgage loan that does not satisfy all the above criteria, any claim of exemption is invalid, and that person shall not engage in any lending activity before obtaining a license.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R.
2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1902. Exemption for an Entity Regulated by an Agency of this State, Other States, or by the United States

- A.** The exemption under A.R.S. § 6-972(9) only applies to a person whose offers to make or negotiate a "commercial mortgage loan," as that term is defined in A.R.S. § 6-971, and all commercial mortgage loans made or negotiated by the person are regulated directly by an agency of this state, any other state, or the United States.
- B.** The required regulation of the transactions listed in subsection (A) includes:
1. Rules governing a claimant's accounting and recordkeeping practices;
 2. The authority to examine a claimant's books and records relating to its commercial mortgage lending activities;
 3. The ability to place a claimant in a receivership or conservatorship with regard to the claimant's commercial mortgage lending activities.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R.
2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1903. Equivalent and Related Experience

- A.** An applicant may satisfy the three years' experience requirement of A.R.S. § 6-973 by the types of lending-related experience listed in this subsection. The Department counts each month in the following types of work experience towards the

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three years required either for a commercial mortgage banker license, or as a responsible individual, both under A.R.S. § 6-973(D). The Department counts a fractional month of experience, at least 15 days long, as a full month.

1. Commercial mortgage banker with an Arizona license, or Responsible Individual or branch manager for a licensee;
 2. Mortgage broker with Arizona license, or Responsible Individual or branch manager for a licensee;
 3. Mortgage banker with an Arizona license, or Responsible Individual or branch manager for a licensee;
 4. Loan officer, with responsibility primarily for loans secured by lien interests on commercial real property;
 5. Lender's branch manager, with responsibility primarily for loans secured by lien interests on commercial real property;
 6. Commercial mortgage banker with license from another state, or Responsible Individual for the commercial mortgage banker;
 7. Mortgage broker with license from another state, or Responsible Individual for the mortgage broker;
 8. Mortgage banker with license from another state, or responsible individual for the mortgage banker;
 9. Attorney certified by any state as a real estate specialist.
- B.** The experience of an applicant with insufficient actual experience of the types listed in subsection (A) is reviewed and evaluated on a case by case basis.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R.
2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1904. Restrictions on the Term of a Cash Alternative to a Surety Bond

A licensee or applicant shall not place a certificate of deposit or investment certificate as a cash alternative to a surety bond with the Superintendent that is renewable or expires earlier than 12 months from the date of issuance.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R.
2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1905. Requirements for a Person Intended to Oversee a Branch Office

A Person designated to oversee the operations of a branch office shall be knowledgeable about the branch activities of the licensee, supervise compliance by the branch with applicable law and rules, and have sufficient authority to ensure such compliance. One Person may oversee more than one branch.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R.
2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1906. Notification of Change of Address

If a licensee changes the licensee's principal place of business, or the location of a branch office, the licensee shall notify the Superintendent within five business days after the address change. With the notice, a licensee shall provide the Superintendent with the license for the office changing its address and the fee required by A.R.S. § 6-126 for changing an office address. A copy of the license shall continue to be displayed at the place of business until a new license is issued.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R.
2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1907. Recordkeeping Requirements

- A.** The Superintendent shall approve a licensee's use of a computer or mechanical recordkeeping system if the licensee gives the Superintendent advanced written notice that it intends to do so. The Department shall not require a licensee to keep a written copy of the records if the licensee can generate all information required by this Section in a timely manner for examination or other purposes. A licensee may add, delete, modify, or customize an approved computer or mechanical recordkeeping system's hardware or software components. When requested, or in response to a written notice of an examination, a licensee shall report to the Superintendent any material alteration in the approved system's fundamental character, medium, or function if the alteration changes:
1. Any approved computer or mechanical system back to a paper-based system; or
 2. An approved mechanical system to a computer system; or
 3. An approved computer system to a mechanical system.
- B.** In addition to any statutory requirement regarding records, a record maintained by a commercial mortgage banker shall include the following:
1. A list of all executed loan applications or executed fee agreements that includes the following information:
 - a. Applicant's name;
 - b. Application date;
 - c. Amount of initial loan request;
 - d. Final disposition date;
 - e. Disposition (funded, denied); and
 - f. Name of loan officer;
 2. A record, such as a cash receipts journal, of all money received in connection with commercial mortgage loans including:
 - a. Payor's name;
 - b. Date received;
 - c. Amount; and
 - d. Receipt's purpose including identification of a related loan, if any;
 3. A sequential listing of checks written for each bank account relating to the commercial mortgage banker business, such as a cash disbursement journal, including:
 - a. Payee's name;
 - b. Amount;
 - c. Date; and
 - d. Payment's purpose including identification of a related loan, if any;
 4. Bank account activity source documents for the commercial mortgage banker business including receipted deposit tickets, numbered receipts for cash, bank account statements, paid checks, and bank advices.
 5. A trust subsidiary ledger for each borrower that deposits trust funds showing:
 - a. Borrower's name or co-borrowers' names;
 - b. Loan number, if any;
 - c. Amount received;
 - d. Purpose for the amount received;
 - e. Date received;
 - f. Date deposited into trust account;
 - g. Amount disbursed;
 - h. Date disbursed;
 - i. Disbursement's payee and purpose, and
 - j. Balance.

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6. A file for each application for a commercial mortgage loan containing:
 - a. The agreement with the customer concerning the commercial mortgage banker's services, whether as a loan application, fee agreement, or both;
 - b. The documents showing the application's final disposition, such as a settlement statements, a denial or withdrawal letter, or internal memorandum;
 - c. Correspondence sent, received, or both by the licensee;
 - d. Contract, agreement, and escrow instructions to or with any depository;
 - e. If the loan is closed in the licensee's name, a copy of all closing documents including: closing instructions, copy of the executed note, executed deed of trust or mortgage, and each assignment of beneficial interest by the licensee, if any. If any of the documents listed in this subsection have been recorded, the file shall also contain legible copies of the recorded documents, and
 - f. Itemized list of all fees taken in advance including appraisal fee, credit report fee, and application fee.
 7. Samples of every piece of advertising relating to the commercial mortgage banker's business in Arizona;
 8. Copies of governmental or regulatory reviews;
 9. If the licensee is a not a natural person, a file containing:
 - a. Organizational documents for the entity;
 - b. Minutes;
 - c. A record, such as a stock or ownership transfer ledger, showing ownership of all proportional equity interests in the licensee, ascertainable as of any given record date; and
 - d. Annual report, if required by law;
 10. If the licensee or anyone directly or indirectly owning more than 20% of the licensee has a felony conviction, a copy of the judgment or other record of conviction.
 11. If the licensee or anyone directly or indirectly owning more than 20% of the licensee has, in the previous seven years, been named a defendant in any civil suit, a copy of the complaint, any answer filed by the licensee, and any judgment, dismissal or other final order disposing of the action.
 12. If the Superintendent has granted approval to maintain records outside this state, the specific address where the records are kept, and a person's name to contact for them.
 13. If a licensee does business in other states, it must be able to separate Arizona loan information from information relating to other states to enable the Superintendent to conduct an examination.
 14. A licensee shall produce a trial balance of the general ledger monthly to evidence the commercial mortgage banker's net worth.
- C.** If 10 or fewer transactions have occurred during the prior calendar quarter, a licensee shall reconcile and update all records specified in subsection (B) at least once each calendar quarter. A licensee shall reconcile and update all records specified in subsection (B) monthly if more than 10 transactions occurred during the prior calendar quarter. In addition to reconciling each trust bank account, a licensee shall verify each trust balance to each trust subsidiary ledger at each reconciliation.
- D.** A licensee shall retain the documents described in subsections (B)(1) and (6) for the length of time provided in A.R.S. § 6-983. For the purposes of A.R.S. § 6-983, the commercial mort-

gage loan's closing date, on a loan application that did not result in the making of a loan, is either:

1. The date a licensee receives a written cancellation notice from the applicant; or
 2. The date a licensee mails written notice to an applicant that an application has been denied; or
 3. The date of a licensee's internal memorandum closing a loan file.
- E.** A licensee shall maintain all other records described in this Section, and not included in subsection (D), for at least two years.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R.
2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1908. Impound Accounts

The total of all funds, if any, retained by the commercial mortgage banker from all periodic payments made by the borrower to maintain a Cushion, as defined in R20-4-102, is limited only by the written agreement of the parties, if at all.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R.
2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1909. Authorization to Complete Blank Spaces

An authorization, under A.R.S. § 6-984, allowing a licensee or escrow agent to complete certain blank spaces in a document after it is signed by a party to the transaction shall:

1. Specifically identify the document and the blank spaces to be completed;
2. Be in writing, dated, and signed by the authorizing party, and
3. Contain the following notice, conspicuously printed on its face: YOUR SIGNATURE BELOW AUTHORIZES YOUR COMMERCIAL MORTGAGE BANKER OR ESCROW AGENT TO FILL IN SPACES YOU LEFT BLANK IN SPECIFIED LOAN DOCUMENTS YOU ARE ABOUT TO SIGN OR MAY HAVE ALREADY SIGNED. UNDER STATE LAW YOU CAN GIVE THIS AUTHORITY, BUT YOU ARE NOT REQUIRED TO DO SO. YOU CAN REFUSE TO SIGN ANY DOCUMENTS UNTIL ALL BLANKS ARE COMPLETELY FILLED IN.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R.
2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1910. Delay or Cause Delay

A commercial mortgage banker does not delay or cause delay if the delay occurs due to events outside the control of the commercial mortgage banker.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R.
2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1911. Acquisition of Additional Interest in Licensee by Majority Owner

A person that owns 51% or more of a licensee's outstanding voting equity interests, and that acquires the power to vote additional fractional equity interests, shall deliver written notice of the acquisition to the Superintendent. The person shall deliver the notice before completing the acquisition. Within 10 days after completing the acquisition, the person shall deliver documentation evidencing the acquisition to the Superintendent.

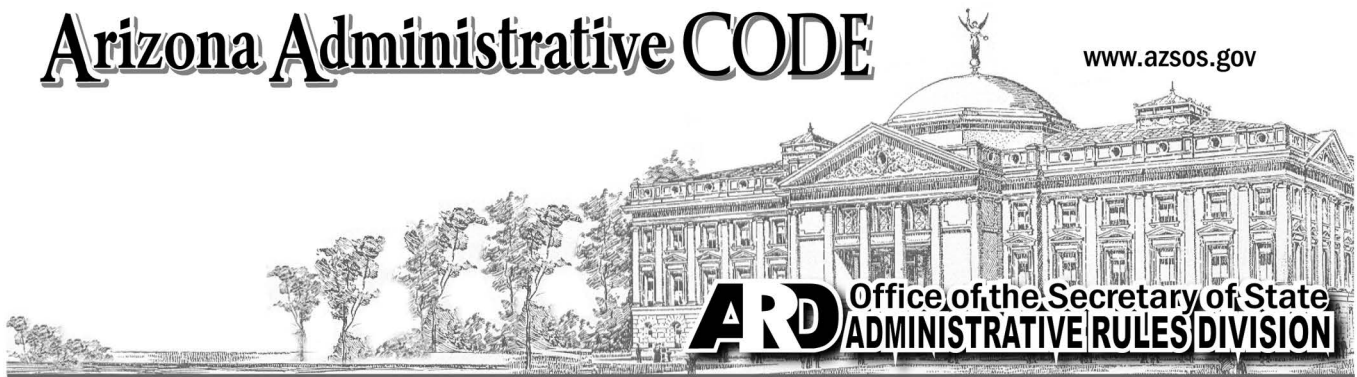
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Historical Note

New Section adopted by final rulemaking at 5 A.A.R.

2094, effective June 10, 1999 (Supp. 99-2).



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CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - INSURANCE DIVISION

The table of contents on page one contains links to the referenced page numbers in this Chapter.
Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
January 1, 2024 through March 31, 2024

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Questions about these rules? Contact:

Department: Department of Insurance and Financial Institutions
Address: 100 N. 15th Ave., Suite 261
Phoenix, AZ 85007-2630
[Website:](https://difi.az.gov) <https://difi.az.gov>
Name: Mary E. Kosinski
Telephone: (602) 364-3476
[Email:](mailto:mary.kosinski@difi.az.gov) mary.kosinski@difi.az.gov

The release of this Chapter in Supp. 24-1 replaces Supp. 23-4, ver.2, 1-169 pages.

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

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division

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TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - INSURANCE DIVISION

Authority: A.R.S. § 20-101 et seq.

Supp. 24-1

CHAPTER TABLE OF CONTENTS

Editor's Note: Due to a clerical error the following Sections had incorrect effective dates as released in Supp. 23-4: R20-6-205, R20-6-604, R20-6-801, R20-6-1003 and Appendix B, R20-6-2002, R20-6-2401. The year has been corrected to 2024. Please destroy any copy of the digitally signed version of this Chapter from Date: 2024.02.05. The new version is Supp. 23-4, Ver. 2, digitally signed 2024.03.01.

Editor's Note: The name of the Arizona Department of Insurance was changed to the Department of Insurance and Financial Institutions - Insurance Division under Laws 2019, Ch. 252, effective July 1, 2020 (Supp. 22-2).

Editor's Note: 20 A.A.C. 6, consisting of R20-6-101 through R20-6-159, R20-6-201 through R20-6-218, R20-6-301 through R20-6-308, R20-6-401 through R20-6-409, R20-6-501, R20-6-601 through R20-6-607, R20-6-701 through R20-6-709, R20-6-801 through R20-6-802, R20-6-901, R20-6-1001 through R20-6-1016, R20-6-1101 through R20-6-1120, R20-6-1201 through R20-6-1205, R20-6-1401 through R20-6-1408, R20-6-1601 through R20-6-1607, and R20-6-1701 through R20-6-1704 recodified from 4 A.A.C. 14, consisting of R4-14-101 through R4-14-159, R4-14-301 through R4-14-308, R4-14-401 through R4-14-409, R4-14-501, R4-14-601 through R4-14-607, R4-14-701 through R4-14-709, R4-201 through R4-14-218, R4-14-801 through R4-14-802, R4-14-901, R4-14-1001 through R4-14-1016, R4-14-1101 through R4-14-1120, R4-14-1201 through R4-14-1205, R4-14-1401 through R4-14-1408, R4-14-1601 through R4-14-1607, and R4-14-1701 through R4-14-1704, pursuant to R1-1-102 (Supp. 95-1).

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Article 11, consisting of Sections R4-14-1101 through R4-14-1120 and Appendices A through E, adopted again by emergency

effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1).

Article 11, consisting of Sections R4-14-1101 through R4-14-1120 and Appendices A through E, adopted by emergency effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). R20-6-1101 through R20-6-1120 recodified from R4-14-1101 through R4-14-1120 (Supp. 95-1).

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Article 16, consisting of Sections R20-6-1601 through R20-6-1608, renumbered to Article 16, Part 1, R20-6A1601 through R20-6A1608; Article 16, consisting of Sections R20-6-1610 through R20-6-1612, renumbered to Article 16, Part 2; by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

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ARTICLE 1. RULES OF PRACTICE AND PROCEDURE BEFORE THE DIRECTOR**R20-6-101. Scope of Article; Definitions****A. Scope.**

1. Administrative Hearings. This Article and Title 20 of the Arizona Revised Statutes govern administrative hearings before the Department. The Department shall use the authority of A.R.S. Title 41, Chapter 6, Article 10, the Office of Administrative Hearings' procedural rules, and this Article to govern the initiation and conduct of administrative hearings. In an administrative hearing, special procedural requirements in state statute or another Section in this Article shall also govern the proceedings unless the requirements are inconsistent with either A.R.S. Title 41, Chapter 6, Article 10, the Office of Administrative Hearings' rules or this Article.
2. Director's Hearings. Director's Hearings are governed by this Article and Title 20 of the Arizona Revised Statutes.
3. Rulemaking and Investigative Proceedings. Except as otherwise provided in Section R20-6-160 for rulemaking petitions, this Article does not apply to rulemaking or investigative proceedings before the Director.
4. Arizona Rules of Civil Procedure. Unless expressly applicable by rule or statute, the Arizona Rules of Civil Procedure do not apply to administrative or Director's hearings.

B. Definitions. In addition to the definitions provided in A.R.S. §§ 41-1001 and 41-1092, the following terms apply to this Article:

1. "Administrative Hearing" means an appealable agency action as defined by A.R.S. § 41-1092(3) or a contested case as defined by A.R.S. § 41-1001(5) subject to A.R.S. § 20-161 and A.R.S. Title 41, Chapter 6, Article 10.
2. "Attorney General" means the Attorney General of Arizona, and the Attorney General's assistants or special agents.
3. "Department" means the Arizona Department of Insurance and Financial Institutions, Division of Insurance.
4. "Director" has the meaning stated at A.R.S. § 20-102 or a Hearing Officer or any deputy, assistant, or examiner of the Director acting in the Director's name in accordance with A.R.S. § 20-150.
5. "Director's Hearing" means a hearing required by Title 20 to be conducted by the Director that is not an administrative hearing. A Director's hearing is not subject to the Arizona Open Meeting law. Director's hearings are required for, but not limited to, the following:
 - a. Taking comments to determine whether the cooperation among rating organizations and insurers is unfair or unreasonable or otherwise inconsistent with the provisions of Title 20 under A.R.S. § 20-365;
 - b. Taking comments to determine whether a reasonable degree of price competition exists at the consumer level with respect to a particular class of business or to determine an allowable percentage of increase in a proposed rate level for a particular line, subtitle, or class of business under A.R.S. § 20-383(B);
 - c. Taking comments to exempt rate filings or to find that a particular market is noncompetitive for purposes of rate filing under A.R.S. §§ 20-385(F) and (G);
 - d. Taking comments to determine recognized surplus lines under A.R.S. § 20-409;

- e. Taking comments regarding acquisitions within a holding company system if the acquisition would require the approval of other states under A.R.S. § 20-481.07(G);
 - f. Taking comments to establish criteria for third parties who are eligible to provide credit enhancement for separate accounts and to accept assets that are pledged under A.R.S. § 20-536.01(C);
 - g. Taking comments to prescribe standards to allow investments in separate accounts to exceed established limits under A.R.S. § 20-536.01(D);
 - h. Taking comments in order to prescribe an investment grade rating, to recognize rating agencies for purposes of investment, or to prescribe standards by which obligations of insurers who have not received an investment grade rating may be eligible for investment under A.R.S. §§ 20-544 and 20-545;
 - i. Taking comments from parties affected by a proposed corporate acquisition, merger or consolidation of title insurers under A.R.S. §§ 20-1576(A)(1) and 20-1577(A);
 - j. Taking comments to establish a loss ratio standard for credit property and credit unemployment insurance under A.R.S. § 10-1621.05(B);
 - k. Taking comments for the purpose of exempting certain forms from the application of Title 20, Chapter 6, Article 14: Cancellation or Non-Renewal of Commercial Insurance under A.R.S. § 20-1671(12); and
 - l. Taking comments to establish prima facie rates for credit life and credit disability insurance under Section R20-6-604.03(A).
6. "Hearing Officer" means a person appointed by the Director to conduct a Director's hearing.
 7. "Party" has the meaning prescribed at A.R.S. § 41-1001(16) and includes any person or entity subject to the jurisdiction of the Department under A.R.S. Title 20.

Historical Note

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-101 recodified from R4-14-101 (Supp. 95-1). Amended by final rulemaking at 5 A.A.R. 618, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 28 A.A.R. 3626 (November 25, 2022), effective January 1, 2023 (Supp. 22-4).

R20-6-102. Appearance and Practice before the Director for Administrative and Director's Hearings

- A.** A party may appear in their own behalf or through counsel. An insurer may appear through legal counsel or through a duly authorized officer of the corporation.
- B.** When an attorney other than the Attorney General appears or intends to appear before the Director or the Department, they shall promptly disclose their name and contact information and the name and contact information of the person on whose behalf they intend to appear.
- C.** Conduct at any Director's hearing which, in the discretion of the Director or Hearing Officer is deemed contemptuous shall be grounds for exclusion from the hearing. Contemptuous conduct shall include willful disruption or obstruction of any Director's hearing, or any other willful conduct during any Director's hearing which lessens the dignity or authority of the Director or Hearing Officer.
- D.** Notice of a Director's Hearing is subject to Title 20 and shall contain at a minimum:

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1. The subject matter on which the Director intends to take comments including the specific statutory sections authorizing the Director to conduct the hearing;
 2. The date, time and place of the Director's hearing;
 3. The guidelines for interested parties to submit comments to the Director and to participate in the hearing; and
 4. Any other information the Director deems appropriate.
- E. Notice of a Director's Hearing shall be posted on the Department's website and in compliance with A.R.S. § 38-431.02. The Director may additionally notify interested persons as the Director deems appropriate.

Historical Note

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-102 recodified from R4-14-102 (Supp. 95-1). Amended by final rulemaking at 28 A.A.R. 3626 (November 25, 2022), effective January 1, 2023 (Supp. 22-4).

R20-6-103. Filing; Service

- A. A document filed by a party with the Department is filed on the date it is received by the Department as established by the Department's earliest stamped date on the face of the document or by some other method of affixing a received date by the Department.
- B. If a party is represented by an attorney, service is effectuated by service upon the attorney unless additional service upon the represented party is required by an administrative law judge or the Department.
- C. A document is served upon a party as provided for under A.R.S. § 41-1092.04 and Section R2-19-108. A party effectuating service is responsible for producing proof of service if requested by the Department.

Historical Note

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-103 recodified from R4-14-103 (Supp. 95-1). Amended by final rulemaking at 28 A.A.R. 3626 (November 25, 2022), effective January 1, 2023 (Supp. 22-4).

R20-6-104. Expired**Historical Note**

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-104 recodified from R4-14-104 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 1421, effective May 31, 2011 (Supp. 11-3).

R20-6-105. Expired**Historical Note**

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-105 recodified from R4-14-105 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 1421, effective May 31, 2011 (Supp. 11-3).

R20-6-106. Answer to Notice of an Administrative Hearing

- A. The Department may, in a notice of hearing, direct one or more parties to file a written answer to the allegations contained in the notice of hearing. Even if not directed to do so, any party to the proceeding may file an answer.
- B. A party directed to file an answer shall do so within 20 days after issuance of a notice of hearing, unless the notice of hearing states a different period for the answer. The Department may require any party to answer, in a reasonable time, amendments to the assertions in the notice made after service of the original notice.

- C. An answer filed under this Section shall briefly state the party's position or defense to the proceeding and shall specifically admit or deny each of the allegations in the notice of hearing. An answering party who does not have, or cannot easily obtain, knowledge or information sufficient to admit or deny an allegation shall state that inability which shall have the effect of a denial. Any allegation not denied is admitted. A party who intends to deny only a part of an allegation shall expressly admit as much of that allegation as is true and shall deny the remainder.
- D. A party who fails to file an answer required by this Section within the time allowed is in default. The Director may resolve the proceeding against the defaulting party. In doing so, the Director may regard any allegations in the notice of hearing as admitted by the defaulting party.
- E. Defenses not raised in the answer are waived.

Historical Note

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-106 recodified from R4-14-106 (Supp. 95-1). Amended by final rulemaking at 28 A.A.R. 3626 (November 25, 2022), effective January 1, 2023 (Supp. 22-4).

R20-6-107. Expired**Historical Note**

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-107 recodified from R4-14-107 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 1421, effective May 31, 2011 (Supp. 11-3).

R20-6-108. Expired**Historical Note**

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-108 recodified from R4-14-108 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 1421, effective May 31, 2011 (Supp. 11-3).

R20-6-109. Expired**Historical Note**

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-109 recodified from R4-14-109 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 1421, effective May 31, 2011 (Supp. 11-3).

R20-6-110. Expired**Historical Note**

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-110 recodified from R4-14-110 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 1421, effective May 31, 2011 (Supp. 11-3).

R20-6-111. Expired**Historical Note**

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-111 recodified from R4-14-111 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 3374, effective May 31, 2016 (Supp. 16-4).

R20-6-112. Expired**Historical Note**

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-112 recodified from R4-14-112 (Supp. 95-1). Section

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expired under A.R.S. § 41-1056(J) at 22 A.A.R. 3374, effective May 31, 2016 (Supp. 16-4).

R20-6-113. Expired**Historical Note**

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-113 recodified from R4-14-113 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 1421, effective May 31, 2011 (Supp. 11-3).

R20-6-114. Request for Rehearing or Review

- A. Any party aggrieved by an administrative decision may file with the Director, within time limits and other procedural guidelines contained in A.R.S. § 41-1092.09, a written motion for a rehearing or review of the decision specifying the particular reason for the request.
- B. A party filing a motion under this Section may amend the motion at any time before a response to the motion is filed. An amended motion tolls the time for filing a response and the time for rendering a decision on the motion.
- C. A request for rehearing or review which is not timely filed is deemed waived for the purpose of judicial review.
- D. A motion for rehearing shall specify which of the grounds listed in subsection (G) it is based upon and shall set forth the specific facts and laws in support of the motion. A motion may cite relevant portions of testimony from the hearing if a transcript is provided with the motion and may cite hearing exhibits by reference to the exhibit number. The motion shall specify the relief sought by the request, such as a different finding of fact, conclusion of law or order and may seek multiple forms of relief in the alternative. When a motion for rehearing or review is based on an affidavit, the moving party shall attach the affidavit to the motion.
- E. A party may file a separate request for a stay of the Director's decision pursuant to A.R.S. § 20-162(B). Filing a stay request or a motion for rehearing does not stay an order filed by the Director. The Director may stay an order pending the resolution of a motion for rehearing or review.
- F. Each party served with a motion for rehearing or review shall be permitted to file a written response within 15 days after the motion has been filed. Affidavits may be attached to and filed with a response. A response may cite relevant portions of testimony from the hearing if a transcript is provided with the response and may cite hearing exhibits by reference to the exhibit number. The Director has the discretion to hear oral argument to consider a request for rehearing or review.
- G. The Director may grant a motion for rehearing or review for any of the following causes:
 1. Irregularity in the proceedings before the Department, in any order, or any abuse of discretion that deprives the moving party of a fair hearing;
 2. Misconduct by the Department, the administrative law judge, or the prevailing party;
 3. Accident or surprise that could not have been prevented by ordinary care;
 4. Newly discovered material evidence that could not reasonably have been discovered and produced at the original hearing;
 5. Excessive or insufficient penalties;
 6. Error in admitting or rejecting evidence or other legal errors occurring at the hearing; and
 7. The decision is not justified by the evidence or is contrary to law.
- H. The Director may affirm or modify the decision or grant a rehearing as to all or any of the parties and on all or part of the

issues for any reason listed in subsection (G). An order granting a rehearing shall specify the reason for granting the rehearing, and the rehearing shall cover only those matters specified.

- I. The Director, within the time for filing a motion for rehearing, may without a motion for rehearing, order a rehearing for any reason that would allow the granting of a motion for rehearing by a party. The order for rehearing, granted without a motion, shall specify the reason for granting the rehearing.
- J. The Director may grant a motion for rehearing, timely served, for a reason not stated in the motion. The order for rehearing, granted for a reason not stated in the motion, shall specify the reason for granting the rehearing.

Historical Note

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-114 recodified from R4-14-114 (Supp. 95-1). Amended effective June 15, 1998 (Supp. 98-2). Amended by final rulemaking at 28 A.A.R. 3626 (November 25, 2022), effective January 1, 2023 (Supp. 22-4).

R20-6-115. Repealed**Historical Note**

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-115 recodified from R4-14-115 (Supp. 95-1). Amended effective June 15, 1998 (Supp. 98-2). Repealed by final rulemaking at 28 A.A.R. 3626 (November 25, 2022), effective January 6, 2023 (Supp. 22-4).

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| R20-6-118. | Reserved |
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| R20-6-120. | Reserved |
| R20-6-121. | Reserved |
| R20-6-122. | Reserved |
| R20-6-123. | Reserved |
| R20-6-124. | Reserved |
| R20-6-125. | Reserved |
| R20-6-126. | Reserved |
| R20-6-127. | Reserved |
| R20-6-128. | Reserved |
| R20-6-129. | Reserved |
| R20-6-130. | Reserved |
| R20-6-131. | Reserved |
| R20-6-132. | Reserved |
| R20-6-133. | Reserved |
| R20-6-134. | Reserved |
| R20-6-135. | Reserved |
| R20-6-136. | Reserved |
| R20-6-137. | Reserved |
| R20-6-138. | Reserved |
| R20-6-139. | Reserved |
| R20-6-140. | Reserved |

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| R20-6-144. | Reserved |
| R20-6-145. | Reserved |
| R20-6-146. | Reserved |
| R20-6-147. | Reserved |
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| R20-6-153. | Reserved |
| R20-6-154. | Reserved |
| R20-6-155. | Reserved |
| R20-6-156. | Reserved |
| R20-6-157. | Reserved |
| R20-6-158. | Reserved |
| R20-6-159. | Repealed |

Historical Note

Adopted effective February 17, 1977 (Supp. 77-1). R20-6-159 recodified from R4-14-159 (Supp. 95-1). Repealed effective June 15, 1998 (Supp. 98-2).

R20-6-160. Petition for Rulemaking Action

- A.** The following definitions apply in this Section.
1. "Petitioner" means a person who petitions the Department for Rulemaking action as authorized under A.R.S. § 41-1033(A).
 2. "Rule" has the meaning stated at A.R.S. § 41-1001 and is enforceable by the Department.
 3. "Rulemaking action" means the process for formulation and finalization of a new rule, or amendment or repeal of an existing rule.
 4. "Substantive Policy Statement" has the meaning stated at A.R.S. § 41-1001, is advisory only, and is not enforceable by the Department.
- B.** Any person may petition the Department under A.R.S. § 41-1033(A) to either:
1. Make, amend, or repeal a final Rule;
 2. Review an existing agency practice or Substantive Policy Statement that the Petitioner alleges to constitute a Rule.
- C.** A person who files a petition pursuant to A.R.S. § 41-1033(A), shall include the following information in the petition:
1. The Petitioner's name and contact information;
 2. The name and address of any organization the Petitioner represents;
 3. Whether the Petitioner is petitioning the Department to:
 - a. Make, amend, or repeal a final Rule; or
 - b. Review an existing agency practice or Substantive Policy Statement that the Petitioner alleges to constitute a Rule;
 4. A detailed explanation of Petitioner's basis for submitting the petition;

5. If the Petitioner is petitioning the Department to make a Rule, the language of the proposed new Section and the specific authority for the requested Rulemaking action;
 6. If the Petitioner is petitioning the Department to amend an existing Rule, a citation to the existing Section to be amended, the language of the proposed Rule amendment, and the specific authority for the requested Rulemaking action;
 7. If the Petitioner is petitioning the Department to repeal an existing Rule, a citation to the existing Section or subsection to be repealed, and an explanation of why the Rule should be repealed including, if applicable, how the Rule does not meet the requirements of A.R.S. § 41-1030;
 8. If the Petitioner is petitioning the Department to review an existing agency practice that the Petitioner alleges to constitute a Rule, a description of the Department's practice, an explanation of how the Department's practice constitutes a Rule being enforced by the Department, the language of the proposed new Rule, and the specific authority for the requested Rulemaking action;
 9. If the Petitioner is petitioning the Department to review a Substantive Policy Statement that the Petitioner alleges to constitute a Rule, a citation to the Substantive Policy Statement, an explanation of how the Substantive Policy Statement is being enforced by the Department as a Rule, the language of the proposed new Rule, and the specific authority for the requested Rulemaking action; and
 10. The Petitioner's dated signature.
- D.** The petitioner may submit additional supporting information, including:
1. Statistical data; and
 2. A list of other persons and entities likely to be affected by the proposed Rulemaking action, with an explanation of the likely effects.
- E.** Within 60 days of the date the Department receives the petition, the Department shall send the Petitioner a written decision indicating whether the Department is denying the petition or will initiate the requested Rulemaking action, with the reasons for the decision.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 618, effective February 4, 1999 (Supp. 99-1). Section heading corrected at Department Request, Office File No. M11-401, filed October 27, 2011 (Supp. 11-3). Amended by final rulemaking at 28 A.A.R. 3626 (November 25, 2022), effective January 1, 2023 (Supp. 22-4).

ARTICLE 2. TRANSACTION OF INSURANCE**R20-6-201. Advertisements of Health**

- A.** Definitions. The following definitions apply to this Section and to R20-6-201.01, R20-6-201.02, and R20-6-203:
1. "Advertisement" means materials and information used by an insurer to generate insurance business.
 - a. Advertisement includes the following information:
 - i. Printed and published material, audio visual material, or other forms of electronic communication that an insurer uses or displays in direct mail, newspapers, magazines, radio, television, billboards, Internet web sites, and similar media to inform the public about the insurer or its products;
 - ii. Descriptive literature and sales aids an insurer issues or releases for presentation to members

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- of the public, including circulars, leaflets, booklets, depictions, illustrations, and form letters;
- iii. Prepared sales talks and presentations and material for use by an insurer or prepared by an insurer for use by authorized producers; and
- iv. Material included with a policy when the policy is delivered and material used in the solicitation of renewals and reinstatements;
- b. "Advertisement" does not include the following:
 - i. Material used solely for training and educating an insurer's employees or producers;
 - ii. Material used in-house by insurers;
 - iii. Communications within an insurer's own organization not intended for dissemination to the public;
 - iv. Individual communications with current policy holders regarding a member's personal information other than material urging the policyholders to increase or expand coverages;
 - v. Correspondence between a prospective group or blanket policyholder and an insurer in the course of negotiating a group or blanket contract;
 - vi. Court-approved material ordered by a court to be disseminated to policyholders;
 - vii. Material in connection with promotion or sponsorship of a charitable event in which only the name of the insurer is displayed;
 - viii. A general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a contract or program has been written or arranged. The announcement shall clearly indicate that it is preliminary to the issuance of a booklet and that does not describe the specific benefits under the contract or program nor the advantages as to the purchase of the contract or program;
 - ix. A general announcement by the sponsor that endorses the program;
 - x. Health and wellness material with general health and wellness information; or
 - xi. Press releases and news releases not intended to generate business.
- 2. "Disability insurance" has the same meaning prescribed in A.R.S. § 20-253.
- 3. "Elimination period" means the time between the date a loss occurs and the date that benefits begin to accrue for that loss.
- 4. "Exclusion" means a policy term stating a risk that an insurer has not assumed.
- 5. "Health insurance" means:
 - a. Disability insurance;
 - b. Insurance provided by a service corporation regulated under A.R.S. § 20-821 et seq.;
 - c. Insurance provided by a prepaid dental plan organization regulated under A.R.S. § 20-1001 et seq.; and
 - d. Insurance provided by a health care services organization regulated under A.R.S. § 20-1051 et seq.
- 6. "Insurance administrator" or "administrator" has the meaning prescribed in A.R.S. § 20-485(A)(1).
- 7. "Insurer" has the same meaning prescribed in A.R.S. § 20-104.
- 8. "Limitation" means a policy term, other than an exclusion or reduction, that decreases the risk assumed by the insurer or the insurer's obligation to provide benefits.
- 9. "Person" has the meaning in A.R.S. § 20-105.
- 10. "Policy" means any plan, certificate, contract, agreement, statement of coverage, evidence of coverage, subscription contract, membership coverage, rider, or endorsement that provides disability benefits, health insurance, medical, surgical or hospital expense benefits, long-term care benefits, or Medicare supplement benefits in the form of a cash indemnity, reimbursement, or service.
- 11. "Reduction" means a policy term that reduces the amount of an insured's benefits. A reduction means that the insurer has assumed the risk of a particular loss, but the amount or period of the insurer's coverage is less than what the insurer would have paid for the loss without the reduction.
- 12. "Spokesperson" means a person making a testimonial about or an endorsement of an insurer's product who:
 - a. Has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee, or independent contractor;
 - b. Has been formed by the insurer, is owned or controlled by the insurer or its employees, or is a person who owns or controls an insurer;
 - c. Is in a policy-making position and affiliated with the insurer in any capacity described in subsections (a) or (b); or
 - d. Is directly or indirectly compensated for making the testimonial or endorsement.
- B. Scope.**
 - 1. This Section applies to all advertisements for health insurance.
 - 2. This Section applies to the conduct of insurers, producers, and third-party administrators.
- C. General requirements.** Insurers, producers, and third-party administrators shall ensure that health insurance advertisements meet the requirements of this Section.
 - 1. Advertisements shall be truthful and not misleading. The insurer shall not use words or phrases, the meaning of which is clear only by implication or by familiarity with insurance terminology.
 - 2. An advertisement shall not omit information or use words, phrases, statements, references, or illustrations if the omission of information or use of words, phrases, statements, references, or illustrations may mislead or deceive purchasers or prospective purchasers.
 - 3. The words and phrases used to describe a policy shall accurately describe the benefits of the policy and not exaggerate any benefit through the use of phrases such as "all," "full," "complete," "comprehensive," "unlimited," "up to," "as high as," "this policy will pay your hospital and surgical bills" or "this policy will replace your income," or similar words and phrases.
 - 4. If a policy covers only one disease or a list of specified diseases, any advertisement for the policy shall not imply coverage beyond the specified diseases.
 - 5. If a policy pays varying amounts for the same loss occurring under different conditions or pays benefits only when a loss occurs under certain conditions, any advertisement for the policy shall disclose the limited conditions.
 - 6. If an advertisement specifies payment of a particular dollar amount for hospital room and board expenses, the

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advertisement shall also include the maximum daily benefit and the maximum time limit for which those expenses are covered.

7. An advertisement that refers to any dollar amount, period of time for which a benefit is payable, cost of policy, or specific policy benefit or the loss for which a benefit is payable shall also disclose any related exclusions, reductions, and limitations without which the advertisement would have the capacity and tendency to mislead or deceive.
 8. An advertisement covered by subsection (C)(7) shall disclose the existence of a waiting period if a policy contains a period between the effective date of the policy and the effective date of coverage under the policy. The advertisement shall disclose the existence of an elimination period.
 9. An advertisement shall disclose any exclusion, reduction, or limitation applicable to a pre-existing condition; however, an insurer is not required to make disclosure in an advertisement that does not reference specific product information, benefit level, or dollar amounts.
 10. If a policy has an exclusion, reduction, or limitation applicable to a preexisting condition, an advertisement shall not state or imply that the applicant's physical condition or medical history will not affect the issuance of the policy or payment of a claim and shall not use the phrase "no medical examination required" or other similar phrase.
 11. If an advertisement refers to renewability, cancellation, or termination of a policy, or states or illustrates time or age in connection with eligibility of applicants or continuation of the policy, the advertisement shall disclose the provisions relating to renewability, cancellation, and termination and any modification of benefits, losses covered, or premiums because of age or for other reasons, in a manner that does not minimize or obscure the qualifying conditions.
 12. An advertisement shall not make any offer prohibited under A.R.S. § 20-452(4).
 13. An advertisement shall not advertise any health insurance policy or form that has not been approved by the Department, unless the policy or form being advertised is exempt from approval or not subject to approval by order or statute.
 14. An advertisement shall not state or imply that a product being offered is an introductory, special, or initial offer that will entitle the applicant to receive advantages not described in the policy by accepting the offer.
 15. An advertisement designed to produce leads either by use of a coupon, a request to write or call the company, or subsequent advertisement before contact, shall disclose that a producer may contact the potential applicant.
- D. Method of disclosure of required information.** If an insurer is required by law to disclose particular information, the information shall be conspicuous and in close proximity to the statements to which the information relates, or under a prominent caption so that the required disclosure is not minimized, obscured, presented in an ambiguous fashion, or intermingled with the content of the advertisement.
- E. Testimonials.**
1. Testimonials used in advertisements shall be genuine, represent the current opinion of the author, be applicable to the policy advertised, and be accurately reproduced. The insurer shall provide the Department with the full name of the author and a copy of the full testimonial if the advertisement is filed with the Department or requested by the Department. If an insurer uses a testimonial, the insurer adopts the statements in the testimonial as the insurer's own statements. If a testimonial or endorsement is used more than one year after it is given, the insurer shall obtain a written confirmation from the author that the testimonial represents the current opinion of the author.
 2. The insurer shall disclose that a spokesperson has a financial interest or the proprietary or representative capacity of a spokesperson in an advertisement in the introductory portion of a testimonial or endorsement in the same form and with equal prominence as the endorsement. If a spokesperson is directly or indirectly compensated for making a testimonial or endorsement, the insurer shall disclose that fact in the advertisement by language that states, "Paid Endorsement," or words of similar import in type, style, and size at least equal to that used for the spokesperson's name or the body of the testimonial or endorsement, whichever is larger. For television or radio advertising, the insurer shall place the required disclosure prominently in the introductory portion of the advertisement.
- F. Statistics.** An advertisement with information on the dollar amounts of claims paid, the number of persons insured, or similar statistical information relating to any insurer or policy shall not use facts that are irrelevant to the sale of insurance and shall accurately reflect all of the relevant facts specific to the advertised policy or insurer. An advertisement shall not state or imply that statistics are derived from the policy being advertised unless that is true. The insurer shall identify in the advertisement the source of any statistics used.
- G. Inspection of policy.** An offer in an advertisement of free inspection of a policy or offer of a premium refund does not cure misleading or deceptive statements in the advertisement.
- H. Identification of plan or number of policies.**
1. If an advertisement offers a choice in the amount of benefits the advertisement shall disclose that the amount of benefits depends on the policy selected and that the premium will vary with the amount of the benefits.
 2. If an advertisement refers to benefits contained in more than one policy, other than a group master policy, the advertisement shall disclose that the benefits are provided only if multiple policies are purchased.
- I. Disparaging comparisons and statements.** An advertisement shall not make unfair, incomplete, or unsubstantiated comparisons of other insurers' policies or benefits or falsely disparage other insurers' policies, services, or business methods. A comparison is unsubstantiated if the insurer has no empirical study, analysis, or documentation supporting the comparative statement or comparison of policies or benefits.
- J. Jurisdictional limits.** If an insurer has an advertisement that is meant to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed, the advertisement shall indicate that the insurer is licensed in a specified state or states only, or is not licensed in a specified state or states, by use of language such as "This Company is licensed only in State A" or "This Company is not licensed in State B."
- K. Identity of insurer.** The insurer shall state the name of the actual insurer in all of its advertisements. An advertisement shall clearly identify the insurer and shall not use a trade name, an insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, ser-

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vice mark, slogan, symbol, or other device that may mislead or deceive the public as to the insurer's identity.

- L. Group insurance. An advertisement shall not state or imply that prospective policyholders become group or quasi-group members and enjoy special rates or underwriting privileges, unless it is true. An advertisement to join an association, trust, or group that is also an invitation to contract for insurance coverage shall disclose that the applicant will be purchasing both membership in the association, trust, or group and insurance coverage.
- M. Government approval. An advertisement shall not state or imply any of the following:
 1. That a governmental agency or regulator is connected with or has provided or endorsed a policy or endorsed an insurer;
 2. That a governmental agency or regulator has examined an insurer's financial condition and found it satisfactory. This subsection does not apply if an insurer is responding to a specific documented, public, false allegation about its financial condition.
- N. Endorsements. An advertisement may state that an individual, group, society, association, or other organization has approved or endorsed the insurer or its policy if the organization or group has done so in writing and if any proprietary relationship between the organization and the insurer is disclosed.
- O. Claims handling. An advertisement shall not contain false statements about the time within which claims are paid or statements that imply that claim settlements will be liberal or generous beyond the terms of the policy.
- P. Statements about the insurer. An advertisement shall not contain false or misleading statements about an insurer's assets, corporate structure, financial standing, length of time in business, or relative position in the insurance business.

Historical Note

Former General Rule Number 2. R20-6-201 recodified from R4-14-201 (Supp. 95-1). Amended by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-201.01. Insurer Advertising Responsibility and Records

- A. An insurer shall establish, and at all times maintain, a system of control over the content, form, and method of dissemination of all advertisements. The insurer whose policies are advertised is responsible for the advertisements, regardless of who writes, creates, designs, or presents the advertisement, except the insurer is not responsible for any advertisement placed by a person to whom the insurer gave no actual or apparent authority. Before using an advertisement about an insurer or its products, a producer shall get written approval from the insurer for use of advertisements that were not supplied by the insurer.
- B. An insurer shall maintain, at its home or principal office, the following:
 1. Advertisements disseminated by the insurer in Arizona or any other state, including:
 - a. Each printed, published, recorded, or prepared advertisement of individual policies; and
 - b. Typical printed, published, recorded, or prepared advertisements of blanket, franchise, and group policies.
 2. A notation attached to each advertisement specifying the manner and extent of distribution and the form number of any policy advertised; and

3. Documentation supporting any testimonials, statistical claims, or comparisons shown in the advertising.

- C. An insurer shall maintain the advertisements, notations, and supporting documentation for at least three years from the date of first dissemination.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-201.02. Procedures for Filing Advertising Materials; Transmittal Form

- A. An insurer that is required to file a health insurance advertisement with the Department as specified in A.R.S. §§ 20-826(T), 20-1018, 20-1057(X), 20-1110(E), or 20-1662 shall file the advertisement with a transmittal form prescribed by the Department.
- B. The transmittal form shall include the following information:
 1. Identifying information of the insurer, including name, address, National Association of Insurance Commissioners' identification number, and type of insurer;
 2. A contact person at the insurer with whom the Department can communicate about the advertisement;
 3. Description of the type of advertisement being filed;
 4. Planned use and dissemination of the advertisement, including date of first use, or a statement that the advertisement will not be used any earlier than a specified date;
 5. Description of product being advertised;
 6. Form number and name for the advertised product;
 7. A certification from an officer of the insurer that the advertisement complies with applicable laws; and
 8. The dated signature of the insurer's officer.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-202. Advertising, Solicitation, and Transaction of Life Insurance

- A. The definitions in R20-6-201(A) and the following definition apply in this Section:

"Life insurance" means a life insurance contract, including all benefits payable under the policy.
- B. Applicability
 1. This Section applies to:
 - a. All persons subject to regulation under A.R.S. Title 20; and
 - b. Advertising, promotion, solicitation, negotiation, and sale of life insurance policies, regardless of the form of dissemination.
 2. This Section does not apply to group insurance, franchise insurance, or to annuities without life contingencies.
- C. General provisions. A life insurance advertisement shall not mislead the public by:
 1. Omitting information that fairly describes the subject matter as a life insurance policy and the benefits available under the policy;
 2. Placing undue emphasis on facts that, even if true, are not relevant to the sale of life insurance; or
 3. Placing undue emphasis on features of incidental or secondary importance to the life insurance aspects of the policy.
- D. The Department deems the following acts misleading and deceptive:
 1. Using any statement, including phrases such as "investment," "investment plan," "founders plan," "charter

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- plan,” “expansion plan,” “profit,” “profits,” or “profit sharing,” in a context or under circumstances or conditions that may mislead a purchaser or prospective purchaser to believe that the insurer is selling something other than a life insurance policy or will provide some benefit not included in the policy, or not available to other persons of the same class and equal expectation of life;
2. Using any phrase as the name or title of a life insurance policy if the phrase does not include the words “life insurance,” unless other language in the same document expressly provides that the contract is a life insurance policy;
 3. Making any statement relating to the growth or earnings of the life insurance industry or to the tax status of life insurance companies in a context that would reasonably be understood as attempting to interest a prospective applicant in the purchase of shares of stock in the insurance company rather than in the purchase of a life insurance policy;
 4. Making any statement that reasonably tends to imply that the insured will enjoy a status common to a stockholder or will acquire a stock ownership interest in the insurance company by purchasing the policy, unless the statement is made with reference to policies of domestic life insurers engaged in a program allowed under A.R.S. § 20-453;
 5. Providing a policyholder with a premium receipt book, policy jacket, return envelope, or other printed or electronic material referring to the insurer’s “investment department,” “insured investment department,” or similar terminology in a manner implying that the policy is sold, issued, or serviced by the insurer’s investment department;
 6. Making any statement that reasonably tends to imply that, by purchasing a policy, the purchaser or prospective purchaser will become a member of a limited group of persons who may receive the payment of dividends, special advantages, benefits, or favored treatment unless the insurance contract specifically provides for the described payment of dividend, special advantages, benefits, or favored treatment;
 7. Stating or implying that only a limited number of persons or limited class of persons may buy a particular kind of policy, unless the limitation is related to recognized underwriting practices or specifically stated in the policy or rider;
 8. Describing premium payments in language that states the payment is a “deposit,” unless:
 - a. The payment establishes a debtor-creditor relationship between the insurance company and the policyholder; or
 - b. The term is used with the word “premium” in a manner as to clearly indicate the true character of the payment;
 9. Providing any illustration or projection of future dividends that:
 - a. Is not based on the company’s actual scale for payment of current dividends, and
 - b. Does not clearly indicate that the dividends are not guarantees;
 10. Using the words “dividends,” “cash dividends,” “surplus,” or similar phrases in a manner that states or implies that the payment of dividends is guaranteed or certain to occur;
 11. Stating, without qualification, that a purchaser of a policy will share in a stated percentage or portion of the insurer’s earnings;
 12. Making any statement that projected dividends under a participating policy will be or can be sufficient at any future time to assure the receipt of benefits such as a paid-up policy without further payment of premiums unless the statement also explains:
 - a. The benefits or coverage that would be provided at the future time, and
 - b. The conditions under which the receipt of benefits without further payment of premiums would occur;
 13. Describing a life insurance policy or premium payments in terms of “units of participation,” unless accompanied by other language clearly indicating that the references are to a life insurance policy or to premium payments, as applicable.
 14. Advising producers to avoid disclosing that life insurance is the subject of the solicitation or sale;
 15. Stating that an insured is guaranteed certain benefits if the policy is allowed to lapse, without explaining the non-forfeiture benefits;
 16. Using a dollar amount in printed material to be shown to a prospective policyholder, unless the amount is accompanied by language that:
 - a. States the nature of the dollar amount,
 - b. Prohibits including the use of dollar amounts not related to guaranteed values and properly projected dividend figures, and
 - c. Prohibits the use of figures showing growth of stock values, or other values not a part of the life insurance contract.
 17. Stating that a policy provides features not found in any other insurance policy, unless the insurer can demonstrate that other policies do not have the same feature;
 18. Making any statement or implication about an insurance policy that cannot be verified by reference to the policy contract, a sample of the policy being described, or the company’s officially published rate book and dividend illustrations;
 19. Stating that life insurance is “loss proof” or “depression proof,” except that an insurer may make statements that life insurance benefits, other than dividends, are guaranteed by the company regardless of economic conditions;
 20. Making any statement that a company makes a profit as a result of policy lapses or surrenders;
 21. Making comparisons to the past experience of other life insurance companies as a means of projecting possible experience for the company issuing the advertising; and
 22. Conduct or statements designed to mislead a prospective applicant or purchaser.

Historical Note

Former General Rule Number 68-14. R20-6-202 recodified from R4-14-202 (Supp. 95-1). Amended by final rulemaking at 13 A.A.R 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-203. Form Filings; Translations

- A. An insurer, rate service organization, or rating organization shall provide to the Department, at the time of filing, an English language translation of each form, advertisement, or other document or material that the insurer is required by statute or rule to file with the Department, if the filed document or

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material contains communication in a language other than English.

- B. The translation filed under subsection (A) shall compare the foreign language version in a side-by-side format with the English language translation. An insurer, rate service organization, or rating organization shall ensure that the translation is performed by a person with formal college-level or specialized training in the foreign language, including training in grammar and sentence syntax.
- C. With each translation, an insurer, rate service organization, or rating organization shall also provide to the Department a sworn statement signed by the translator who translated the document that includes the qualifications of the translator under subsection (B) and attests that the translation is identical in substance to the English document or material.
- D. If an insurer, rate service organization, or rating organization files a foreign language version of a document or material that the insurer has previously filed in English, the insurer is not required to refile the English version, but shall identify the English version, provide the side-by-side comparison under subsection (B), and file the sworn statement required under subsection (C).

Historical Note

Former General Rule Number 71-23; Repealed effective January 1, 1981 (Supp. 80-6). R20-6-203 recodified from R4-14-203 (Supp. 95-1). New Section made by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-204. Expired**Historical Note**

Former General Rule Number 71-24; Former Section R4-14-204 repealed, new Section R4-14-204 adopted effective January 1, 1981 (Supp. 80-6). R20-6-204 recodified from R4-14-204 (Supp. 95-1). Amended effective July 14, 1998 (Supp. 98-3). Amended by final rulemaking at 6 A.A.R. 475, effective January 5, 2000 (Supp. 00-1). Amended by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 136, effective December 15, 2016 (Supp. 16-4).

R20-6-205. Local or Regional Retaliatory Tax Information**A. Definitions.**

- 1. "Addition to the rate of tax" means the tax rate determined under subsection (D) to be applied under A.R.S. 20-230(A) and this Section to foreign or alien insurers domiciled in a foreign country or other state that impose local or regional taxes.
- 2. "Alien insurer" has the meaning prescribed in A.R.S. § 20-201.
- 3. "Arizona life insurer" means a domestic insurer authorized to issue life insurance policies in this state within the meaning of A.R.S. § 20-254 or annuities within the meaning of A.R.S. § 20-254.01, regardless of whether the insurer is authorized to transact disability insurance in this state.
- 4. "Department" means the Arizona Department of Insurance and Financial Institutions.
- 5. "Director" has the meaning prescribed in A.R.S. § 20-102.
- 6. "Domestic insurer" has the meaning prescribed in A.R.S. § 20-203.

- 7. "Foreign insurer" has the meaning prescribed in A.R.S. § 20-204.
- 8. "Foreign or alien life insurer" means a foreign or alien insurer authorized to issue life insurance policies in this state within the meaning of A.R.S. § 20-254 or annuities within the meaning of A.R.S. § 20-254.01, regardless of whether the insurer is authorized to transact disability insurance in this state.
- 9. "Local or regional taxes" means any tax, license, or other obligation imposed upon domestic insurers or their producers by any:
 - a. City, county, or other political subdivision of a foreign country or other state; or
 - b. Combination of cities, counties, or other political subdivisions of a foreign country or other state.
- 10. "Other Arizona insurer" means a domestic insurer authorized to transact one or more lines of insurance in this state but not authorized to transact life insurance or annuities in this state.
- 11. "Other foreign or alien insurer" means a foreign or alien insurer authorized to transact one or more lines of insurance in this state but not authorized to transact life insurance or annuities in this state.
- 12. "Other state" means any state in the United States, the District of Columbia, and territories or possessions of the United States, excluding Arizona.
- 13. "Premium Tax and Fees Report," includes the "Survey of Arizona Domestic Insurers" and the "Retaliatory Taxes and Fees Worksheet," and means the form prescribed by the Director and filed annually by insurers under A.R.S. § 20-224.

- B. Scope. This Section applies to all foreign, alien, and domestic insurers and to Premium Tax and Fees Reports filed by all insurers.
- C. Data to be reported by domestic insurers. As a part of its Premium Tax and Fees Report, each domestic insurer shall file a Survey of Arizona Domestic Insurers that reports the following data for the calendar year covered by the insurer's Premium Tax and Fees Report with respect to each foreign country or other state in which the insurer was required to pay any local or regional taxes:
 - 1. Total local or regional taxes paid; and
 - 2. Total premiums taxed under the premium taxing statute of the foreign country or other state, as reported by the insurer in any premium tax report filed under the laws of the foreign country or other state.
- D. Computation of statewide and foreign countrywide additions to the rate of tax. For each foreign country or other state having one or more local or regional taxes on domestic insurers, the Department shall compute on a statewide or foreign countrywide basis an addition to the rate of tax. The Department shall compute the addition to the rate of tax payable by Arizona life insurers separately from the addition to the rate of tax payable by other Arizona insurers. The addition to the rate of tax payable by each category of Arizona domestic insurers shall be the quotient of:
 - 1. The aggregate local or regional taxes reported as paid to the foreign country or other state by domestic insurers in each category for the calendar year covered by the Premium Tax and Fees Report divided by,
 - 2. The aggregate statewide or foreign countrywide premiums taxed under the premium taxing statute of the other state or foreign country reported by domestic insurers in

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each category for the calendar year covered by the Premium Tax and Fees Report.

- E. Publication of additions to the rate of tax. The Department shall publish additions to the rate of tax determined under A.R.S. § 20-230(A) and this Section, based upon the survey information gathered from domestic insurers for the preceding calendar year under subsection (C). The Department shall publish the information annually on the Department website, on or before November 1, and in the Retaliatory Taxes and Fees Worksheet for the next year's Premium Tax and Fees Report.
- F. Foreign and Alien Insurers' Report of the Effect of Local or Regional Taxes. Each foreign or alien insurer domiciled in a foreign country or other state for which the Department publishes an addition to the rate of tax shall include in the "State or Country of Incorporation" column of its Retaliatory Taxes and Fees Worksheet for the calendar year covered by its Premium Tax and Fees Report an amount equal to:
 1. The total premiums received in Arizona that would be taxed under the laws of the domiciliary jurisdiction, as reported in the "State or Country of Incorporation" column of its premium tax and fees report multiplied by,
 2. The applicable addition to the rate of tax published by the Department for the calendar year covered by the insurer's Premium Tax and Fees Report.
- G. Contesting computation. A foreign or alien insurer subject to this Section may preserve the right to contest the computation of the addition to the rate of tax by submitting a notice of appeal under A.R.S. Title 41, Chapter 6, Article 10 before or at the time the retaliatory tax is paid. Subject to A.R.S. § 20-162, the filing of a notice of appeal to contest the computation of the applicable addition to the rate of tax does not relieve a foreign or alien insurer of the obligation to timely pay the retaliatory tax, and does not stay accrual of any applicable interest and penalties.

Historical Note

Former General Rule Number 71-25; Repealed effective March 19, 1976 (Supp. 76-2). R20-6-205 recodified from R4-14-205 (Supp. 95-1). Section R20-6-205 renumbered from R20-6-206 and amended by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2). Section amended by final rulemaking at 29 A.A.R. 3621 (November 24, 2023), effective January 7, 2024 (Supp. 23-4). Effective date corrected (Supp. 23-4, Ver. 2).

R20-6-206. Expired**Historical Note**

Former General Rule Number 72-30. Repealed effective February 22, 1993 (Supp. 93-1). R20-6-206 recodified from R4-14-206 (Supp. 95-1). New Section adopted effective December 29, 1995 (Supp. 95-4). Amended effective November 5, 1998 (Supp. 98-4). Former R20-6-206 renumbered to R20-6-205; new R20-6-206 renumbered from R20-6-207 and amended by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 3374, effective May 31, 2016 (Supp. 16-4).

R20-6-207. Gender Discrimination

- A. The following definitions apply to this Section:
 1. "Applicant" means a person who is applying for a policy.
 2. "Policy" means an insurance policy, plan, contract, certificate, evidence of coverage, subscription contract, or binder, including a rider or endorsement offered by an insurer.
- 3. "Insurer" means any company that issues a policy.
- B. Applicability and scope. This Section applies to any policy or certificate delivered or issued for delivery in this state.
- C. Availability requirements.
 1. An insurer shall not deny availability of any insurance policy on the basis of the gender or marital status of the insured or prospective insured.
 2. An insurer shall not restrict, modify, exclude, reduce, or limit the amount of benefits payable, or any term, conditions or type of coverage on the basis of an applicant's or insured's gender or marital status, except to the extent the amount of benefits, term, conditions, or type of coverage vary as a result of the application of rate differentials permitted under A.R.S. Title 20.
 3. An insurer may consider marital status to determine whether a person is eligible for dependent coverage or benefits.
- D. Prohibited practices. The following practices and any other practice that treats similarly situated persons differently based on gender unless the different treatment is specifically allowed by law, is prohibited.
 1. Denying coverage to a person of one gender who is self-employed, employed part-time, or employed by relatives, if coverage is offered to a person of the opposite gender who is similarly employed;
 2. Denying a policy rider to a person of one gender if the rider is available to a person of the opposite gender;
 3. Denying maternity benefits to an applicant or insured who buys a policy for individual coverage if the insurer offers comparable family coverage policies with maternity benefits;
 4. Denying, under group policies, dependent coverage to an employee of one gender if dependent coverage is available to an employee of the opposite gender;
 5. Denying a disability income policy to an employed person of one gender if a policy is offered to a person of the opposite gender who is similarly employed;
 6. Treating complications of pregnancy differently from any other illness or sickness covered under a policy;
 7. Restricting, reducing, modifying, or excluding benefits relating to coverage involving the genital organs of only one gender;
 8. Offering lower maximum monthly benefits to a person of one gender than to a person of the opposite gender who is in the same classification under a disability income policy;
 9. Offering more restrictive benefit periods or more restrictive definitions of disability to a person of one gender than to a person of the opposite gender who is in the same classification under a disability income policy;
 10. Establishing different conditions for a policyholder of one gender to exercise benefit options contained in the policy than for a person of the opposite gender;
 11. Limiting the amount of coverage an insured or prospective insured may purchase based upon the insured's or prospective insured's marital status unless the limitation is for the purpose of defining persons eligible for dependent's benefits; and
 12. Otherwise restricting, modifying, excluding or reducing the availability of any insurance contract, the amount of benefits payable, or any term, condition or type of coverage on account of gender or marital status in all lines of insurance.

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Historical Note

Former General Rule Number 73-32. R20-6-207 recodified from R4-14-207 (Supp. 95-1). Former R20-6-207 renumbered to R20-6-206; new R20-6-207 renumbered from R20-6-209 and amended by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-208. Group Coverage Discontinuance and Replacement**A. Definitions.** The following definitions apply in this Section:

1. "Group insurance" means an insurance benefit that meets all the following conditions:
 - a. Coverage is provided through insurance policies or subscriber contracts to classes of employees or members defined in terms of conditions pertaining to employment or membership;
 - b. The coverage is not available to the general public and can be obtained and maintained only because of the covered person's membership in or connection with the particular organization or group;
 - c. Coverage is paid for by bulk payment of premiums to the insurer; and
 - d. An employer, union, or association sponsors the plan.
2. "Health insurance coverage" means a hospital and medical expense incurred policy, a nonprofit health care service plan contract, a health maintenance organization subscriber contract, or any other health care plan or arrangement that pays for or furnishes medical or health care services whether by insurance or otherwise, but does not include the following:
 - a. Coverage only for accident, or disability income insurance, or any combination of accident and disability income insurance;
 - b. Coverage issued as a supplement to liability insurance;
 - c. Liability insurance, including general liability insurance and automobile liability insurance;
 - d. Workers' compensation or similar insurance;
 - e. Automobile medical payment insurance;
 - f. Credit-only insurance;
 - g. Coverage for onsite medical clinics; and
 - h. Other insurance coverage similar to the coverage specified in subsections (2)(a) through (g), of the Health Insurance Portability and Accountability Act of 1996 (Pub.L.No. 104-191) (HIPAA), under which benefits for medical care are secondary or incidental to other insurance benefits.
 - i. The following benefits, if the benefits are provided under a separate policy, certificate, or contract of insurance or are otherwise not an integral part of the coverage:
 - i. Limited-scope dental or vision benefits;
 - ii. Benefits for long-term care, nursing home care, home health care, community-based care, or any combination of those benefits;
 - iii. Other similar, limited benefits specified in federal regulations issued under HIPAA.
 - j. The following benefits if provided under a separate policy, certificate, or contract of insurance with no coordination between provision of benefits and any exclusion of benefits under a group health plan maintained by the same plan sponsor and if the benefits are paid for an event regardless of whether the

benefits are provided under a group health plan maintained by the same plan sponsor:

- i. Coverage only for a specified disease or illness, or
 - ii. Hospital indemnity or other fixed indemnity insurance.
 - k. The following benefits if the benefits are offered as a separate policy, certificate, or contract of insurance:
 - i. Medicare supplemental policy as defined under § 1882(g)(1) of the Social Security Act, 42 U.S.C. 1395ss;
 - ii. Coverage supplemental to the coverage provided under, 10 U.S.C. Title 10, Chapter 55; or
 - iii. Similar supplemental coverage provided to coverage under a group health plan.
 3. "Health status-related factor" means any of the following:
 - a. Health status;
 - b. Medical condition, including a physical or mental illness;
 - c. Claims experience;
 - d. Receipt of health care;
 - e. Medical history;
 - f. Genetic information;
 - g. Evidence of insurability, including conditions arising out of acts of domestic violence; or
 - h. Disability.
 4. "Insurer" means an insurer that offers or provides group health insurance coverage, and includes an insurer that issues disability insurance as defined in A.R.S. § 20-253, a medical, dental, or optometric service corporation as defined in A.R.S. § 20-822, and a health care services organization as defined in A.R.S. § 20-1051.
- B.** This Section applies to all group insurance issued by an insurer.
- C.** Effective date of discontinuance for non-payment of premium.
1. If a group insurance policy provides for automatic discontinuance of the policy after a premium remains unpaid through the grace period allowed for payment, the insurer is liable for valid claims for covered losses incurred before the end of the grace period.
 2. If the insurer's actions after the end of the grace period indicate that the insurer considers the group insurance policy as continuing in force beyond the end of the grace period the insurer is liable for valid claims for losses beginning before the effective date of written notice of discontinuance to the policyholder or other entity responsible for paying premiums.
 - a. The following actions indicate that the insurer considers the policy in force:
 - i. Continued recognition, acknowledgement, or payment of subsequently incurred claims, or
 - ii. Continued enrollment of employees or dependents.
 - b. The following actions shall not indicate that the insurer considers that policy in force:
 - i. Recognition, payment, or acknowledgement of a claim by an insurer or processing a denial based on eligibility or other denial reasons set forth in the group benefit plan booklet; or
 - ii. Recognition, payment, or acknowledgement of claims due to the group's failure to notify the insurer that the employee or member is no longer eligible for coverage or the group policy is terminated.

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3. The effective date of discontinuance shall not be before midnight at the end of the third scheduled work day after the date on which the notice of discontinuance is delivered.
- D. Requirements for notice of discontinuance.**
1. An insurer's notice of discontinuance shall include a request to the group policyholder to notify covered employees of the date when the group policy or contract will discontinue and to advise that, unless otherwise provided in the policy or contract, the insurer is not liable for claims for losses incurred after the date of discontinuance. If the plan involves employee contributions, the notice of discontinuance shall also advise that if the policyholder continues to collect employee contributions beyond the date of discontinuance, the policyholder is solely liable for benefits for the period which contributions were collected.
 2. The insurer shall also provide the policyholder with a supply of notice forms that the policyholder can distribute to the covered employees. The notice forms shall explain the discontinuance and the effective date, and advise employees to refer to their certificates or contracts to determine their rights on discontinuance.
- E. Extension of benefits.**
1. A group policy shall provide a reasonable provision for extension of benefits for an employee or dependent who is totally disabled on the date of discontinuance as follows:
 - a. For a group life plan with a disability benefit extension of any type such as a premium waiver extension, extended death benefit in the event of total disability, or payment of income for a specified period during total disability, the discontinuance of the group policy shall not terminate the benefit extension.
 - b. For a group plan providing benefits for loss of time from work or specific indemnity during hospital confinement, discontinuance of the policy during a disability or hospital confinement shall not effect benefits payable for that disability or hospital confinement.
 - c. A hospital or medical expense coverage, other than dental and maternity expense, shall include a reasonable extension of benefits or accrued liability provision. A provision is reasonable if:
 - i. It provides an extension of at least 12 months under "major medical" and "comprehensive medical" type coverage; or
 - ii. Under other types of hospital or medical expense coverage, it provides either an extension of at least 90 days or an accrued liability for expenses incurred during a period of disability or during a period of at least 90 days starting with a specific event that occurred while coverage was in force, such as an accident.
 2. An insurer shall ensure that the policy and group insurance certificates includes a description of the extension of benefits or accrued liability provision.
 3. An insurer shall ensure that benefits payable during a period of extension or accrued liability are subject to the policy's regular benefit limits, such as benefits ceasing at exhaustion of a benefit period or of maximum benefits.
 4. For hospital or medical expense coverage, an insurer may limit benefit payments to payments applicable to the disabling condition only.
- F. Continuance of coverage in situations involving replacement of one plan by another.**
1. When a group policyholder secures replacement coverage with a new insurer, self-insures, or foregoes provision of coverage, the replaced insurer is liable only to the extent of its accrued liabilities and extensions of benefits after the date of discontinuance.
 2. The succeeding insurer shall cover each individual who:
 - a. Was eligible for coverage under the prior plan on the date of discontinuance, and
 - b. Is eligible for coverage according to the succeeding insurer's plan of benefits with respect to a class of individuals eligible for coverage.
 3. For the purpose of successive health insurance coverage under subsection (F)(2), a succeeding insurer's plan of benefits shall:
 - a. Not have any non-confinement rules; and
 - b. Provide, as to any actively-at-work rules, that absence from work due to a health status-related factor is treated as being actively-at-work.
 4. Nothing in subsection (F)(2) prohibits an insurer from performing coordination of benefits.
 5. A succeeding insurer shall cover each individual not covered under the succeeding insurer's plan of benefits under subsection (F)(2) according to subsections (a) and (b) if the individual was validly covered, including benefit extension, under the prior plan on the date of discontinuance and is a member of a class of individuals eligible for coverage under the succeeding insurer's plan. Any reference in subsection (a) or (b) to an individual who was or was not totally disabled is a reference to the individual's status immediately before the effective date of coverage for the succeeding insurer.
 - a. The minimum level of benefits to be provided by the succeeding insurer shall be the level of benefits of the prior insurer's plan reduced by any benefits payable by the prior plan.
 - b. The succeeding insurer shall provide coverage until at least the earliest of the following dates:
 - i. The date the individual becomes eligible under the succeeding insurer's plan as described in subsection (F)(2);
 - ii. The date the individual's coverage would terminate according to the succeeding insurer's plan provisions applicable to individual termination of coverage such as at termination of employment or ceasing to be eligible dependent; or
 - iii. For an individual who was totally disabled, and covered by a type of coverage for which subsection (E) requires an extension of accrued liability, the end of any period of extension of benefits or accrued liability that is required of the prior insurer under subsection (E), or if the prior insurer's policy is not subject to subsection (E), would have been required of the insurer had its policy been subject to subsection (E) at the time the prior plan was discontinued and replaced by the succeeding insurer's plan;
 - c. For health insurance coverage, if an individual who was totally disabled at the time the prior insurer's

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plan was discontinued and replaced by the succeeding insurer's plan, and if subsection (E) requires an extension of benefits or accrued liability, the minimum level of benefits to be provided by the succeeding insurer shall be the level of benefits of the prior insurer's plan, reduced by any benefits paid by the prior plan.

- d. If the succeeding insurer's plan has a preexisting conditions limitation, the level of benefits applicable to preexisting conditions of persons becoming covered by the succeeding insurer's plan according to subsection (F) during the period the limitation applies under the new plan shall be the lesser of:
 - i. The benefits of the new plan determined without application of the preexisting conditions limitation, or
 - ii. The benefits of the prior plan.
- e. The succeeding insurer, in applying any deductibles, coinsurance amounts applicable to out-of-pocket maximums, or waiting periods, shall give credit for the satisfaction or partial satisfaction of the same or similar provisions under a prior plan providing similar benefits. For deductibles or coinsurance amounts applicable to out-of-pocket maximums, the credit shall apply for the same or overlapping benefit periods and shall be given for expenses actually incurred and applied against the deductible or coinsurance provisions of the prior plan during the 90 days before the effective date of the succeeding insurer's plan but only to the extent these expenses are recognized under the terms of the succeeding insurer's plan and are subject to similar deductible or coinsurance provisions.
- f. If the succeeding insurer is required under this Section to make a determination about the benefits in the prior plan, the succeeding insurer may ask the prior plan to provide a statement of the benefits available or other pertinent information sufficient to permit the succeeding insurer to verify the benefit determination. For the purposes of this Section, all definitions, conditions, and covered-expense provisions of the prior plan shall govern the benefit determination. The benefit determination is made as if the succeeding insurer had not replaced coverage.

Historical Note

Former General Rule Number 73-34. R20-6-208 recodified from R4-14-208 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 491, effective September 30, 2001 (Supp. 02-1). Section R20-6-208 renumbered from R20-6-210 and amended by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-209. Life Insurance Solicitation**A. Scope.**

1. This Section applies to any solicitation, negotiation, or procurement of life insurance occurring in Arizona. This Section applies to any issuer of life insurance contracts, including fraternal benefit societies.
2. Unless otherwise specifically included, the Section does not apply to:
 - a. Annuities,
 - b. Credit life insurance,
 - c. Group life insurance,

- d. Life insurance policies issued in connection with a pension and welfare plan as defined by and subject to the federal Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1001 et seq.; or
- e. Variable life insurance under which the death benefits and cash values vary according to unit values of investments held in a separate account.

B. In this Section, the following apply:

1. "Buyer's Guide" means a document that contains the language in the Appendix to this Section or language approved by the Director.
2. "Cash dividend" means the current illustrated dividend that can be applied toward payment of the gross premium.
3. "Equivalent Level Annual Dividend" is calculated as follows:
 - a. Accumulate the annual cash dividends at 5% interest compounded annually to the end of the 10th and 20th policy years;
 - b. Divide each accumulation in subsection (a) by an interest factor that converts the accumulation into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the values in subsection (a) over the periods stipulated in subsection (a). If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.
 - c. Divide the results in subsection (b) by the number of thousands of the Equivalent Level Death Benefit to arrive at the "Equivalent Level Annual Dividend."
4. "Equivalent Level Death Benefit" means the amount of benefit of a policy or term life insurance rider calculated as follows:
 - a. Accumulate the guaranteed amount payable upon death, regardless of the cause of death, at the beginning of each policy year for 10 and 20 years at 5% interest compounded annually to the end of the 10th and 20th policy years, respectively.
 - b. Divide each accumulation in subsection (a) by an interest factor that converts the accumulation into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in subsection (a) over the periods stipulated in subsection (a). If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.
5. "Generic name" means a short title that is descriptive of the premium and benefit patterns of a policy or a rider.
6. "Life Insurance Surrender Cost Index" means the cost index that is calculated as follows:
 - a. Determine the guaranteed cash surrender value, if any, available at the end of the 10th and 20th policy years.
 - b. For policies participating in dividends, add the terminal dividend payable upon surrender, if any, to the accumulation of the annual Cash Dividends at 5% interest compounded annually to the end of the period selected and add this sum to the amount determined in subsection (a).
 - c. Divide the result in subsection (b) (subsection (a) for guaranteed-cost policies) by an interest factor that converts into an equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in subsection (b) or subsection (a) for guar-

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- anteed cost policies, over the periods stipulated in subsection (a)). If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.
- d. Determine the equivalent level premium by accumulating each annual premium payable for the basic policy or rider at 5% interest compounded annually to the end of the period stipulated in subsection (a) and dividing the result by the respective factors stated in subsection (c). This amount is the annual premium payable for a level premium plan.
 - e. Subtract the result of subsection (c) from subsection (d).
 - f. Divide the result of subsection (e) by the number of thousands of the Equivalent Level Death Benefit to arrive at the Live Insurance Surrender Cost Index.
7. The Life Insurance Net Payment Cost Index is calculated in the same manner as the comparable Life Insurance Cost Index except that the cash surrender value and any terminal dividend are set at zero.
 8. "Policy Summary" means a written statement describing elements of the policy, including:
 - a. The following prominently placed title: Statement of Policy Cost and Benefit Information.
 - b. The name and address of the insurance producer, or, if no producer is involved, a statement of the procedure to be followed to receive responses to inquiries regarding the Policy Summary.
 - c. The full name and home office or administrative office address of the company by which the life insurance policy is to be or has been written.
 - d. The generic name of the basic policy and each rider.
 - e. For the first five policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns, including the years for which Life Insurance Cost Indexes are displayed and at least one age from 60 through 65 or maturity, whichever is earlier, the following amounts, where applicable:
 - i. The annual premium for the basic policy;
 - ii. The annual premium for each optional rider;
 - iii. Guaranteed amount payable upon death at the beginning of the policy year regardless of the cause of death except for suicide, or other specifically enumerated exclusions provided by the basic policy and each optional rider, with benefits provided under the basic policy and each rider shown separately;
 - iv. Total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider;
 - v. Cash dividends payable at the end of the year with values shown separately for the basic policy and each rider. Dividends need not be displayed beyond the twentieth policy year; and
 - vi. Guaranteed endowment amounts payable under the policy that are not included under guaranteed cash surrender values in subsection (iv).
 - f. The effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether the rate is applied in advance or in arrears. If the policy loan interest rate is variable, the Policy Summary shall include the maximum annual percentage rate.
 - g. Life Insurance Cost Indexes for 10 and 20 years but not beyond the premium-paying period. Separate indexes shall be displayed for the basic policy and for each optional term life insurance rider. The indexes need not be included for optional riders that are limited to benefits such as accidental death benefits, disability waiver of premium, preliminary term life insurance coverage of less than 12 months, and guaranteed insurability benefits, nor for basic policies or optional riders covering more than one life.
 - h. The Equivalent Level Annual Dividend in the case of participating policies and participating optional term life insurance riders, under the same circumstances and for the same durations at which Life Insurance Cost Indexes are displayed.
 - i. If the Policy Summary includes dividends, a statement that dividends are based on the insurer's current dividend scale and are not guaranteed and a statement in close proximity to the Equivalent Level Annual Dividend as follows: "An explanation of the intended use of the Equivalent Level Annual Dividend is included in the Life Insurance Buyer's Guide."
 - j. A statement in close proximity to the Life Insurance Cost Indexes as follows: "An explanation of the intended use of these indexes is provided in the Life Insurance Buyer's Guide."
 - k. The date on which the Policy Summary is prepared. The Policy Summary shall consist of a separate document. All information required to be disclosed shall not be minimized or obscure. Any amounts that remain level for two or more years of the policy may be represented by a single number that clearly indicates the amounts that are applicable for each policy year. Amounts in subsection (8)(e) shall be listed in total, not on a per thousand nor per unit basis. If more than one insured is covered under one policy or rider, guaranteed death benefits shall be displayed separately for each insured or for each class of insured if death benefits do not differ within the class. Zero amounts shall be displayed as zero and shall not be displayed as a blank space.
- C. Disclosure requirements.
 1. The insurer shall provide to all prospective purchasers, a Buyer's Guide and a Policy Summary before accepting the applicant's initial premium or premium deposit, unless the policy for which application is made contains an unconditional refund provision of at least 10 days or unless the Policy Summary contains an unconditional refund offer, in which case the Buyer's Guide and Policy Summary shall be delivered with the policy or before delivery of the policy.
 2. The insurer shall provide a Buyer's Guide and a Policy Summary to any prospective purchaser upon request.
 3. If the Equivalent Level Death Benefit of a policy does not exceed \$5,000, the requirement for providing a Policy Summary is satisfied by delivery of a written statement containing the information described in subsections (D)(8)(b), (c), (d), (e)(i) through (e)(iii), (f), (g), (j), and (k).
 - D. General rules.
 1. Each insurer shall maintain at its home office or principal office for at least three years after its last authorized use a copy of each form the insurer authorized for use.

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2. A producer shall inform a prospective purchaser, before commencing a life insurance sales presentation, that the producer is acting as a life insurance producer and inform the prospective purchaser of the full name of the insurance company that the producer is representing. If an insurance producer is not involved in the sale, the insurer shall inform the prospective purchaser of the insurance company's full name.
 3. An insurer or producer shall not use terms such as financial planner, investment advisor, financial consultant, or financial counseling to imply that the insurance producer is generally engaged in an advisory business in which compensation is unrelated to sales unless that is true.
 4. If an insurer or producer refers to policy dividends, the reference shall include a statement that dividends are not guaranteed.
 5. An insurer shall not use a system or presentation that does not recognize the time value of money through the use of appropriate interest adjustments for comparing the cost of two or more life insurance policies unless the system or presentation is used to demonstrate the cash flow pattern of a policy and the presentation is accompanied by a statement disclosing that the presentation does not recognize that, because of interest, a dollar in the future has less value than a dollar today.
 6. In a presentation of benefits, an insurer shall not display guaranteed and non-guaranteed benefits as a single sum unless they are shown separately and in close proximity.
 7. An insurer shall include with a statement regarding the use of the Life Insurance Cost Indexes an explanation that the indexes are useful only for the comparison of the relative costs of two or more similar policies.
 8. An insurer shall include with a Life Insurance Cost Index that reflects dividends or an Equivalent Level Annual Dividend a statement that it is based on the company's current dividend scale and is not guaranteed.
 9. If an insurer reserves the right to change the premium for a basic policy or rider, the annual premium shall be the maximum annual premium.
- E. An insurer's failure to provide or deliver a Buyer's Guide or a Policy Summary as provided in subsection (C) constitutes an omission that misrepresents the benefits, advantages, conditions, or terms of an insurance policy.

Appendix. Life Insurance Buyers Guide**Life Insurance Buyer's Guide**

The face page of the Buyer's Guide shall read as follows:

Life Insurance Buyer's Guide

This guide can show you how to save money when you shop for life insurance. It helps you to:

- Decide how much life insurance you should buy,
- Decide what kind of life insurance policy you need, and
- Compare the cost of similar life insurance policies.

Prepared by the National Association of Insurance Commissioners

Reprinted by (Company Name)

(Month and year of printing)

The Buyer's Guide shall contain the following language at the bottom of page 2:

The National Association of Insurance Commissioners is an association of state insurance regulatory officials. This association helps the various Insurance Departments to coordinate insurance laws for the benefit of all consumers. You are urged to use this Guide in making a life insurance purchase.

Buying Life Insurance

When you buy life insurance, you want a policy that fits your needs without costing too much. Your first step is to decide how much you need, how much you can afford to pay and the kind of policy you want. Then, find out what various companies charge for that kind of policy. You can find important differences in the cost of life insurance by using the life insurance cost indexes that are described in this guide. A good life insurance producer or company will be able and willing to help you with each of these shopping steps.

If you are going to make a good choice when you buy life insurance, you need to understand what kinds are available. If one kind does not seem to fit your needs, ask about the other kinds that are described in this guide. If you feel that you need more information than is given here, you may want to check with a life insurance producer or company or books on life insurance in your public library.

This guide does not endorse any company or policy.

The remaining text of the buyer's guide shall begin on page 3 as follows:

Choosing the Amount

One way to decide how much life insurance you need is to figure how much cash and income your dependents would need if you were to die. You should think of life insurance as a source of cash needed for expenses of final illnesses, paying taxes, mortgages or other debts. It can also provide income for your family's living expenses, educational costs and other future expenses. Your new policy should come as close as you can afford to making up the difference between (1) what your dependents would have if you were to die now, and (2) what they would actually need.

Choosing the Right Kind

All life insurance policies agree to pay an amount of money if you die. But all policies are not the same. There are three basic kinds of life insurance.

1. Term insurance
2. Whole life insurance
3. Endowment insurance

Remember, no matter how fancy the policy title or sales presentation might appear, all life insurance policies contain one or more of the three basic kinds. If you are confused about a policy that sounds complicated, ask the producer or company if it combines more than one kind of life insurance. The following is a brief description of the three basic kinds:

Term Insurance

Term insurance is death protection of a "term" of one or more years. Death benefits will be paid only if you die within that term of years. Term insurance generally provides the largest immediate death protection for your premium dollar.

Some term insurance policies are "renewable" for one or more additional terms even if your health has changed. Each time you renew the policy for a new term, premiums will be higher. You should check the premiums at older ages and the length of time the policy can be continued.

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Some term insurance policies are also “convertible.” This means that before the end of the conversion period, you may trade the term policy for a whole life or endowment insurance policy even if you are not in good health. Premiums for the new policy will be higher than you have been paying for the term insurance.

Whole Life Insurance

Whole life insurance gives death protection for as long as you live. The most common type is called “straight life” or “ordinary life” insurance, for which you pay the same premiums for as long as you live. These premiums can be several times higher than you would pay initially for the same amount of term insurance. But they are smaller than the premiums you would eventually pay if you were to keep renewing a term insurance policy until your later years.

Some whole life policies let you pay premiums for a shorter period such as 20 years, or until age 65. Premiums for these policies are higher than for ordinary life insurance since the premium payments are squeezed into a shorter period.

Although you pay higher premiums, to begin with, for whole life insurance than for term insurance, whole life insurance policies develop “cash values” which you may have if you stop paying premiums. You can generally either take the cash, or use it to buy some continuing insurance protection. Technically speaking, these values are called “nonforfeiture benefits.” This refers to benefits you do not lose (or “forfeit”) when you stop paying premiums. The amount of these benefits depends on the kind of policy you have, its size, and how long you have owned it.

A policy with cash values may also be used as collateral for a loan. If you borrow from the life insurance company, the rate of interest is shown in your policy. Any money that you owe on a policy loan would be deducted from the benefits if you were to die, or from the cash value if you were to stop paying premiums.

Endowment Insurance

An endowment insurance policy pays a sum or income to you – the policyholder – if you live to a certain age. If you were to die before then, the death benefit would be paid to your beneficiary. Premiums and cash values for endowment insurance are higher than the same amount of whole life insurance. Thus endowment insurance gives you the least amount of death protection for your premium dollar.

Finding a Low Cost Policy

After you have decided which kind of life insurance fits your needs, look for a good buy. Your chances of finding a good buy are better if you use two types of index numbers that have been developed to aid in shopping for life insurance. One is called the “Surrender Cost Index” and the other is the “Net Payment Cost Index.” It will be worth your time to try to understand how these indexes are used, but in any event, use them only for comparing the relative costs of similar policies. LOOK FOR POLICIES WITH LOW COST INDEX NUMBERS.

What is Cost?

“Cost” is the difference between what you pay and what you get back. If you pay a premium for life insurance and get nothing back, your cost for the death protection is the premium. If you pay a premium and get something back later on, such as a cash value, your cost is smaller than the premium.

The cost of some policies can also be reduced by dividends; these are called “participating” policies. Companies may tell you what their current dividends are, but the size of future dividends is

unknown today and cannot be guaranteed. Dividends actually paid are set each year by the company.

Some policies do not pay dividends. These are called “guaranteed cost” or “non participating” policies. Every feature of a guaranteed cost policy is fixed so that you know in advance what your future cost will be.

The premiums and cash values of a participating policy are guaranteed, but the dividends are not. Premiums for participating policies are typically higher than for guaranteed cost policies, but the cost to you may be higher or lower, depending on the dividends actually paid.

What Are Cost Indexes?

In order to compare the cost of policies, you need to look at:

1. Premiums
2. Cash values
3. Dividends

Cost indexes use one or more of these factors to give you a convenient way to compare relative costs of similar policies. When you compare costs, an adjustment must be made to take into account that money is paid and received at different times. It is not enough to just add up the premiums you will pay and subtract the cash values and dividends you expect to get back. These indexes take care of the arithmetic for you. Instead of having to add, subtract, multiply and divide many numbers yourself, you just compare the index numbers which you can get from life insurance producers and companies:

1. Life Insurance Surrender Cost Index. This index is useful if you consider the level of the cash values to be of primary importance to you. It helps you compare costs if at some future point in time, such as 10 or 20 years, you were to surrender the policy and take its cash value.
Life Insurance Net Payment Cost Index. This Index is useful if your main concern is the benefits that are to be paid at your death and if the level of cash values is of secondary importance to you. It helps you compare costs at some future point in time, such as 10 or 20 years, if you continue paying premiums on your policy and do not take its cash value.

There is another number called the Equivalent Level Annual Dividend. It shows the part dividends play in determining the cost index of a participating policy. Adding a policy’s Equivalent Level Annual Dividend to its cost index allows you to compare total costs of similar policies before deducting dividends. However, if you make any cost comparisons of a participating policy with a non participating policy, remember that the total cost of the participating policy will be reduced by dividends, but the cost of the non participating policy will not change.

How Do I Use Cost Indexes?

The most important thing to remember when using cost indexes is that a policy with a small index number is generally a better buy than a comparable policy with a larger index number. The following rules are also important:

- (1) Cost comparisons should only be made between similar plans of life insurance. Similar plans are those which provide essentially the same basic benefits and require premium payments for approximately the same period of time. The closer policies are to being identical, the more reliable the cost comparison will be.
- (2) Compare index numbers only for the kind of policy, for your age and for the amount you intend to buy. Since no one com-

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pany offers the lowest cost for all types of insurance at all ages and for all amounts of insurance, it is important that you get the indexes for the actual policy, age and amount which you intend to buy. Just because a "Shopper's Guide" tells you that one company's policy is a good buy for a particular age and amount, you should not assume that all of that company's policies are equally good buys.

- (3) Small differences in index numbers could be offset by other policy features, or differences in the quality of service you may expect from the company or its producer. Therefore, when you find small differences in cost indexes, your choice should be based on something other than cost.
- (4) In any event, you will need other information on which to base your purchase decision. Be sure you can afford the premiums, and that you understand its cash values, dividends and death benefits. You should also make a judgment on how well the life insurance company or producer will provide service in the future, to you as a policyholder.
- (5) These life insurance cost indexes apply to new policies and should not be used to determine whether you should drop a policy you have already owned for awhile, in favor of a new one. If such a replacement is suggested, you should ask for information from the company that issued the old policy before you take action.

Important Things To Remember – A Summary

The first decision you must make when buying a life insurance policy is choosing a policy whose benefits and premiums must closely meet your needs and ability to pay. Next, find a policy which is also a relatively good buy. If you compare Surrender Cost Indexes and Net Payment Cost Indexes of similar competing policies, your chances of finding a relatively good buy will be better than if you do not shop. REMEMBER, LOOK FOR POLICIES WITH LOWER COST INDEX NUMBERS. A good life insurance producer can help you to choose the amount of life insurance and kind of policy you want and will give you cost indexes so that you make cost comparisons of similar policies.

Don't buy life insurance unless you intend to stick with it. A policy which is a good buy when held for 20 years can be very costly if you quit during the early years of the policy. If you surrender such a policy during the first few years, you may get little or nothing back and much of your premium may have been used for company expenses.

Read your new policy carefully, and ask the producer or company for an explanation of anything you do not understand. Whatever you decide now, it is important to review your life insurance program every few years to keep up with changes in your income and responsibilities.

Historical Note

Adopted effective June 13, 1977 (Supp. 77-3). R20-6-209 recodified from R4-14-209 (Supp. 95-1). Former R20-6-209 renumbered to R20-6-207; new R20-6-209 renumbered from R20-6-211 and amended by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-210. Readable and Understandable Policy: Private Passenger Automobile, Homeowner, Personal Line Dwelling, and Mobile Homeowner

- A. Definitions.** The following definitions apply in this Section:
1. "Readable insurance policy" means a policy that can be read and reasonably understood by a person without special knowledge or training.
 2. "Policy" means a contract or agreement for insurance, or an insurance certificate regardless of the name used, and

includes all clauses, endorsements, and papers attached or incorporated.

- B. Scope.** This Section applies to private passenger motor vehicle policies, homeowner policies, personal line dwelling policies, for four family units or less, and mobile homeowner policies delivered or issued for delivery in Arizona.

C. Compliance.

1. An insurer shall test the readability of its policy by use of the Flesch Readability Formula as set forth in Rudolf Flesch, *The Art of Readable Writing* (1949, as revised 1974).
2. An insurer shall not use a policy unless the policy has a total readability score of 40 or more on the Flesch scale.
3. An insurer shall include with each policy form filing required to be filed with the Director a checklist for the line of insurance setting forth the Flesch score.

D. Readability guidelines.

1. General organization of text.
 - a. A policy shall be divided into logically arranged sections for ease of locating content.
 - b. Each section shall be self-contained as to provisions relating solely to that section (for example, an exclusion section shall not be mixed with other parts of a policy).
 - c. General policy provisions applying to all or several like coverages shall be located in a common area.
 - d. The policy shall not contain non-essential provisions.
 - e. Defined words and terms shall be placed in a separate section at the beginning of the policy.
2. Visual aids to readability. The insurer shall ensure that each policy meets the following format requirements:
 - a. Type size shall be at least eight point.
 - b. The font shall be block print rather than script, and legible.
 - c. Captions and headings shall be distinguishable from the general text.
 - d. White space separating coverages, policy sections, and columns shall be sufficient to make a distinct separation.
 - e. Defined words and terms shall be distinguishable from the general text.
3. Language usage. The insurer shall ensure that each policy:
 - a. Is written in everyday, conversational language;
 - b. Uses short, simple sentences and words in common usage;
 - c. Uses an easy-to-read style, personal pronouns, and present tense active verbs.

Historical Note

Adopted effective May 28, 1979 (Supp. 79-1). R20-6-210 recodified from R4-14-210 (Supp. 95-1). Former R20-6-210 renumbered to R20-6-208; new R20-6-210 renumbered from R20-6-212 and amended by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-211. Discrimination on the Basis of Blindness or Partial Blindness

- A. Definitions.** The following definitions apply in this Section:
1. "Policy" means a contract or agreement for or effecting insurance, or a certificate of insurance, regardless of the name used, and includes all clauses, riders, endorsements, and attached papers.

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2. "Person" has the same meaning prescribed in A.R.S. § 20-105.
- B. Scope. This Section applies to all policies delivered or issued for delivery in this state.
- C. Prohibition. An insurer shall not engage in the following prohibited acts or practices that constitute unfair discrimination between individuals of the same class:
 1. Refusal to insure or refusal to continue to insure, or limiting the amount, extent, or kind of coverage available to an individual solely because of blindness or partial blindness; or
 2. Charging an individual a different rate for the same coverage solely because of blindness or partial blindness.
- D. In this subsection, "refusal to insure" includes denial by an insurer of disability insurance coverage on the grounds that the policy defines "disability" as being presumed if the insured loses eyesight. An insurer may exclude from coverage disabilities consisting solely of blindness or partial blindness if the insured was blind or partially blind when the policy was issued.
- E. For all other conditions, including the underlying cause of the blindness or partial blindness, a person who is blind or partially blind is subject to the same standards of sound actuarial principles or actual or reasonably anticipated experience as a sighted person.

Historical Note

Adopted effective August 1, 1977 (Supp. 77-4). Amended effective March 27, 1976 (Supp. 78-2). Correction, Historical Note for Supp. 77-4 should read adopted effective January 1, 1979 filed August 1, 1977. Historical Note for Supp. 78-2 should read Appendix amended effective January 1, 1979 filed March 27, 1978 (Supp. 79-5). Editorial correction, (D)(7)(a), title now shown in italics (Supp. 81-1). R20-6-211 recodified from R4-14-211 (Supp. 95-1). Former R20-6-211 renumbered to R20-6-209; new R20-6-211 renumbered from R20-6-213 and amended by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-212. Forms for Replacement of Life Insurance Policies and Annuities

An insurer shall use the following forms of the National Association of Insurance Commissioners Model Regulations (and no future editions or amendments), which are incorporated by reference and available at the Department of Insurance and Financial Institutions, Division of Insurance, 100 N. 15th Ave., Suite 261, Phoenix, AZ 85007-2630 and the National Association of Insurance Commissioners, Publications Department, 1100 Walnut Street, Suite 1500, Kansas City, MO 64106-2197:

1. For the purposes of meeting the requirements of A.R.S. § 20-1241.03(C): Life Insurance and Annuities Replacement Model Regulation (MDL 613), Appendix A – Important Notice: Replacement of Life Insurance or Annuities, 2015, and no future editions.
2. For the purposes of meeting the requirements of A.R.S. § 20-1241.07(A): Life Insurance and Annuities Replacement Model Regulation (MDL 613), Appendix B – Notice Regarding Replacing Your Life Insurance Policy or Annuity?, 2015, and no future editions.
3. For the purpose of meeting the requirements of A.R.S. § 20-1241.07(B)(2): Life Insurance and Annuities Replacement Model Regulation (MDL 613), Appendix C – Important Notice: Replacement of Life Insurance or Annuities, 2015, and no future editions.

Historical Note

Adopted effective March 27, 1978 (Supp. 78-2). Editorial correction see subsection (A) citation to A.R.S. (Supp. 78-4). Editorial correction see subsections (B) and (F) citation to A.R.S. (Supp. 78-6). R20-6-212 recodified from R4-14-212 (Supp. 95-1). Former R20-6-212 renumbered to R20-6-210; new R20-6-212 renumbered from R20-6-215 and amended by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2). Amended by final rulemaking at 28 A.A.R. 454 (February 25, 2022), effective April 5, 2022 (Supp. 22-1).

R20-6-212.01. Buyer's Guide for Annuities

An insurer shall use the following publication of the National Association of Insurance Commissioners (and no future editions), which are incorporated by reference and available at the Department of Insurance and Financial Institutions, Division of Insurance, 100 N. 15th Ave., Suite 261, Phoenix, AZ 85007-2630 and the National Association of Insurance Commissioners, Publications Department, 1100 Walnut Street, Suite 1500, Kansas City, MO 64106-2197:

For the purpose of meeting the requirements of A.R.S. § 20-1242.02 regarding a Buyer's Guide: Buyer's Guide for Deferred Annuities, - Fixed, 2013, and no future editions.

Historical Note

Section R20-6-212.01 renumbered from R20-6-215.01 and amended by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2). Amended by final rulemaking at 28 A.A.R. 454 (February 25, 2022), effective April 5, 2022 (Supp. 22-1).

R20-6-212.02. Standards for Annuity Illustrations

- A. Definitions. The definitions in A.R.S. § 20-1242 and this subsection apply to this Section.

"Illustration" means a personalized presentation or depiction prepared for and provided to an individual consumer that includes non-guaranteed elements of an annuity contract over a period of years.

"Indexing Method" means point-to-point, dialing averaging or monthly averaging.

"Index Term" means the period over which indexed-based interest is calculated.

"Market Value Adjustment" or "MVA" means a feature that is a positive or negative adjustment that may be applied to the account value and/or cash value of the annuity upon withdrawal, surrender, contract annuitization or death benefit payment based on either the movement of an external index or on the company's current guaranteed interest rate being offered on new premiums or new rates for renewal periods, if that withdrawal, surrender, contract annuitization or death benefit payment occurs at a time other than on a specified guaranteed benefit date.

"Registered product" means an annuity contract or life insurance policy subject to the prospectus delivery requirements of the Securities Act of 1933.

- B. An insurer or producer may elect to provide a consumer an illustration at any time, provided that the illustration is in compliance with this Section and:
 1. Is clearly labeled as an illustration;
 2. Includes a statement referring customers to the disclosure document and buyer's guide provided to them at time of purchase for additional information about their annuity; and

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3. Is prepared by the insurer or third party using software that is authorized by the insurer prior to its use, provided that the insurer maintains a system of control over the use of the illustration.
- C. An illustration furnished to an applicant for a group annuity contract or contracts issued to a single applicant on multiple lives may be either an individual or composite illustration representative of the coverage on the lives of members of the group or the multiple lives covered.
- D. The illustration shall not be provided unless accompanied by the disclosure document referenced in A.R.S. § 20-1242.02.
- E. When using an illustration, the illustration shall not:
 1. Describe non-guaranteed elements in a manner that is misleading or has the capacity or tendency to mislead;
 2. State or imply that the payment or amount of non-guaranteed elements is guaranteed; or
 3. Be incomplete.
- F. Costs and fees of any type shall be individually noted and explained.
- G. An illustration shall conform to the following requirements:
 1. The illustration shall be labeled with the date on which it was prepared;
 2. Each page, including any explanatory notes or pages, shall be numbered and show its relationship to the total number of pages in the disclosure document (e.g., the fourth page of a seven-page disclosure document shall be labeled "page 4 of 7 pages");
 3. The assumed dates of premium receipt and benefit payout within a contract year shall be clearly identified;
 4. If the age of the proposed insured is shown as a component of the tabular detail, it shall be issue-age plus the number of years the contract is assumed to have been in force;
 5. The assumed premium on which the illustrated benefits and values are based shall be clearly identified, including rider premium for any benefits being illustrated;
 6. Any charges for riders or other contract features assessed against the account value or the crediting rate shall be recognized in the illustrated values and shall be accompanied by a statement indicating the nature of the rider benefits or the contract features, and whether or not they are included in the illustration;
 7. Guaranteed death benefits and values available upon surrender, if any, for the illustrated contract premium shall be shown and clearly labeled guaranteed;
 8. Except as provided in subsection (G)(22) of this Section, the non-guaranteed elements underlying the non-guaranteed illustrated values shall be no more favorable than current non-guaranteed elements and shall not include any assumed future improvement of such elements. Additionally, non-guaranteed elements used in calculating non-guaranteed illustrated values at any future duration shall reflect any planned changes, including any planned changes that may occur after expiration of an initial guaranteed or bonus period;
 9. In determining the non-guaranteed illustrated values for a fixed indexed annuity, the index-based interest rate and account value shall be calculated for three different scenarios: one to reflect historical performance of the index for the most recent 10 calendar years; one to reflect the historical performance of the index for the continuous period of 10 calendar years out of the last 20 calendar years that would result in the least index value growth (the "low scenario"); one to reflect the historical performance of the index for the continuous period of 10 calendar years out of the last 20 calendar years that would result in the most index value growth (the "high scenario"). The following requirements apply:
 - a. The most recent 10 calendar years and the last 20 calendar years are defined to end on the prior December 31, except for illustrations prepared during the first three months of the year, for which the end date of the calendar year period may be the December 31 prior to the last full calendar year;
 - b. If any index utilized in determination of an account value has not been in existence for at least 10 calendar years, indexed returns for that index shall not be illustrated. If the fixed indexed annuity provides an option to allocate account value to more than one indexed or fixed declared rate account, and one or more of these indexes has not been in existence for at least 10 calendar years, the allocation to such indexed account or accounts shall be assumed to be zero;
 - c. If any index utilized in determination of an account value has been in existence for at least 10 calendar years but less than 20 calendar years, the 10 calendar year periods that define the low and high scenarios shall be chosen from the exact number of years the index has been in existence;
 - d. The non-guaranteed element or elements, such as caps, spreads, participation rates, or other interest crediting adjustments, used in calculating the non-guaranteed index-based interest rate shall be no more favorable than the corresponding current element or elements;
 - e. If a fixed indexed annuity provides an option to allocate the account value to more than one indexed or fixed declared rate account:
 - i. The allocation used in the illustration shall be the same for all three scenarios; and
 - ii. The 10 calendar year periods resulting in the least and greatest index growth periods shall be determined independently for each indexed account option.
 - f. The geometric mean annual effective rate of the account value growth over the 10 calendar year period shall be shown for each scenario;
 - g. If the most recent 10 calendar year historical period experience of the index is shorter than the number of years needed to fulfill the requirement of subsection (I) of this Section, the most recent 10 calendar year historical experience of the index shall be used for each subsequent 10 calendar year period beyond the initial period for the purpose of calculating the account value for the remaining years of the illustration;
 - h. The low and high scenarios:
 - i. Need not show surrender values (if different than account values);
 - ii. Shall not extend beyond 10 calendar years (and therefore are not subject to the requirements of subsection (I) of this Section beyond subsection (I)(1)(a) of this Section); and
 - iii. May be shown on a separate page;
 - i. For the low and high scenarios, a graphical presentation shall also be included comparing the movement of the account value over the 10 calendar year period

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- for the low scenario, the high scenario and the most recent 10 calendar year scenario; and
- j. The low and high scenarios should reflect the irregular nature of the index performance and should trigger every type of adjustment to the index-based interest rate under the contract. The effect of the adjustments should be clear; for example, additional columns showing how the adjustment applied may be included. If an adjustment to the index-based interest rate is not triggered in the illustration (because no historical values of the index in the required illustration range would have triggered it), the illustration shall so state;
 10. The guaranteed elements, if any, shall be shown before corresponding non-guaranteed elements and shall be specifically referred to on any page of an illustration that shows or describes only the non-guaranteed elements (e.g., "see page 1 for guaranteed elements");
 11. The account or accumulation value of a contract, if shown, shall be identified by the name this value is given in the contract being illustrated and shown in close proximity to the corresponding value available upon surrender;
 12. The value available upon surrender shall be identified by the name this value is given in the contract being illustrated and shall be the amount available to the contract owner in a lump sum after deduction of surrender charges, bonus forfeitures, contract loans, contract loan interest, and application of any market value adjustment, as applicable;
 13. Illustrations may show contract benefits and values in graphic or chart form in addition to the tabular form;
 14. Any illustration of non-guaranteed elements shall be accompanied by a statement indicating that:
 - a. The benefits and values are not guaranteed;
 - b. The assumptions on which they are based are subject to change by the insurer; and
 - c. Actual results may be higher or lower;
 15. Illustrations based on non-guaranteed credited interest and non-guaranteed annuity income rates shall contain equally prominent comparisons to guaranteed credited interest and guaranteed annuity income rates, including any guaranteed and non-guaranteed participation rates, caps, or spreads for fixed indexed annuities;
 16. The annuity income rate illustrated shall not be greater than the current annuity income rate unless the contract guarantees are in fact more favorable;
 17. Illustrations shall be concise and easy to read;
 18. Key terms shall be defined and then used consistently throughout the illustration;
 19. Illustrations shall not depict values beyond the maximum annuitization age or date;
 20. Annuitization benefits shall be based on contract values that reflect surrender charges or any other adjustments, if applicable; and
 21. Illustrations shall show both annuity income rates per \$1,000.00 and the dollar amounts of the periodic income payable.
 22. For participating immediate and deferred income annuities:
 - a. Illustrations may not assume any future improvement in the applicable dividend scale (or scales, if more than one dividend scale applies, such as for a flexible premium annuity);
 - b. Illustrations must reflect the equitable apportionment of dividends, whether performance meets, exceeds, or falls short of expectations;
 - c. If the dividend scale is based on a portfolio rate method, the portfolio rate underlying the illustrated dividend scale shall not be assumed to increase;
 - d. If the dividend scale is based on an investment cohort method, the illustrated dividend scale should assume that reinvestment rates grade to long-term interest rates, subject to the following conditions:
 - i. Any assumptions as to future investment performance in the dividend formula must be consistent with assumptions that are reflected in the marketplace within the normal range of analyst forecasts and investor behavior; these assumptions may not be changed arbitrarily, notwithstanding changes in markets or economic conditions, and must be consistent with assumptions that the issuer uses with respect to other lines of business; and
 - ii. The illustrated dividend scale should assume that reinvestment rates grade to long-term interest rates, based on U.S. Treasury bonds. For the purposes of this grading, the assumed long-term rates should not exceed the rates calculated using the formula in subsection (G)(22)(d)(iii), based on the time to maturity or reinvestment (the "Tenor") of the investments supporting the cohort of policies.
 - iii. Maximum long-term interest rates should be calculated for tenors of three months (or less), five years, 10 years, and 20 years (or more), using U.S. Treasury rates. For each tenor, the maximum long-term interest rate will vary over time, based on historical interest rates as they emerge. The formula for the maximum long-term interest rate is the average of the median bond rate over the last 600 months and the average bond rate over the last 120 months, rounded to the nearest quarter of one percent (0.25%).
 - iv. The maximum long-term interest rate for a tenor should be recalculated once per year, in January, using historical rates as of December 31 of the calendar year two years prior to the calendar year of the calculation date. The historical rate for each month is the rate reported for the last business day of the month.
 - v. Grading to the maximum long-term interest rates should take place over no less than 20 years from issue if U.S. Treasury rates as of the illustration date are below the long-term rates, or, no more than 20 years from issue if U.S. Treasury rates as of the illustration date are above the long-term rates.
 - vi. When the 10-year U.S. Treasury rate is less than the 10-year maximum long-term interest rate, an additional illustrated dividend scale should be presented. This additional illustrated dividend scale shall assume that reinvestment U.S. Treasury rates do not exceed the initial investment U.S. Treasury rates and illustrate dividends no less than half of the dividends illustrated under the current dividend scales. If

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the assumption that reinvestment U.S. Treasury rates do not exceed the initial investment U.S. Treasury rates conflicts with the illustration, i.e. half of the current dividends are greater than would be permitted by the assumption, then the reinvestment U.S. Treasury rates should equal the initial investment U.S. Treasury rates.

- vii. The illustration should include a disclosure that is substantially similar to the following:
The illustrated current dividend scale is based on interest rates that are assumed to gradually [increase/decrease] from current rates to long-term interest rates, over a period of [20] years. By regulation, the long-term assumed interest rates cannot not and do not exceed the rates listed in column (c) of the table below.
- viii. If the illustration contains an additional dividend scale pursuant to subsection (G)(22)(d)(vi), then the illustration should also include a disclosure that is substantially similar to the following:
The additional illustrated dividend scale is based on interest rates that are assumed not to increase and do not exceed the interest rates in column (b) of the table below.

| Column A | Column B | Column C |
|--------------------|--------------------------------|-----------------------------|
| Tenor | Current Interest Rate | Long Term |
| | Treasury Rate as of 12/31/2016 | Mean Reversed Treasury Rate |
| 3 Month (or less) | 0.51% | 3.00% |
| 5 Year | 1.93% | 4.50% |
| 10 Year | 2.45% | 5.00% |
| 20 Years (or more) | 3.06% | 5.50% |

H. An annuity illustration shall include a narrative summary that includes all the following unless provided at the same time in a disclosure statement:

1. A brief description of any contract features, riders or options, guaranteed and/or non-guaranteed, shown in the basic illustration and the impact they may have on the benefits and values of the contract;
2. A brief description of any other optional benefits or features that are selected, but not shown in the illustration and the impact they have on the benefits and values of the contract;
3. Identification and a brief definition of column headings and key terms used in the illustration;
4. A statement containing in substance the following:
 - a. For other than fixed indexed annuities:
This illustration assumes the annuity's current non-guaranteed elements will not change. It is likely that they will change and actual values will be higher or lower than those in this illustration but will not be less than the minimum guarantees.
The values in this illustration are not guarantees or even estimates of the amounts you can expect from your annuity. Please review the entire Disclosure Document and Buyer's Guide provided with your Annuity Contract for more detailed information;

- b. For fixed indexed annuities:
This illustration assumes the index will repeat historical performance and that the annuity's current non-guaranteed elements, such as caps, spreads, participation rates or other interest crediting adjustments, will not change. It is likely that the index will not repeat historical performance, the non-guaranteed elements will change, and actual values will be higher or lower than those in this illustration but will not be less than the minimum guarantees.

The values in this illustration are not guarantees or even estimates of the amounts you can expect from your annuity. Please review the entire Disclosure Document and Buyer's Guide provided with your Annuity Contract for more detailed information;

5. Additional explanations as follows:

- a. Minimum guarantees shall be clearly explained;
- b. The effect on contract values of contract surrender prior to maturity shall be explained;
- c. Any conditions on the payment of bonuses shall be explained;
- d. For annuities sold as an IRA, qualified plan or in another arrangement subject to the required minimum distribution (RMD) requirements of the Internal Revenue Code, the effect of RMDs on the contract values shall be explained;
- e. For annuities with recurring surrender charge schedules, a clear and concise explanation of what circumstances will cause the surrender charge to recur; and
- f. A brief description of the types of annuity income options available shall be explained, including:
 - i. The earliest or only maturity date for annuitization (as the term is defined in the contract);
 - ii. For contracts with an optional maturity date, the periodic income amount for at least one of the annuity income options available based on the guaranteed rates in the contract, at the later of age 70 or 10 years after issue, but in no case later than the maximum annuitization age or date in the contract;
 - iii. For contracts with a fixed maturity date, the periodic income amount for at least one of the annuity income options available, based on the guaranteed rates in the contract at the fixed maturity date; and
 - iv. The periodic income amount based on the currently available periodic income rates for the annuity income option in subsection (H)(5)(f)(ii) or in subsection (H)(5)(f)(iii), if desired.

I. Following the narrative summary, an illustration shall include a numeric summary which shall include at minimum, numeric values at the following durations:

1. The first 10 contract years or the surrender charge period if longer than 10 years, including any renewal surrender charge period or periods;
2. Every tenth contract year up to the later of 30 years or age 70; and
3. Required annuitization age or required annuitization date.

J. If the annuity contains a market value adjustment ("MVA"), the following provisions apply to the illustration:

1. The MVA shall be referred to as such throughout the illustration;

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2. The narrative shall include an explanation, in simple terms, of the potential effect of the MVA on the value available upon surrender;
 3. The narrative shall include an explanation, in simple terms, of the potential effect of the MVA on the death benefit;
 4. A statement, containing in substance the following, shall be included:
When you make a withdrawal, the amount you receive may be increased or decreased by a Market Value Adjustment (MVA). If the interest rates on which the MVA is based go up after you buy your annuity, the MVA likely will decrease the amount you receive. If interest rates go down, the MVA will likely increase the amount you receive.
 5. Illustrations shall describe both the upside and the downside aspects of the contract features relating to the MVA;
 6. The illustrative effect of the MVA shall be shown under at least one positive and one negative scenario. This demonstration shall appear on a separate page and be clearly labeled that it is information demonstrating the potential impact of a MVA;
 7. Actual MVA floors and ceilings as listed in the contract shall be illustrated; and
 8. If the MVA has significant characteristics not addressed by subsections (J)(1) through (J)(6), the effect of such characteristics shall be shown in the illustration.
- K.** A narrative summary for a fixed indexed annuity illustration also shall include the following unless provided at the same time as the disclosure statement:
1. An explanation, in simple terms, of the elements used to determine the index-based interest, including but not limited to, the following elements:
 - a. The index(es) which will be used to determine the index-based interest;
 - b. The Indexing Method;
 - c. The Index Term;
 - d. The participation rate, if applicable;
 - e. The cap, if applicable; and
 - f. The spread, if applicable;
 2. The narrative shall include an explanation, in simple terms, of how index-based interest is credited in the indexed annuity;
 3. The narrative shall include a brief description of the frequency with which the company can re-set the elements used to determine the index-based credits, including the participation rate, the cap, and the spread, if applicable; and
 4. If the product allows the contract holder to make allocations to a declared-rate segment, then the narrative shall include a brief description of:
 - a. Any options to make allocations to a declared-rate segment, both for new premiums and for transfers from the index-based segments; and
 - b. Differences in guarantees applicable to the declared-rate segment and the index-based segments.
- L.** A numeric summary for a fixed indexed annuity illustration shall include, at a minimum, the following elements:
1. The assumed growth rate of the index in accordance with subsection (G)(9);
 2. The assumed values for the participation rate, cap and spread, if applicable; and
 3. The assumed allocation between index-based segments and the declared-rate segment, if applicable, in accordance with subsection (G)(9).
- M.** If the contract is issued other than as applied for, a revised illustration conforming to the contract as issued shall be sent with the contract, except that non-substantive changes, including but not limited to, changes in the amount of expected initial or additional premiums and any changes in amounts of exchanges pursuant to Section 1053 of the Internal Revenue Code, rollovers and transfers, which do not alter the key benefits and features of the annuity as applied for will not require a revised illustration unless requested by the applicant.
- N.** Annuity Illustration Examples. Illustrations A through C are examples only and do not reflect specific characteristics of any actual product for sale by any company.
- Historical Note**
- New Section made by final rulemaking at 28 A.A.R. 454 (February 25, 2022), effective April 5, 2022 (Supp. 22-1).

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Illustration A. Annuity Illustration Example**ABC Life Insurance Company***Company Product Name*

Flexible Premium Fixed Deferred Annuity with a Market Value Adjustment (MVA)

An Illustration Prepared for John Doe by John Agent on mm/dd/yyyy

(Contact us at Policyownerservice@ABCLife.com or 555-555-5555)

| | |
|----------------------------------------------------|---------------------------------------|
| Sex: Male | Initial Premium Payment: \$100,000.00 |
| Age at Issue: 54 | Planned Annual Premium Payments: None |
| Annuitant: John Doe | Tax Status: Nonqualified |
| Oldest Age at Which Annuity Payments Can Begin: 95 | Withdrawals: None Illustrated |

| | |
|-----------------------------------------------------------------------------------|---------|
| Initial Interest Guarantee Period | 5 Years |
| Initial Guaranteed Interest Crediting Rates | |
| <i>First Year (reflects first year only interest bonus credit of 0.75%):</i> | 4.15% |
| <i>Remainder of Initial Interest Guarantee Period:</i> | 3.40% |
| Market Value Adjustment Period: | 5 Years |
| Minimum Guaranteed Interest Rate after Initial Interest Guarantee Period*: | 3% |

* After the Initial Interest Guarantee Period, a new interest rate will be declared annually. This rate cannot be lower than the Minimum Guaranteed Interest Rate.

Annuity Income Options and Illustrated Monthly Income Values

This annuity is designed to pay an income that is guaranteed to last as long as the Annuitant lives. When annuity income payments are to begin, the income payment amounts will be determined by applying an annuity income rate to the annuity Account Value.

Annuity income options include the following:

- Periodic payments for Annuitant's life
- Periodic payments for Annuitant's life with payments guaranteed for a certain number of years
- Periodic payments for Annuitant's life with payments continuing for the life of a survivor annuitant

Illustrated Annuity Income Option: Monthly payments for annuitant's life with payments guaranteed for 10-year period.

Assumed Age When Payments Start: 70

| | Account Value | Monthly Annuity Income Rate/\$1,000 of Account Value* | Monthly Annuity Income |
|-------------------------------------------------|---------------|-------------------------------------------------------|------------------------|
| Based on Rates Guaranteed in the Contract | \$164,798 | \$5.00 | \$823.99 |
| Based on Rates Currently Offered by the Company | \$171,976 | \$6.50 | \$1,117.84 |

*If, at the time of annuitization, the annuity income rates currently offered by the company are higher than the annuity income rates guaranteed in the contract, the current rates will apply.

Historical Note

New Appendix A made by final rulemaking at 28 A.A.R. 454 (February 25, 2022), effective April 5, 2022 (Supp. 22-1).

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Illustration B. Annuity Illustration Example**ABC Life Insurance Company***Company Product Name*

Flexible Premium Fixed Deferred Annuity with a Market Value Adjustment (MVA)

An Illustration Prepared for John Doe by John Agent on mm/dd/yyyy

Contact us at Policyownerservice@ABCLife.com or 555-555-5555

| Contract Year/Age | Premium Payment | Values Based on Guaranteed Rates | | | | Value Based on Assumption that Initial Guaranteed Rates Continue | | |
|-------------------|-----------------|----------------------------------|---------------|---------------------------------|----------------------------------------|------------------------------------------------------------------|---------------|-------------------------------------------|
| | | Interest Crediting Rate | Account Value | Cash Surrender Value Before MVA | Minimum Cash Surrender Value After MVA | Interest Crediting Rate | Account Value | Cash Surrender Value Before and After MVA |
| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) | (9) |
| 1 / 55 | \$100,000 | 4.15% | \$104,150 | \$95,818 | \$92,000 | 4.15% | \$104,150 | \$95,818 |
| 2 / 56 | 0 | 3.40% | 107,691 | 100,153 | 93,000 | 3.40% | 107,691 | 100,153 |
| 3 / 57 | 0 | 3.40% | 111,353 | 104,671 | 95,614 | 3.40% | 111,353 | 104,671 |
| 4 / 58 | 0 | 3.40% | 115,139 | 109,382 | 98,482 | 3.40% | 115,139 | 109,382 |
| 5 / 59 | 0 | 3.40% | 119,053 | 114,291 | 114,291 | 3.40% | 119,053 | 114,291 |
| 6 / 60 | 0 | 3.00% | 122,625 | 118,946 | 118,946 | 3.40% | 123,101 | 119,408 |
| 7 / 61 | 0 | 3.00% | 126,304 | 123,778 | 123,778 | 3.40% | 127,287 | 124,741 |
| 8 / 62 | 0 | 3.00% | 130,093 | 130,093 | 130,093 | 3.40% | 131,614 | 131,614 |
| 9 / 63 | 0 | 3.00% | 133,996 | 133,996 | 133,996 | 3.40% | 136,089 | 136,089 |
| 10 / 64 | 0 | 3.00% | 138,015 | 138,015 | 138,015 | 3.40% | 140,716 | 140,716 |
| 11 / 65 | 0 | 3.00% | 142,156 | 142,156 | 142,156 | 3.40% | 145,501 | 145,501 |
| 16 / 70 | 0 | 3.00% | 164,798 | 164,798 | 164,798 | 3.40% | 171,976 | 171,976 |
| 21 / 75 | 0 | 3.00% | 191,046 | 191,046 | 191,046 | 3.40% | 203,268 | 203,268 |
| 26 / 80 | 0 | 3.00% | 221,474 | 221,474 | 221,474 | 3.40% | 240,255 | 240,255 |
| 31 / 85 | 0 | 3.00% | 256,749 | 256,749 | 256,749 | 3.40% | 283,972 | 283,972 |
| 36 / 90 | 0 | 3.00% | 297,643 | 297,643 | 297,643 | 3.40% | 335,643 | 335,643 |
| 41 / 95 | 0 | 3.00% | 345,050 | 345,050 | 345,050 | 3.40% | 396,717 | 396,717 |

Column Descriptions

- (1) **Ages** shown are measured from the Annuitant's age at issue.
 (2) **Premium Payments** are assumed to be made at the beginning of the Contract Year shown.

Values Based on Guaranteed Rates

- (3) **Interest Crediting Rates** shown are annual rates; however, interest is credited daily. During the Initial Interest Guarantee Period, values developed from the Initial Premium Payment are illustrated using the Initial Guaranteed Interest Rate(s) declared by the insurance company, which include an additional first year only interest bonus credit of 0.75%. The interest rates will be guaranteed for the Initial Interest Guarantee Period, subject to an MVA. After the Initial Interest Guarantee Period, a new renewal interest rate will be declared annually, but can never be less than the Minimum Guaranteed Interest Rate shown.
- (4) **Account Value** is the amount you have at the end of each year if you leave your money in the contract until you start receiving annuity payments. It is also the amount available upon the Annuitant's death if it occurs before annuity payments begin. The death benefit is not affected by surrender charges or the MVA.
- (5) **Cash Surrender Value Before MVA** is the amount available at the end of each year if you surrender the contract (after deduction of any Surrender Charge) but before the application of any MVA. Surrender charges are applied to the Account Value according to the schedule below until the surrender charge period ends, which may be after the Initial Interest Guarantee Period has ended.

| | | | | | | | | |
|---------------------------------------------|----|----|----|----|----|----|----|----|
| Years Measured from Premium Payment: | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8+ |
| Surrender Charges: | 8% | 7% | 6% | 5% | 4% | 3% | 2% | 0% |

- (6) **Minimum Cash Surrender Value After MVA** is the minimum amount available at the end of each year if you surrender your contract before the end of five years, no matter what the MVA is. The minimum is set by law. The amount you receive may be higher or lower than the cash surrender value due to the application of the MVA, but never lower than this minimum. Otherwise the MVA works as follows: If the interest rate available on new contracts offered by the company is LOWER than your Initial Guaranteed Interest Rate, the MVA will INCREASE the amount you receive. If the interest rate available on new contracts offered by the company is HIGHER than your initial guaranteed interest rate, the MVA will DECREASE the amount you receive. The charts below provide additional information concerning the MVA.

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Values Based on Assumption that Initial Guaranteed Rates Continue

- (7) **Interest Crediting Rates** are the same as in Column (3) for the Initial Interest Guarantee Period. After the Initial Interest Guarantee Period, a new renewal interest rate will be declared annually. For the purposes of calculating the values in this column, it is assumed that the Initial Guaranteed Interest Rate (without the bonus) will continue as the new renewal interest rate in all years. The actual renewal interest rates are not subject to an MVA and will very likely NOT be the same as the illustrated renewal interest rates.
- (8) **Account Value** is calculated the same way as Column (4).
- (9) **Cash Surrender Value Before and after MVA** is the Cash Surrender Value at the end of each year assuming that Initial Guaranteed Interest Rates continue, and that the continuing rates are the rates offered by the company on new contracts. In this case the MVA would be zero, and Cash Surrender Values before and after the MVA would be the same.

Important Note: This illustration assumes you will take no withdrawals from your annuity before you begin to receive periodic income payments. **Withdrawals will reduce both the annuity Account Value and the Cash Surrender Value.** You may make partial withdrawals of up to 10% of your account value each contract year without paying surrender charges. Excess withdrawals (above 10%) and full withdrawals will be subject to surrender charges.

This illustration assumes the annuity's current interest crediting rates will not change. It is likely that they will change and actual values may be higher or lower than those in the illustrations.

The values in this illustration are not guaranteed or even estimates of the amounts you can expect from your annuity. For more information, read the annuity disclosure and annuity buyer's guide.

Historical Note

New Appendix B made by final rulemaking at 28 A.A.R. 454 (February 25, 2022), effective April 5, 2022 (Supp. 22-1).

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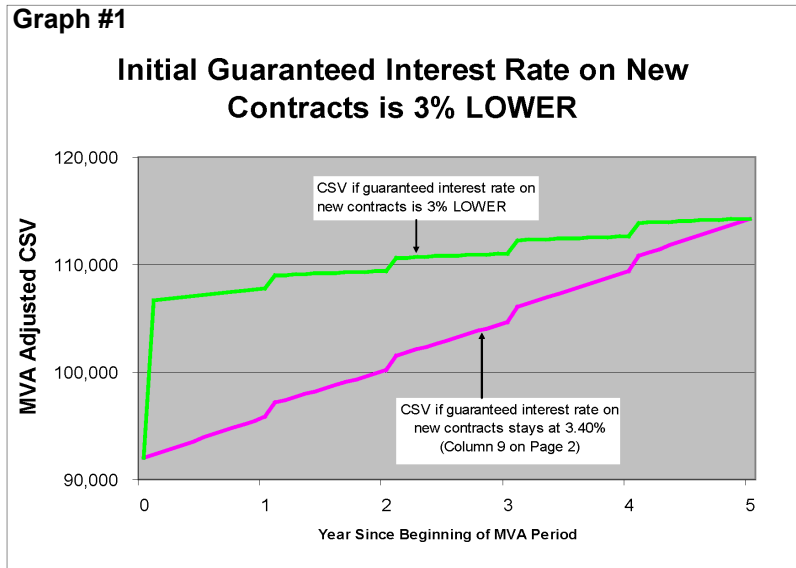
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Illustration C. MVA-adjusted Cash Surrender Values (CSVs) Under Sample Scenarios

MVA-adjusted Cash Surrender Values (CSVs) Under Sample Scenarios

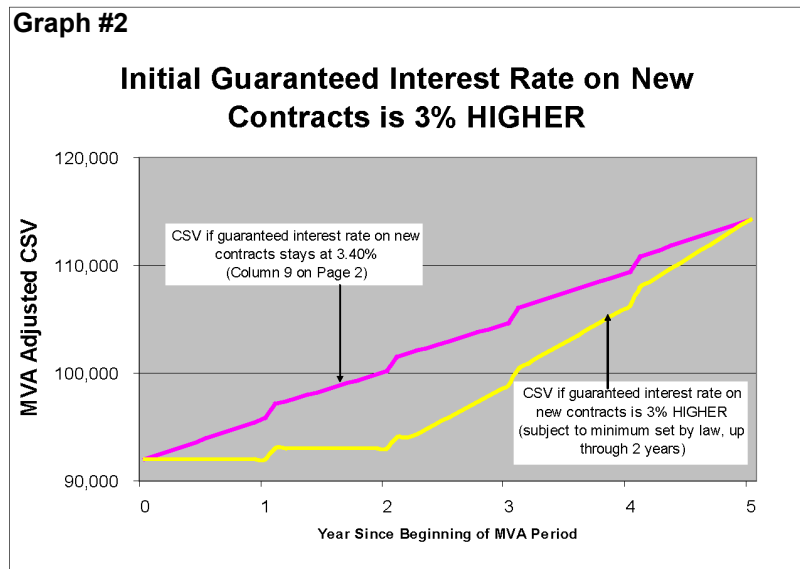
The graphs below show MVA-adjusted Cash Surrender Values (CSVs) during the first five years of the contract, as illustrated on the illustration spreadsheet above (\$100,000 single premium, a 5-year MVA Period) under two sample scenarios, as described below.

Graph #1 shows if the interest rate on new contracts is 3% LOWER than your Initial Guaranteed Interest Rate, the MVA will increase the amount you receive (upper line). The lower line shows the Cash Surrender Values if the Initial Guaranteed Interest Rates continue (from Column (9) on the illustration spreadsheet above (referenced as Page 2 in the graph)).



Graph #2 shows if the interest rate on new contracts is 3% HIGHER than your Initial Guaranteed Interest Rate, the MVA will decrease the amount you receive, but not below the minimum set by law (Column (6) on the illustration spreadsheet above (referenced as Page 2 in the graph)), which in this scenario's limits the decrease for the first 2 years (lower line). The upper line shows the Cash Surrender Values if the Initial Guaranteed Interest Rates continue (from Column (9) on the illustration spreadsheet above).

These graphs and the sample guaranteed interest rates on new contracts used are for demonstration purposes only and are not intended to be a projection of how guaranteed interest rates on new contracts are likely to behave.



Historical Note

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Appendix C made by final rulemaking at 28 A.A.R. 454 (February 25, 2022), effective April 5, 2022 (Supp. 22-1).

R20-6-213. Life and Disability Insurance Policy Language Simplification

A. Definitions. The following definitions apply in this Section:

1. "Company" or "insurer" means any life or disability insurance company, benefit insurer, benefit stock insurer, prepaid dental plan organizations, health care service organizations, and all similar type organizations.
2. "Director" means the Director of Insurance of Arizona.
3. "Policy" or "policy form" means any policy, contract, plan or agreement of life or disability insurance, including credit life insurance and credit disability insurance, delivered or issued for delivery in the state by any company subject to this rule; and any certificate issued under a group insurance policy delivered or issued for delivery in this state.

B. Applicability.

1. This Section and R20-6-212 apply to all life and disability insurance policies delivered or issued for delivery in this state by any company but do not apply to:
 - a. Any policy that is a security subject to federal jurisdiction;
 - b. Any group policy covering a group of 1,000 or more lives at date of issue, other than a group credit life insurance policy or a group credit disability insurance policy however, this shall not exempt any certificate issued under a group policy delivered or issued for delivery in this state; or
 - c. Any group annuity contract that serves as a funding vehicle for pension, profit-sharing, or deferred compensation plans;
2. Except as provided in R20-6-210, no other rule of this state setting language simplification standards shall apply to any policy forms.

C. Minimum policy language simplification standards.

1. Except as stated in subsection (B), an insurer shall not deliver or issue for delivery a policy form that has not been approved by the Director unless:
 - a. The text achieves a minimum score of 40 on the Flesch reading ease test or an equivalent score on any other comparable test as provided in subsection (3);
 - b. It is printed, except for specification pages, schedules, and tables, in no less than 10 point type, one point leaded;
 - c. The style, arrangement and overall appearance of the policy do not give undue prominence to any portion of the text of the policy or to any endorsements or riders; and
 - d. The policy, if the policy has more than 3,000 words printed on three or fewer pages of text or if the policy has more than three pages regardless of the number of words, contains a table of contents or an index of the principal sections of the policy.
2. An insurer shall measure a Flesch reading ease test score as follows:
 - a. For policy forms containing 10,000 words or less of text, an insurer shall analyze the entire form. For policy forms containing more than 10,000 words, an insurer may analyze the readability of two, 200-word samples per page instead of the entire form. The insurer shall separate the samples by at least 20 printed lines.

- b. The insurer shall count the number of words and sentences in the text, then divide the total number of words by the total number of sentences, then multiply that figure by a factor of 1.015.
- c. The insurer shall count and divide the total number of syllables by the total number of words, then multiply that figure by a factor of 84.6.
- d. The sum of the figures computed under subsections (b) and (c) subtracted from 206.835 equals the Flesch reading ease score for the policy form.
- e. For subsections (b), (c), and (d), the insurer shall use the following procedures:
 - i. A contraction, hyphenated word, or numbers and letters, when separated by spaces, shall be counted as one word;
 - ii. A unit of words ending with a period, semicolon, or colon, but excluding headings and captions, shall be counted as a sentence; and
 - iii. A syllable means a unit of spoken language consisting of one or more letters of a word as divided by an accepted dictionary. If the dictionary shows two or more equally acceptable pronunciations of a word, the pronunciation containing fewer syllables may be used.
- f. The term "text" as used in this subsection shall include all printed matter except the following:
 - i. The name and address of the insurer, the name, number or title of the policy, the table of contents or index, captions and subcaptions, specification pages, schedules or tables; and
 - ii. Policy language that is drafted to conform to the requirements of a federal law, regulation, or agency interpretation, policy language required by a collectively bargained agreement, medical terminology, words defined in the policy, and policy language required by law or regulation, if the insurer identifies the language or terminology excepted by this subsection and certifies, in writing, that the language or terminology is entitled to be excepted by this subsection.

3. Any other reading test may be approved by the Director for use as an alternative to the Flesch reading test if it is comparable in result to the Flesch reading ease test.
4. Filings subject to this subsection shall be accompanied by a certificate signed by an officer of the insurer stating that the filing meets the minimum reading ease score on the test used or stating that the score is lower than the minimum required but should be approved under subsection (G) of this Section. To confirm the accuracy of any certification, the Director may require the submission of further information to verify the certification in question.
5. At the option of the insurer, riders, endorsements, applications and other forms made a part of the policy may be scored as separate forms or as part of the policy with which they may be used.

- #### D. The Director may authorize a lower score than the Flesch reading ease score required in subsection (C)(1)(a) if a lower score:
1. Provides a more accurate reflection of readability of a policy form;
 2. Is warranted by the nature of a particular policy form or type or class of policy forms; or

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3. Is caused by certain policy language drafted to conform to the requirements of any state statute, rule, or agency interpretation of law.

Historical Note

Adopted effective November 21, 1977 (Supp. 77-6).
 Amended effective March 27, 1978 (Supp. 78-2).
 Amended subsection (E), deleted subsection (F) and added new subsections (F) and (G) effective December 3, 1986 (Supp. 86-6). R20-6-213 recodified from R4-14-213 (Supp. 95-1). Former R20-6-213 renumbered to R20-6-211; new R20-6-213 renumbered from R20-6-216 and amended by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2). Corrected error in R20-6-213(D) that referenced subsection (E)(1)(a), which was relabeled as (C)(1)(a) in Supp. 07-2 (Supp. 08-1).

R20-6-214. Coordination of Benefits**A. Applicability.**

1. This Section applies to all:
 - a. Group disability insurance policies;
 - b. Group subscriber contracts of hospital and medical service corporations and health care services organizations;
 - c. Group disability policies of benefit insurers; and
 - d. Group-type contracts that contain a coordination of benefits provision, are not available to the general public, and can be obtained and maintained only because of the covered person's membership in or connection with a particular organization. Group-type contracts that meet this description are included regardless of whether denominated as "franchise," "blanket," or some other designation.
2. This Section does not apply to:
 - a. Individual or family policies or individual or family subscriber contracts except as provided for in subsection (A)(1);
 - b. Group or group-type hospital indemnity benefits, written on a non-expense incurred basis, of \$30 per day or less unless characterized as reimbursement-type benefits and designed or administered to give the insured the right to elect indemnity-type benefits, instead of the reimbursement type benefits at the time of claim; or
 - c. School accident type coverages, written on a blanket, group, or franchise basis.

B. Definitions. In this Section, the following definitions apply:

1. "Allowable expense" means any necessary, reasonable, and customary item of expense, at least a portion of which is covered under one or more of the plans covering the person for whom claim is made or service provided.
 - a. When a plan provides benefits in the form of services rather than cash payments, the reasonable cash value of each service rendered is deemed to be both an allowable expense and a benefit paid.
 - b. A plan that takes Medicare or similar government benefits into consideration when determining the application of its coordination of benefits provision does not expand the definition of an allowable expense.
2. "Claim determination period" means an appropriate period of time such as "calendar year" or "benefit period" as defined in the policy.
3. "Plan," within the coordination of benefits provisions of a group policy or subscriber contract, means the types of

coverage that the insurer may consider in determining whether overinsurance exists with respect to a specific claim.

4. "School accident-type coverage" means coverage of grammar school and high school students for accidents only, including athletic injuries, either on a 24-hour basis or "to-and-from school," for which the parent pays the entire premium.

C. Order-of-benefit determination.

1. When a claim under a plan with a coordination of benefit provision involves another plan that also has a coordination of benefit provision, the insurer shall make the order-of-benefit determination as follows:
 - a. The plan that covers the person claiming benefits other than as a dependent shall determine benefits before those of the plan that covers the person as a dependent.
 - b. The plan of a parent whose birthday occurs earlier in a calendar year shall cover a dependent child before the benefits of a plan of a parent whose birthday occurs later in a calendar year. The word "birthday" as used in this subsection refers only to month and day in a calendar year, not the year in which the person was born.
 - c. If two or more plans cover a person as a dependent child of divorced or separated parents, benefits for the child are determined in the following order:
 - i. First, the plan of the parent with custody of the child;
 - ii. Then, the plan of the spouse of the parent with custody of the child; and
 - iii. Finally, the plan of the parent not having custody of the child.
 - d. Notwithstanding subsection (c), if the specific terms of a court decree state that one of the parents is responsible for the health care expenses of the child, and the entity obligated to pay or provide the benefits of the plan of that parent has actual knowledge of those terms, the benefits of that plan are determined first.
2. The benefits of a plan that covers a person as an employee (or as that employee's dependent) are determined before those of a plan that covers that person as a laid off or retired employee (or as that employee's dependent). If the other plan does not have this provision and if, as a result, the plans do not agree on the order of benefits, this subsection does apply.
3. If none of the provisions of subsection (C) determines the order of benefits, the benefits of the plan that covered a claimant longer are determined before those of the plan that covered that person for the shorter time.
4. If one of the plans is issued out of this state and determines the order of benefits based upon the gender of a parent and, as a result, the plans do not agree on the order of benefits, the plan with the gender rule shall determine the order of benefits.

- D. Excess and other nonconforming provisions.** A plan with an order of benefit determination provision that complies with this Section, a complying plan, may coordinate its benefits with a plan that is "excess" or "always secondary" or that uses an order-of-benefit determination provision that is inconsistent with this Section, a noncomplying plan, on the following basis:

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1. If the complying plan is the primary plan, it shall pay or provide its benefits on a primary basis.
2. If the complying plan is the secondary plan, it shall pay or provide its benefits first, as the secondary plan. The payment shall be the limit of the complying plan's liability, except as provided in subsection (4).
3. If the noncomplying plan does not provide the information needed by the complying plan to determine its benefits within a reasonable time after it is requested to do so, the complying plan shall assume that the benefits of the noncomplying plan are identical to its own, and shall pay benefits accordingly. The complying plan shall adjust any payments it makes based on the assumption whether information becomes available as the actual benefits of the noncomplying plan.
4. If the noncomplying plan pays benefits so that the claimant receives less in benefits than the claimant would have received had the noncomplying plan paid or provided its benefits as the primary plan, the complying plan shall advance to or on behalf of the claimant an amount equal to the difference. The complying plan shall not have a right to reimbursement from the claimant.

Historical Note

Adopted effective October 26, 1979 (Supp. 79-5). R20-6-214 recodified from R4-14-214 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 491, effective September 30, 2001 (Supp. 02-1). Section R20-6-214 renumbered from R20-6-217 and amended by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-215. Renumbered**Historical Note**

Adopted effective September 7, 1981 (Supp. 81-3). Amended subsections (D) through (H), deleted Agent's Statement and Exhibit D effective March 30, 1983 (Supp. 83-2). R20-6-215 recodified from R4-14-215 (Supp. 95-1). Amended by exempt rulemaking at 9 A.A.R. 5595, effective January 1, 2004 (Supp. 03-4). Former R20-6-215 renumbered to R20-6-212 by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-215.01. Renumbered**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 5595, effective January 1, 2004 (Supp. 03-4). Former R20-6-215.01 renumbered to R20-6-212.01 by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-216. Renumbered**Historical Note**

Adopted effective as set forth in subsection (H) (Supp. 80-6). R20-6-216 recodified from R4-14-216 (Supp. 95-1). Former R20-6-216 renumbered to R20-6-213 by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-217. Renumbered**Historical Note**

Adopted effective September 14, 1982 (Supp. 82-3). Amended subsections (C) and (D), deleted (F) effective January 1, 1987, filed December 16, 1986 (Supp. 86-6).

R20-6-217 recodified from R4-14-217 (Supp. 95-1). Former R20-6-217 renumbered to R20-6-214 by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2).

Editor's Note: The following Section expired under A.R.S. § 41-1056(E) on September 30, 2001 at 8 A.A.R. 491. The Notice of Rule Expiration was not received until January 9, 2002. Therefore, the repeal of the rule noted in the Historical Note is moot (Supp. 02-1).

R20-6-218. Repealed**Historical Note**

Adopted effective November 9, 1984 (Supp. 84-6). R20-6-218 recodified from R4-14-218 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 5443, effective November 16, 2001 (Supp. 01-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 491, effective September 30, 2001 (Supp. 02-1); refer to the Editor's Note before the Section.

ARTICLE 3. FINANCIAL PROVISIONS AND PROCEDURES**R20-6-301. Expired****Historical Note**

Former General Rule Number 3. R20-6-301 recodified from R4-14-301 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 491, effective September 30, 2001 (Supp. 02-1).

R20-6-302. Expired**Historical Note**

Former General Rule 62-11. R20-6-302 recodified from R4-14-302 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 491, effective September 30, 2001 (Supp. 02-1).

R20-6-303. Termination of Certificate of Authority and Release of Deposit

- A.** Domestic Insurers. To request termination of a certificate of authority and, if applicable, release of statutory deposit, a domestic insurer shall file all of the following with the director:
1. A written request for termination of certificate of authority and release of deposit;
 2. The insurer's original certificate of authority or an affidavit of lost certificate of authority;
 3. A statement of the insurer's financial condition as of a date within 60 days of the filing date of the request for termination that includes a written statement, signed by two officers of the insurer as authorized on the jurat page of the insurer's most recent annual statement, verifying that the statement of financial condition reflects the insurer's financial position as of the date signed.
 4. A plan of extinguishment for its outstanding liabilities that satisfies the requirements of subsection (C) or a sworn affidavit stating that the insurer has no outstanding liabilities to policyholders or claimants under subsection (C);
 5. A certified copy of the insurer's Board of Directors resolution or other documentation of the insurer's official action taken according to the insurer's statutorily required organizational documents approving the insurer's:
 - a. Withdrawal from the insurance business,

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- b. Dissolution of the insurer,
 - c. Merger with an insurer authorized in Arizona to transact the insurer's previously written and active lines of business of the insurer requesting termination, or
 - d. Transfer of domicile to another state or country.
- 6. A copy of the insurer's Articles of Dissolution, Articles of Merger, Articles of Amendment, Articles of Redomestication, or other documentation that the insurer intends to file with the Arizona Corporation Commission after issuance of the Director's order as provided in subsection (D)(2);
- 7. If requested by the director, a written agreement that guarantees payment of substantially all liabilities of the domestic insurer, other than obligations extinguished under subsection (C).
- B. Foreign and Alien Insurers.** To request termination of its certificate of authority and, if applicable, release of its deposit, a foreign or alien insurer shall file all of the following with the director:
 - 1. A written request for termination of certificate of authority and release of deposit;
 - 2. The insurer's original certificate of authority or an affidavit of lost certificate of authority;
 - 3. A statement of the insurer's financial condition as of a date within 60 days of the filing date of the request for termination that includes a written statement, signed by two officers of the insurer as authorized on the jurat page of the insurer's most recent annual statement, verifying that the statement of financial condition reflects the insurer's financial position as of the date signed.
 - 4. A plan of extinguishment for its Arizona liabilities that satisfies the requirements of subsection (C) or a sworn affidavit stating that the insurer has no Arizona liabilities under subsection (C);
 - 5. A copy of an order issued by the insurance director or other appropriate regulatory authority in the insurer's state or country of domicile that approves or authorizes either the insurer's:
 - a. Withdrawal from the insurance business,
 - b. Dissolution of the insurer,
 - c. Merger (approval of the merger from the states of domicile of the insurers), or
 - d. Transfer of domicile, if applicable.
 - 6. A copy of the insurer's Articles of Dissolution, Articles of Merger, Articles of Amendment, Articles of Redomestication or other required documentation that the insurer filed in its state of domicile; and
 - 7. If requested by the director, a written agreement that guarantees payment of substantially all Arizona liabilities of the insurer, other than obligations extinguished under subsection (C).
- C. Insurer's Plan for Extinguishment of Liabilities.**
 - 1. To extinguish substantially all liabilities under subsection (A)(4) or subsection (B)(4) as applicable, an insurer may:
 - a. Reinsure the insurer's business in force with another insurer by entering into an agreement of bulk reinsurance that shall be effective when filed with and approved in writing by the director.
 - i. The agreement shall provide for assumption of all policyholder claims by the reinsurer including claims incurred but unreported as of the effective date of the agreement.
 - ii. The agreement may include recapture provisions exercisable by the insurer in the event the termination of its certificate of authority is not completed.
 - iii. Unless the director otherwise approves, the agreement shall provide that the reinsurer be licensed in Arizona for the particular lines of business reinsured.
 - b. Merge with another insurer that:
 - i. Assumes the liabilities of the non-surviving insurer; and
 - ii. Is authorized in Arizona for the previously written and active lines of business assumed, unless otherwise approved by the director.
 - c. Use its deposit, any additional security deposit or both to secure payment of former policyholder, policyholder, or claimant liabilities that are not reinsured or otherwise secured.
 - 2. For purposes of this Section, "substantially all liabilities" under Title 20 means all policyholder and claimant obligations reported by the insurer in the statement of financial condition, whether or not liquidated in amount, and shall include former policyholder claims and rights to refunds.
- D. Consideration of the Request for Termination of Certificate of Authority and Release of Deposit under subsections (A) and (B).**
 - 1. If the director determines that the insurer has extinguished substantially all liabilities as required under this Section and has otherwise demonstrated compliance with this Section and A.R.S. Title 20, the director shall grant the request to terminate the certificate of authority and, if appropriate, release the insurer's deposit, provided:
 - a. The insurer has no fees, taxes, assessments or filings outstanding to the Department; and
 - b. The insurer is not subject of any pending investigation or examination under Title 20 by the Department.
 - 2. The director's order shall condition the release of a domestic insurer's deposit upon receipt by the director of evidence of the official filing with the Arizona Corporation Commission of the documentation described in subsection (A)(6).
 - 3. If the director determines that the insurer is unable to extinguish substantially all liabilities as required under this Section, or otherwise has not complied with this Section or with A.R.S. Title 20, the director shall notify the insured in writing that the request has been denied and the reasons for the denial.
- E. Exclusions.** This Section does not apply to:
 - 1. An insurer's exchange and substitution of cash or eligible securities under A.R.S. § 20-586;
 - 2. An insurer's withdrawal of excess deposits, either cash or eligible securities, under A.R.S. §§ 20-587 and 20-588(A)(2); or
 - 3. Releases of deposits made under A.R.S. § 20-588(A)(3).

Historical Note

Former General Rule 72-29. R20-6-303 recodified from R4-14-303 (Supp. 95-1). Section R20-6-303 repealed; new Section R20-6-303 made by final rulemaking at 14 A.A.R. 3432, effective October 4, 2008 (Supp 08-3).

R20-6-304. Reserved

R20-6-305. Expired

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Historical Note

Adopted effective September 13, 1978, except that it shall apply to the accounting treatment for unearned premium reserves and reinsurance premium receivables for credit life disability insurance on January 1, 1979, and all annual statements filed for periods on or after that date (Supp. 78-5). R20-6-305 recodified from R4-14-305 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 491, effective September 30, 2001 (Supp. 02-1).

R20-6-306. Reserved**R20-6-307. Life and Disability Reinsurance Agreements**

A. Scope. This rule applies to all domestic life and disability insurers and reinsurers, and to all other licensed life and disability insurers and accredited reinsurers that are not subject to a substantially similar rule in their jurisdictions of domicile. This rule applies to the disability business of licensed property and casualty insurers. This rule does not apply to assumption reinsurance, yearly renewable term reinsurance, or nonproportional stop loss or catastrophe reinsurance, or similar forms of nonproportional reinsurance.

B. Definitions

1. "Agreement" means a reinsurance agreement and any amendment to a reinsurance agreement.
2. "Credit Quality" means the risk that invested assets supporting the reinsured business will decrease in value but excludes decreases to changes in interest rate.
3. "Department" means the Arizona Department of Insurance and Financial Institutions – Insurance Division.
4. "Director" has the same meaning as A.R.S. § 20-102.
5. "Disintermediation" means the risk that interest rates will rise and policy loans and surrenders will increase or maturing contracts will not renew at anticipated rates of renewal.
6. "Lapse" means the risk that a policy will voluntarily terminate before the recoupment of a statutory surplus strain experienced at issuance of the policy.
7. "Reinvestment" means the risk that interest rates will fall and funds reinvested will therefore earn less than expected.

C. Accounting Requirements

1. Unless authorized by the Director, an insurer shall not, for reinsurance ceded, reduce any liability, or establish any asset in any statutory financial statement filed with the Department if, by the terms of the agreement, or in effect, any of the following conditions exist:
 - a. Renewal expense allowances provided or to be provided to the ceding insurer by the reinsurer in any accounting period are not sufficient to cover the ceding insurer's allocable renewal expenses anticipated at the time the business is reinsured, unless a liability is established for the present value of the shortfall using assumptions equal to the applicable statutory reserve basis on the business reinsured.
 - b. The ceding insurer is required to reimburse the reinsurer for negative experience under the agreement. Neither the offset of the ceding insurer's experience refunds against current and prior years' losses, nor payment by the ceding insurer of an amount equal to the reinsurer's current and prior years' losses upon voluntary termination of in-force reinsurance by the

ceding insurer, shall be considered a reimbursement to the reinsurer for negative experience.

- c. The ceding insurer may be deprived of surplus or assets at the reinsurer's option or automatically upon the occurrence of a specified event, including the insolvency of the ceding insurer. Termination of the agreement by the reinsurer for nonpayment of reinsurance premiums or other amounts due shall not be considered a deprivation of surplus or assets within the meaning of this subsection.
 - d. The ceding insurer is required, at scheduled times, to terminate the agreement or recapture automatically all or part of the reinsurance ceded.
 - e. The ceding insurer may be required to pay the reinsurer amounts other than from income reasonably expected from the reinsured policies.
 - f. Significant risks inherent in the business reinsured are not transferred to the reinsurer. Table A identifies the risks deemed significant for representative types of business.
 - g. The credit quality, reinvestment, or disintermediation risk is significant for the business reinsured and the ceding company does not transfer the underlying assets to the reinsurer, segregate the underlying assets in a trust or escrow account, or otherwise segregate the underlying assets. The assets that support the reserves for classes of business that do not have a significant credit quality, reinvestment, or disintermediation risk, or for long-term care or long-term disability insurance, traditional non-par permanent, traditional par permanent, adjustable premium permanent, indeterminate premium permanent, or universal life fixed premium with no dump-in premiums allowed, may be held by the ceding company without segregation. To determine the reserves for classes of business, the supporting assets of which may be held without being segregated, the reserve interest rate adjustment formula shall reflect the ceding company's investment earnings and incorporate all realized and unrealized gains and losses reported in the ceding insurer's statutory financial statement.
 - h. Settlements are made less frequently than quarterly or payments due from the reinsurer are not made in cash within 90 days of the settlement date.
 - i. The ceding insurer is required to make representations or warranties unrelated to the business reinsured.
 - j. The ceding insurer is required to make representations or warranties related to future performance of the business reinsured.
2. An agreement entered into after the effective date of this rule to reinsure business issued before the effective date of the agreement shall be filed by the ceding insurer with the Director within 30 days after execution of the agreement. Each filing shall be accompanied by a description of the corresponding reduction in liabilities or other credit for reinsurance, and any other financial impact of the agreement, reported in the ceding insurer's statutory financial statements. When an increase in surplus net of federal income tax results from an agreement falling under this subsection, the ceding insurer shall separately identify the increase as a surplus item in the aggregate write-ins for gains and losses in surplus in the Capital and

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Surplus account of the ceding insurer's statutory financial statement. As earnings emerge from the business reinsured, the ceding insurer shall report in its statutory financial statement recognition of surplus increase as income on a net of tax basis as reinsurance ceded.

D. Written Agreements

1. A ceding insurer shall not reduce any liability or establish any asset in any statutory financial statement filed with the Department, unless the ceding insurer and the reinsurer have executed an agreement or a binding letter of intent by the "as of" date of the statutory financial statement.
2. A ceding insurer shall not be allowed a credit for the reinsurance ceded based on a letter of intent unless the ceding insurer and the reinsurer execute an agreement within 90 days from the execution date of the letter of intent.

3. The agreement shall provide that:

- a. The agreement constitutes the entire contract between the parties with respect to the business reinsured, and there are no understandings between the parties other than as expressed in the agreement; and
- b. Any change or modification to the agreement shall be void unless made by written amendment signed by all parties.

Historical Note

Adopted effective February 3, 1993 (Supp. 93-1). R20-6-307 recodified from R4-14-307 (Supp. 95-1). Amended effective December 7, 1995 (Supp. 95-4). Amended by final rulemaking at 29 A.A.R. 739 (March 17, 2023), effective May 8, 2023 (Supp. 23-1).

Table A. Risk Categories

Risk Categories:

- | | |
|----------------|------------------------|
| (a). Morbidity | (d). Credit Quality |
| (b). Mortality | (e). Reinvestment |
| (c). Lapse | (f). Disintermediation |

| | a | b | c | d | e | f |
|-----------------------------------------------------------------------------------|---|---|---|---|---|---|
| Disability Insurance, other than long-term care or long-term disability insurance | + | 0 | + | 0 | 0 | 0 |
| Long-term care or long-term disability insurance | + | 0 | + | + | + | 0 |
| Immediate Annuities | 0 | + | 0 | + | + | 0 |
| Single Premium Deferred Annuities | 0 | 0 | + | + | + | + |
| Flexible Premium Deferred Annuities | 0 | 0 | + | + | + | + |
| Guaranteed Interest Contracts | 0 | 0 | 0 | + | + | + |
| Other Annuity Deposit Business | 0 | 0 | + | + | + | + |
| Single Premium Whole Life | 0 | + | + | + | + | + |
| Traditional Non-par Permanent Life | 0 | + | + | + | + | + |
| Traditional Non-par Term Life | 0 | + | + | 0 | 0 | 0 |
| Traditional Par Permanent Life | 0 | + | + | + | + | + |
| Traditional Par Term Life | 0 | + | + | 0 | 0 | 0 |
| Adjustable Premium Permanent Life | 0 | + | + | + | + | + |
| Indeterminate Premium Permanent Life | 0 | + | + | + | + | + |
| Universal Life Flexible Premium | 0 | + | + | + | + | + |
| Universal Life Fixed Premium, with dump-in premiums allowed | 0 | + | + | + | + | + |

+ - Significant

0 - Insignificant

Historical Note

Adopted effective December 7, 1995 (Supp. 95-4). Corrected misspelled word "adjustable" as submitted in final rule (Supp. 98-3).

R20-6-308. Expired**Historical Note**

Adopted effective March 22, 1993 (Supp. 93-1). R20-6-308 recodified from R4-14-308 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 3374, effective May 31, 2016 (Supp. 16-4).

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 255, effective January 1, 2000 (Supp. 99-4). Section expired under A.R.S. § 41-1056(E) at 13 A.A.R. 1278, effective September 30, 2006 (Supp. 07-1).

R20-6-309.02. Expired**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 255, effective January 1, 2000 (Supp. 99-4). Section expired under A.R.S. § 41-1056(E) at 13 A.A.R. 1278, effective September 30, 2006 (Supp. 07-1).

R20-6-309.03. Expired**R20-6-309. Expired****Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 255, effective January 1, 2000 (Supp. 99-4). Section expired under A.R.S. § 41-1056(E) at 13 A.A.R. 1278, effective September 30, 2006 (Supp. 07-1).

R20-6-309.01. Expired

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Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 255, effective January 1, 2000 (Supp. 99-4). Section expired under A.R.S. § 41-1056(E) at 13 A.A.R. 1278, effective September 30, 2006 (Supp. 07-1).

R20-6-309.04. Expired**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 255, effective January 1, 2000 (Supp. 99-4). Section expired under A.R.S. § 41-1056(E) at 13 A.A.R. 1278, effective September 30, 2006 (Supp. 07-1).

R20-6-310. Corporate Governance

The purpose of Sections R20-6-310.01 through R20-6-310.03 is to set forth procedures for filing and the required contents of the Corporate Governance Annual Disclosure (CGAD) deemed necessary by the Director to carry out the provisions of Title 20, Chapter 2, Article 16 on Corporate Governance.

Historical Note

New Section made by final exempt rulemaking at 25 A.A.R. 3715, with an immediate effective date of December 4, 2019 (Supp. 19-4).

R20-6-310.01. Definitions

The definitions in A.R.S. § 20-492 and this Section apply to Sections R20-6-310.02 through R20-6-310.04.

“CGAD” means Corporate Governance Annual Disclosure.

“NAIC” means National Association of Insurance Commissioners.

“Senior Management” means any corporate officer responsible for reporting information to the board of directors at regular intervals or providing this information to shareholders or regulators and shall include, for example and without limitation, the Chief Executive Officer (“CEO”), Chief Financial Officer (“CFO”), Chief Operations Officer (“COO”), Chief Procurement Officer (“CPO”), Chief Legal Officer (“CLO”), Chief Information Officer (“CIO”), Chief Technology Officer (“CTO”), Chief Revenue Officer (“CRO”), Chief Visionary Officer (“CVO”), or any other “C” level executive.

Historical Note

New Section made by final exempt rulemaking at 25 A.A.R. 3715, with an immediate effective date of December 4, 2019 (Supp. 19-4).

R20-6-310.02. Filing Procedures

- A. Deadline to file. An insurer, or the insurance group of which the insurer is a member, required to file a CGAD by A.A.C. Title 20, Chapter 2, Article 16 shall, no later than June 1 of each calendar year, submit to the Director a CGAD that contains the information described in Section R20-6-310.03.
- B. Attestation. The CGAD must include a signature of the insurer’s or insurance group’s CEO or corporate secretary attesting to the best of that person’s belief and knowledge that the insurer or insurance group has implemented the corporate governance practices and that the copy of the CGAD has been provided to the insurer’s or insurance group’s Board of Directors or appropriate committee of the Board of Directors.
- C. Format of the CGAD. The insurer or insurance group shall have discretion regarding the appropriate format for providing the information required and is permitted to customize the CGAD to provide the most relevant information necessary to permit the Director to gain an understanding of the corporate

governance structure, policies and practices utilized by the insurer or insurance group.

- D. Insurer or insurance group to determine level of reporting.
 1. For purposes of completing the CGAD, the insurer or insurance group may choose to provide information on governance activities that occur at the ultimate controlling parent level, an intermediate holding company level and/or the individual legal entity level, depending on how the insurer or insurance group has structured its system of corporate governance.
 2. The insurer or insurance group is encouraged to make the CGAD disclosures at:
 - a. The level at which the insurer’s or insurance group’s risk appetite is determined,
 - b. The level at which the earnings, capital, liquidity, operations, and reputation of the insurer are overseen collectively and at which the supervision of those factors are coordinated and exercised, or
 - c. The level at which legal liability for failure of general corporate governance duties would be placed.
 3. If the insurer or insurance group determines the level of reporting based on the criteria in subsection (D)(2), it shall indicate which of the three criteria was used to determine the level of reporting and explain any subsequent changes in the level of reporting.
- E. CGAD completed at the insurance group level. Notwithstanding subsection (A) and as outlined in A.R.S. § 20-492.01, if the CGAD is completed at the insurance group level, then it must be filed with the lead state of the group as determined by the procedures outlined in the NAIC’s Financial Analysis Handbook 2018 Annual/2019 Quarterly, pp. 771 through 774, and no future editions. In these instances, a copy of the CGAD must also be provided, upon request, to the chief regulatory official of any state in which the insurance group has a domestic insurer.
- F. Reference to other existing documents. An insurer or insurance group may comply with this Section by referencing other existing documents (e.g., ORSA Summary Report, Holding Company Form B or F Filings, Securities and Exchange Commission (SEC) Proxy Statements, foreign regulatory reporting requirements, etc.) if the documents provide information that is comparable to the information described in R20-6-310.03. The insurer or insurance group shall clearly reference the location of the relevant information within the CGAD and attach the referenced document if it is not already filed or available to the Director.
- G. Subsequent filings of the CGAD. Each year following the initial filing of the CGAD, the insurer or insurance group shall file an amended version of the previously filed CGAD indicating where changes have been made to the previously filed CGAD. The filing shall also state if no changes are made to the information or activities previously reported by the insurer or insurance group.

Historical Note

New Section made by final exempt rulemaking at 25 A.A.R. 3715, with an immediate effective date of December 4, 2019 (Supp. 19-4).

R20-6-310.03. Contents of CGAD

- A. Inclusion of attachments. The insurer or insurance group shall be as descriptive as possible in completing the CGAD, with inclusion of attachments or example documents that are used in the governance process, since these may provide a means to

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demonstrate the strengths of their governance framework and practices.

B. Board. The CGAD shall describe the insurer's or insurance group's corporate governance framework and structure including consideration of the following:

1. The Board and its various committees ultimately responsible for overseeing the insurer or insurance group and the level or levels at which that oversight occurs (e.g., ultimate control level, intermediate holding company, legal entity, etc.). The insurer or insurance group shall describe and discuss the rationale for the current Board size and structure; and
2. The duties of the Board and each of its significant committees and how they are governed (e.g., bylaws, charters, informal mandates, etc.), as well as how the Board's leadership is structured, including a discussion of the roles of the Chief Executive Officer (CEO) and Chairman of the Board within the organization.

C. Senior Governing Entity. The insurer or insurance group shall describe the policies and practices of the most senior governing entity and its significant committees, including a discussion of the following factors:

1. How the qualifications, expertise and experience of each Board member meet the needs of the insurer or insurance group.
2. How an appropriate amount of independence is maintained on the Board and its significant committees.
3. The number of meetings held by the Board and its significant committees over the past year as well as information on director attendance.
4. How the insurer or insurance group identifies, nominates and elects members of the Board and its committees. The discussion should include, for example:
 - a. Whether a nomination committee is in place to identify and select individuals for consideration.
 - b. Whether term limits are placed on directors.
 - c. How the election and re-election processes function.
 - d. Whether a Board diversity policy is in place and if so, how it functions.
5. The processes in place for the Board to evaluate its performance and the performance of its committees, as well as any recent measures taken to improve performance (including any Board or committee training programs that have been put in place).

D. Senior Management. The insurer or insurance group shall describe the policies and practices for directing Senior Management, including a description of the following factors:

1. Any processes or practices (i.e., suitability standards) to determine whether officers and key persons in control functions have the appropriate background, experience and integrity to fulfill their prospective roles, including:
 - a. Identification of the specific positions for which suitability standards have been developed and a description of the standards employed.
 - b. Any changes in an officer's or key person's suitability as outlined by the insurer's or insurance group's standards and procedures to monitor and evaluate such changes.
2. The insurer's or insurance group's code of business conduct and ethics, the discussion of which considers, for example:
 - a. Compliance with laws, rules, and regulations; and
 - b. Proactive reporting of any illegal or unethical behavior.

3. The insurer's or insurance group's processes for performance evaluation, compensation and corrective action to ensure effective senior management throughout the organization, including a description of the general objectives of significant compensation programs and what the programs are designed to reward. The description shall include sufficient detail to allow the Director to understand how the organization ensures that compensation programs do not encourage and/or reward excessive risk-taking. Elements to be discussed may include, for example:
 - a. The Board's role in overseeing management compensation programs and practices.
 - b. The various elements of compensation awarded in the insurer's or insurance group's compensation programs and how the insurer or insurance group determines and calculates the amount of each element of compensation paid;
 - c. How compensation programs are related to both company and individual performance over time;
 - d. Whether compensation programs include risk adjustments and how those adjustments are incorporated into the programs for employees at different levels;
 - e. Any clawback provisions built into the programs to recover awards or payments if the performance measures upon which they are based are restated or otherwise adjusted;
 - f. Any other factors relevant to understanding how the insurer or insurance group monitors its compensation policies to determine whether its risk management objectives are met by incentivizing its employees.

4. The insurer's or insurance group's plans for CEO and Senior Management succession.
- E. Oversight.** The insurer or insurance group shall describe the processes by which the Board, its committees and Senior Management ensure an appropriate amount of oversight to the critical risk areas impacting the insurer's business activities, including a discussion of:

1. How oversight and management responsibilities are delegated between the Board, its committees and Senior Management;
2. How the Board is kept informed of the insurer's strategic plans, the associated risks, and steps the Senior Management is taking to monitor and manage those risks;
3. How reporting responsibilities are organized for each critical risk area. The description should allow the Director to understand the frequency at which information on each critical risk area is reported to and reviewed by Senior Management and the Board. This description may include, for example, the following critical risk areas of the insurer:
 - a. Risk management processes (an ORSA Summary Report filer may refer to its ORSA Summary Report submitted pursuant to A.R.S. § 20-491.03);
 - b. Actuarial function;
 - c. Investment decision-making processes;
 - d. Reinsurance decision-making processes;
 - e. Business strategy/finance decision-making processes;
 - f. Compliance function;
 - g. Financial reporting/internal auditing; and
 - h. Market conduct decision-making processes.

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Historical Note

New Section made by final exempt rulemaking at 25 A.A.R. 3715, with an immediate effective date of December 4, 2019 (Supp. 19-4).

R20-6-310.04. Severability Clause

If any provision of this Section, or the application thereof to any person or circumstance, is held invalid, such determination shall not affect other provisions or applications of this Section which can be given effect without the invalid provision or application, and to that end the provisions of this Section are severable.

Historical Note

New Section made by final exempt rulemaking at 25 A.A.R. 3715, with an immediate effective date of December 4, 2019 (Supp. 19-4).

Appendix A. Expired**Table 1. Expired****Table 2. Expired****Table 3. Expired****Table 4. Expired****Table 5. Expired****Table 6. Expired****Historical Note**

Appendix A adopted by final rulemaking at 6 A.A.R. 255, effective January 1, 2000 (Supp. 99-4). Appendix A (including Tables 1 through 6) expired under A.R.S. § 41-1056(E) at 13 A.A.R. 1278, effective September 30, 2006 (Supp. 07-1).

ARTICLE 4. TYPES OF INSURANCE COMPANIES**R20-6-401. Proxies, Consents, and Authorizations of Domestic Stock Insurers**

A. The Department incorporates by reference National Association of Insurance Commissioners Model Laws, Regulations and Guidelines, Volume III, pp. 490-1 through 490-33, Regulation Regarding Proxies, Consents, and Authorization of Domestic Stock Insurers, April 1995 (and no future editions or amendments), which is on file with and available from the Department of Insurance, 100 N. 15th Ave., Suite 261, Phoenix, AZ 85007-2630, the Department's website: <https://difi.az.gov/insurance-division-rulemaking>, and the National Association of Insurance Commissioners, Publications Department, 1100 Walnut Street, Suite 1500, Kansas City, MO 64106-2197, modified as follows:

Section 1 A is modified to read: "No domestic stock insurer that has any class of equity securities held of record by 100 or more persons, or any director, officer or employee of that insurer, or any other person, shall solicit, or permit the use of the person's name to solicit, by mail or otherwise, any proxy, consent, or authorization in respect to any class of equity securities in contravention of this regulation and Schedules A and B, hereby made a part of this regulation.

B. Domestic stock insurance companies shall comply with this Section as required under A.R.S. § 20-143(B).

Historical Note

Former General Rule 57-3. R20-6-401 recodified from R4-14-401 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E), filed in the Office of the Secretary of State

August 24, 2000 (Supp. 00-3). New Section made by final rulemaking at 9 A.A.R. 1086, effective March 6, 2003 (Supp. 03-1). Section amended by final expedited rulemaking with an immediate effective date of September 16, 2019 (Supp. 19-3). Section amended by final rulemaking at 29 A.A.R. 3615 (November 24, 2023), effective January 7, 2024 (Supp. 23-4).

R20-6-402. Expired**Historical Note**

Former General Rule 69-19. R20-6-402 recodified from R4-14-402 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E), filed in the Office of the Secretary of State August 24, 2000 (Supp. 00-3).

Exhibit A. Expired**Historical Note**

Former General Rule 69-19. R20-6-402 recodified from R4-14-402 (Supp. 95-1). Exhibit expired under A.R.S. § 41-1056(E), filed in the Office of the Secretary of State August 24, 2000 (Supp. 00-3).

Exhibit B. Expired**Historical Note**

Former General Rule 69-19. R20-6-402 recodified from R4-14-402 (Supp. 95-1). Exhibit expired under A.R.S. § 41-1056(E), filed in the Office of the Secretary of State August 24, 2000 (Supp. 00-3).

R20-6-403. Expired**Historical Note**

Former General Rule 69-21. R20-6-403 recodified from R4-14-403 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E), filed in the Office of the Secretary of State August 24, 2000 (Supp. 00-3).

Appendix A. Expired**Historical Note**

R20-6-403, Appendix A recodified from R4-14-403, Appendix A (Supp. 95-1). Appendix expired under A.R.S. § 41-1056(E), filed in the Office of the Secretary of State August 24, 2000 (Supp. 00-3).

Appendix B. Expired**Historical Note**

R20-6-403, Appendix B recodified from R4-14-403, Appendix B (Supp. 95-1). Appendix expired under A.R.S. § 41-1056(E), filed in the Office of the Secretary of State August 24, 2000 (Supp. 00-3).

Appendix C. Expired**Historical Note**

R20-6-403, Appendix C recodified from R4-14-403, Appendix C (Supp. 95-1). Appendix expired under A.R.S. § 41-1056(E), filed in the Office of the Secretary of State August 24, 2000 (Supp. 00-3).

R20-6-404. Repealed**Historical Note**

Former General Rule 73-31; Repealed effective January 1, 1981 (Supp. 80-6). R20-6-404 recodified from R4-14-404 (Supp. 95-1).

R20-6-405. Health Care Services Organization

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A. Scope

1. The scope of this Section is the scope of A.R.S. Title 20 as it relates to Insurers or Hospital or Medical Service Corporations. As it relates to Health Care Services Organizations, the scope of this Section is the scope of Title 20, Chapter 1 and Title 20, Chapter 4, Article 9, as provided in A.R.S. § 20-1068. This Section is applicable to agents of persons, and persons operating or proposing to operate Health Care Services Organizations in the State of Arizona.
2. The statutory authority for this Section, A.R.S. Title 20, Chapter 4, Article 9, does not provide for exemptions for persons or agents of persons subject to A.R.S. Title 20, Chapter 4, Article 9, and no such exemption is intended or should be presumed by this Section or any provision of this Section.

B. Repeal. This Section does not repeal any known prior Section, memorandum, bulletin, directive or opinion on this subject matter. If such prior Section or directive exists and is in conflict with this Section, it is repealed by this Section.**C. Definitions.** In addition to the definitions provided in A.R.S. § 20-1051, the following definitions apply to this Section unless the context otherwise requires:

1. "Agent" has the same meaning as "insurance producer" found at A.R.S. § 20-281(5).
2. "Certificate of Authority" has the meaning found at A.R.S. § 20-217.
3. "Director" has the meaning found at A.R.S. § 20-102.
4. "Hospital Service Corporation" has the meaning found at A.R.S. § 20-822.
5. "Insurer" has the meaning found at A.R.S. § 20-104.
6. "License" means the authority to act as an agent of a Health Care Services Organization.
7. "Medical Service Corporation" has the meaning found at A.R.S. § 20-822.
8. "Net charges" means the total of all sums prepaid by or for all enrollees, less approved refunds, adjustments and deductions, as consideration for Health Care Services of a Health Care Plan under an Evidence of Coverage.
9. "Physician and patient relationship" has the meaning found at A.R.S. § 20-833.
10. "Prepaid Group Practice Plan" means a person authorized and approved under A.R.S. Title 20.
11. "Prepaid Health Plan" means any Health Care Plan to pay or make reimbursement for Health Care Services on a prepaid basis other than insured plans otherwise authorized and approved under A.R.S. Title 20.
12. "Transact" has the meaning found at A.R.S. § 20-106(A) and (B).
13. "Unqualified agent" means a person directly or indirectly representing or acting for a Health Care Services Organization and not qualified as an agent thereof.

D. Certificate of Authority – Application

1. Pursuant to the authority of A.R.S. § 20-1053(A)(13), the Director finds that biographical information disclosing the past activities, employment and financial transactions of principals, principal officers, controlling persons, and agents of applicant Health Care Services Organizations is necessary for the protection of residents of this State.
2. Pursuant to the authority of A.R.S. § 20-1053(A)(13), the Director finds that records of fingerprints of principal officers and agents of applicant Health Care Services Organizations may be necessary for the protection of citi-

zens of this state and may be required prior to licensing or approval of a Certificate of Authority.

E. Certificate of Authority – Grounds for denial

1. Policy. A Certificate of Authority to operate a Health Care Services Organization shall not be granted until the Director is satisfied by the affirmative showing, verified by the applicant, that all of the requirements of A.R.S. §§ 20-1051, 20-1052, 20-1052.01, 20-1053 and 20-1054 are met and will continue to be met.
2. Guidelines. The guidelines and standards for determination of appropriate mechanisms to achieve an effective Health Care Plan include, but are not limited to the following:
 - a. Ability to provide basic Health Care Services without undue restrictions, limitations, discrimination, unreasonable fee schedules, or unreasonable administrative costs; an affirmative showing that the form of organization does not evidence any coercion, duress or other compulsion over members;
 - b. The form of organization does not lend itself to practices prohibited by A.R.S. §§ 20-441 through 20-459, and
 - c. The evidence of coverage does not contain provisions or statements which are unjust, inequitable, misleading, deceptive or untrue or encourage misrepresentation.
3. Failure to pay obligations. Applications for a Certificate of Authority to operate a Health Care Services Organization may be denied or rejected if the applicant has failed after 30 days from the entry of final judgment, to pay obligations within the provisions of an evidence of coverage issued by such applicant. The provisions of this Section may be waived by the Director upon a clear affirmative showing that the applicant is defending an action or appealing a judgment at law or equity in a court of this state, or is required to obtain a Certificate of Authority so as to maintain such action.

F. Solicitation requirements

1. Forms for evidences of coverage, advertising matter, sales material and amendments thereto will not be approved until the Director is satisfied all applicable statutory requirements have been met and will continue to be met, and the necessary fees have been paid.
2. Each Health Care Services Organization shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement brochure, form letter of solicitation, evidence of coverage, certificate, agreement or contract, and a copy of all radio and television forms of the above hereafter disseminated in this or any other state with a notation attached to each such solicitation or inducement to indicate the manner and extent of distribution and the date of approval by the Department of such solicitation. Such advertising file shall be maintained for a period of not less than three years.

G. Taxes

1. All Health Care Services Organizations operating and transacting business in the State of Arizona shall on or before March 1 and with the filing of the Annual Report, file a tax return and pay the tax due on the filed return pursuant to A.R.S. § 20-1060.
2. Annual tax returns required to be filed coincident with the annual report shall be for the full calendar year next preceding the date of filing the annual report.

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3. Net charges, as in this Section defined, shall represent the net charges received during the calendar year next preceding the date of filing the annual report and tax return.
- H. Deposit requirements**
1. In the event a Health Care Services Organization determines to maintain statutory deposits by a surety bond, such surety bond shall be on a form as approved by the Director guaranteeing the payment of Health Care Services furnished to enrollees, and shall be deposited with the State Treasurer.
 2. Provider sponsored Health Care Services Organizations claiming to be exempt from the deposit requirement, pursuant to A.R.S. § 20-1055(F), shall submit to the Director an affirmative showing or certification executed by an authorized federal, state or municipal government or political subdivision thereof, demonstrating operational commitments equivalent to the statutory deposit requirements.
 3. Statutory deposits shall not be withdrawn or a surety bond cancelled until all contingent and perfected liens, including judgments, debts, and other liabilities for payment of Health Care Services to which the enrollee is entitled under the evidence of coverage, shall have been paid and the Director authorizes, in writing, to withdraw such deposits or cancel such bonds. Equal par value statutory deposit exchanges may be completed without the Director's prior approval.
- I. Insurers and hospital and medical service corporations – Certificate of Authority**
1. Insurers, Hospital Service Corporation, Medical Service Corporations, and Hospital and Medical Service Corporations, holding current Certificates of Authority to do business in this state may organize and operate Health Care Services Organizations jointly or severally without compliance with the deposit and reserve requirements of the statute if the application contains an affirmative showing that the applicant organization has complied with comparable provisions of Title 20, and is an appropriate mechanism to achieve an effective Health Care Plan.
 2. The provisions of statute and this Section applying to Certificates of Authority and Application therefor, shall apply to all insurers, Hospital Service Corporations, Medical Service Corporations, and Hospital and Medical Service Corporations doing business in this state.
 3. Organizations claiming exemption or partial exemption pursuant to A.R.S. § 20-1063(C) shall file with the Director simultaneously with the application for Certificate of Authority, a statement affirmatively showing that the applicant has complied with provisions of Title 20 A.R.S. comparable to or more restrictive than the provisions of Title 20, Chapter 4, Article 9, and shall have received the written approval of the Director for such exemption or partial exemption.
- J. Application, examination and licensing of agents. No agent of a Health Care Services Organization shall be eligible for transactions of a Health Care Services Organization unless, prior to making any solicitation or transaction, the agent has been appointed by a Health Care Services Organization holding a current valid Certificate of Authority and is licensed as an insurance producer. The Health Care Services Organization is not required to report its appointments to the Department. An agent directly or indirectly representing or acting for a Health Care Services Organization and not licensed or otherwise qualified under A.R.S. Title 20, shall be an unqualified agent.**
- K. Forms**
1. The forms prescribed by this Section and their instructions are adopted as requirements of the Director and necessary for the protection of citizens of this state. Such forms, instructions, manuals or examinations are those currently in use, but the same may be amended and approved without reference to this Section. The form of manual or examination of agents, or any form adopted by the Director may be reproduced for the purpose of reporting or for other purposes.
 2. For good cause shown, the Director may authorize the filing of forms and reports on dates other than required by this Section, if applied for in writing not less than 10 days prior to the due date of the report and statement, exhibit, return or accounting.
- L. Severability. In any provision of this Section or the forms, statements, returns or reports made part of this Section, or the application to any person or circumstance is held invalid, such invalidity shall not affect the provisions of applications of this Section, which can be given effect without the invalid provision or application, and to this end the provisions of this Section are declared to be severable.**

Historical Note

Former General Rule 73-33; Amended subsections (E), (P), (R), (S), and (T) effective August 12, 1981 (Supp. 81-4). R20-6-405 recodified from R4-14-405 (Supp. 95-1). Section amended by final rulemaking at 29 A.A.R. 3615 (November 24, 2023), effective January 7, 2024 (Supp. 23-4).

R20-6-406. Expired**Historical Note**

Adopted effective May 18, 1978 (Supp. 78-3). R20-6-406 recodified from R4-14-406 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E), filed in the Office of the Secretary of State August 24, 2000 (Supp. 00-3).

R20-6-407. Service Companies

- A. Scope.** This rule shall apply to all service companies except those that are exempt under A.R.S. § 20-1095.02.
- B. Definitions.** The definitions in A.R.S. § 20-1095 apply to this rule.
1. "Contract Holder" has the same meaning as "consumer" as defined in A.R.S. § 20-1095(1).
 2. "Department" means the Arizona Department of Insurance and Financial Institutions, Insurance Division.
 3. "Director" means the Director of the Department.
 4. "Insolvent" as used in A.R.S. § 20-1095.08(3) means total liabilities are equal to or exceed total assets.
 5. "Provider" means a person who is contractually obligated to the service contract holder under the terms of a service contract. "Provider" is synonymous with "service company" and "obligor" as defined in A.R.S. § 20-1095(6).
 6. "Reasonable time" or "Reasonable period of time:"
 - a. As used in A.R.S. § 20-1095.06(C)(2), means at the time of purchase or mailed or electronically delivered but not more than 10 business days after the purchase date of the contract. The service company must be able to provide proof of delivery if requested by the Department.
 - b. As used in A.R.S. § 20-1095.09(A)(4), is what an ordinary person would consider "reasonable" under the totality of the circumstances.

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7. "Solvent" as used in A.R.S. § 20-1095.03(A)(1) means total assets exceed total liabilities.
 8. "Subcontractor" means a person or business having a contractual relationship with a service company to provide work or services which a service company has agreed to perform under a service contract. If required by the type of work being performed, all subcontractors must be licensed.
- C. Application for a service company permit.
1. Application form. The application for a service company permit shall be on a form designated by the Department and shall be transmitted through an electronic online system if such a system is designated on the Department's web site. An application must be complete and have all attachments to be considered by the Department.
 2. Application. The application shall contain the following information:
 - a. Applicant's full legal name;
 - b. Applicant's federal employer identification number (EIN);
 - c. Applicant's trade name or names, if applicable;
 - d. Applicant's state of domicile;
 - e. Applicant's form of business entity (corporation, limited liability company, etc.);
 - f. Applicant's addresses, phone numbers, e-mail address or addresses and website or addresses;
 - g. Name, address, and phone number or e-mail address for each contact person of the applicant;
 - h. A list of the applicant's officers, directors, LLC managers, and persons owning 25% or more of the service company, and for each officer, director, manager, or person owning 25% or more of an entity that owns the service company;
 - i. If the applicant intends to use a service contract administrator, the name and contact information for the applicant's service contract administrator;
 - j. The applicant's fiscal year end date;
 - k. A summary of the applicant's financial position including current assets, current liabilities, equity and income;
 - l. The name and signature of an officer of the applicant; and
 - m. Any other information the Department deems necessary to aid in the approval of the application.
 3. Application attachments. The applicant shall include the following as part of the application:
 - a. A copy of the service company's most recent financial statement sworn to and certified by the owner, duly elected officer or a certified public accountant.
 - b. Evidence of compliance with the financial security requirements of A.R.S. § 20-1095.03(A)(3).
 - c. A biographical affidavit, on a form approved by the Department, for each officer, director, LLC manager, or person owning 25% or more of the service company, and for each officer, director, manager, or person owning 25% or more of an entity that owns the service company.
 - d. A list of any actions taken against the applicant in any jurisdiction by a regulatory agency or state attorney general.
 4. Application fee. At the time of filing the application, the applicant shall pay the nonrefundable application fee prescribed by A.R.S. § 20-167 and fixed by the Department.
- D. Term of the service company permit.
1. Term of permit. A service company permit shall have a term that begins on the date that the Department either grants or renews a service company permit and expires at midnight on the last day of the month, three months after the service company's fiscal year-end date.
 2. The Department is not required to issue a paper copy of the service company permit. However, the Department will make a copy of the service company permit available by electronic or other means.
 3. Expiration of a service company permit.
 - a. Unless the Department receives an application and full payment of fees for renewal prior to the end of the service company permit term, the service company permit expires.
 - b. A service company whose permit term has expired shall not offer, extend, or renew a service contract.
 - c. A service company whose permit has expired shall continue to fulfill the obligations of its in-force contracts and shall maintain the security required under A.R.S. § 20-1095.03(3) until such time that all of the service company's contractual obligations to contract holders are fulfilled.
- E. Service company permit renewal and late-renewal.
1. Timely renewal. A service company seeking to renew its permit shall file with the Department a renewal application, consisting of the renewal application form, all required attachments and the renewal fee after the end of its fiscal year but before the expiration of its permit term. A service company shall transmit the renewal application through an electronic online system if such a system is designated on the Department's website. A renewal application must be complete, have all required attachments and the renewal fee to be considered as having been received by the Department.
 2. Renewal form. A service company shall use the renewal form designated by the Department. The renewal shall contain the following information:
 - a. Service company name appearing on the permit, and the service company's Arizona license number and EIN;
 - b. Any additions or deletions to the service company's trade name or trade names, addresses, phone numbers and website addresses;
 - c. Any changes to the service company's contact person or persons or service contract administrator, or their contact information;
 - d. A summary of the applicant's financial position including current assets, current liabilities, equity and income; and
 - e. Any other information the Department deems necessary to aid in the renewal of the permit.
 3. Renewal attachments. The service company shall attach the following to the renewal:
 - a. A copy of the service company's financial statement as of the end of the service company's most recently completed fiscal year, sworn to and certified by the owner, duly elected officer or a certified public accountant.
 - b. Evidence of continuing compliance with the financial security requirements of A.R.S. § 20-1095.03(A)(3).
 - c. Any additions or deletions to the officers, directors, LLC managers, or persons owning 25% or more of the service company, or to an entity that owns the

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service company since the last report to the Department.

- d. A biographical affidavit, on a form approved by the Department, for each new person identified in subsection (3)(c).
 - e. Any actions taken against the service company in any jurisdiction by a regulatory agency or state attorney general not previously reported to the Department.
4. Renewal fee. At the time of filing the renewal, the service company shall pay a nonrefundable renewal fee as prescribed by A.R.S. § 20-167 and fixed by the Department.
 5. Late-renewed application and fee.
 - a. Late-renewal period. A service company whose permit term has expired may file a renewal application up to ninety days after the expiration of the permit term. After the ninety-day period, a renewal application will not be accepted by the Department and the service company must file a service company permit application with the Department pursuant to subsection (C) of this Section.
 - b. A service company whose permit term has expired shall not offer, extend, or renew a service contract until the permit is renewed or a new permit is issued by the Department.
 - c. Fee. In addition to the nonrefundable renewal fee required under subsection (E)(4) of this Section, the service company shall pay a nonrefundable additional fee of \$25 per day starting the calendar day after the permit term expiration and ending on the date the service company files a complete renewal application.
 - d. Term of a late-renewed permit. The term of a late-renewed permit shall begin on the date the Department renews the permit and shall end on the last day of the permit term.

F. Deposits of cash or alternatives to cash.

1. Contracts issued, renewed, or extended on or after August 3, 2018. For any contract that a service company issues, extends, or renews from and after August 3, 2018, a service company may not satisfy the financial responsibility requirements of A.R.S. § 20-1095.04 by means of providing a deposit of cash or alternatives to cash.
2. Contracts issued, renewed, or extended before August 3, 2018. If a service company provided a deposit of cash or alternatives to cash covering service contracts that were issued, last extended, or last renewed prior to August 3, 2018, the service company shall maintain the deposit in the amount required to cover those contracts and the deposit shall not be encumbered.
3. Release of deposits of cash or alternatives to cash. As it relates to financial responsibility requirements fulfilled by a deposit of cash or alternatives to cash, the Director shall only release the deposit upon one of the following:
 - a. The service company provides a surety bond or mechanical reimbursement policy that covers the outstanding service contract liabilities secured by the cash or alternatives to cash.
 - b. The Department has approved the assumption of outstanding service contracts and liabilities by another service company that has acknowledged the assumption of the outstanding contracts and that shall provide each affected contract holder an

endorsement issued by the mechanical reimbursement insurer or surety.

- c. The service company provides evidence satisfactory to the Department that:
 - i. The outstanding service contracts and liabilities have expired or have been cancelled in accordance with the service contract terms;
 - ii. All claims under the service contracts have been settled; and
 - iii. The service company is financially able and agrees to be financially responsible for any valid unreported claims.

G. Filing of forms.

1. Contracts to be submitted for approval. A service company shall submit contracts for the Department's approval pursuant to A.R.S. § 20-1095.06. A service company is not required to submit advertisements or marketing materials for approval by the Department but shall abide by the provisions of Title 20, Chapter 2 - Article 6, Chapter 4 - Article 11, and this Section regarding misrepresentations in the sales of service contracts.
2. Requirements for approval. No service contract form shall be approved unless it:
 - a. Complies with A.R.S. § 20-1095.06;
 - b. Identifies the covered products under the contract and, in bold-faced type, preferably in a larger font, the specific items or components of those products which are excluded;
 - c. States the service fee or deductible charge, if any, to be charged, or applied, for service calls and/or each covered repair;
 - d. Specifies in clear and easily understood language the specific circumstances under which a contract holder may engage a subcontractor who is not recommended by the service company without becoming financially responsible under the contract and whether pre-authorization is required prior to engaging a subcontractor who is not recommended by the service company;
 - e. Specifies in clear and easily understood language the service company's financial responsibilities to the contract holder when any of the systems, products or appliances covered by the contract cannot be replaced or repaired;
 - f. If applicable, states the conditions under which the service contract or coverage may be reinstated;
 - g. States the dates of coverage under the service contract including any delay in coverage that differs from the purchase date of the contract which would extend the coverage term of the contract and any terms that govern renewal of the service contract; and
 - h. If providing a pro rata refund upon cancellation of the service contract before the end of the coverage period of the service contract, the service contract shall contain language in conformance with A.R.S. § 20-1095.06(D)(9).
3. Disapproval of contracts. The Department may disapprove any service contract that is in violation of Title 20, Chapter 4 - Article 11, or this subsection (G). The service company may request a hearing to appeal the disapproval pursuant to A.R.S. § 20-161.

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Historical Note

Adopted effective April 30, 1981 (Supp. 81-2). Former Section R4-14-407 repealed and a new Section R4-14-407 adopted effective July 2, 1987 (Supp. 87-3). R20-6-407 recodified from R4-14-407 (Supp. 95-1). Section amended by final rulemaking at 28 A.A.R. 3968 (December 30, 2022), effective February 6, 2023 (Supp. 22-4).

R20-6-408. Expired**Historical Note**

Former Section R4-14-408 renumbered as Section R4-14-409; a new Section R4-14-408 adopted effective July 15, 1987 (Supp. 87-3). R20-6-408 recodified from R4-14-408 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 3106, effective October 9, 2018 (Supp. 18-4).

R20-6-409. Hospital, Medical, Dental, and Optometric Service Corporations

- A.** Applicability. This rule applies to all subscription contracts issued by hospital, medical, dental and optometric service corporations.
- B.** Subscription contract provision. Subscription contracts of hospital, medical, dental and optometric service corporations subject to the provisions of Article 3, Chapter 4 of Title 20, A.R.S., shall meet the requirements of the following Sections:
1. R20-6-201. Advertisements of Health,
 2. R20-6-207. Gender Discrimination,
 3. R20-6-208. Group Coverage Discontinuance and Replacement,
 4. R20-6-211. Discrimination on the Basis of Blindness or Partial Blindness,
 5. R20-6-213. Life and Disability Insurance Policy Language Simplification, and
 6. R20-6-607. Reasonableness of Benefits in Relation to Premium Charged.

Historical Note

Adopted effective July 9, 1982 (Supp. 82-4). Former Section R4-14-408 renumbered without change as Section R4-14-409 effective July 15, 1987 (Supp. 87-3). R20-6-

409 recodified from R4-14-409 (Supp. 95-1). Section amended by final rulemaking at 29 A.A.R. 3615 (November 24, 2023), effective January 7, 2024 (Supp. 23-4).

ARTICLE 5. THE INSURANCE CONTRACT**R20-6-501. Ten-day Period to Examine Disability Insurance Policy**

For the purpose of implementing A.R.S. §§ 20-442, 20-443, 20-826, 20-1111 and 20-1113 and to make more specific the regulation therein provided relative to policies of individual disability insurance (accident and sickness, hospitalization, medical, surgical and loss of time) issued in the State of Arizona and further to provide satisfactory public remedy against the hazards of misunderstanding by an applicant, of deception and coercion by an agent and of certain policy exclusions and limitations that cheapen the value of coverage, the Insurance Department of Arizona adopts the following rule:

1. Each policy of individual disability insurance, except one for which no provision for renewal is made, issued for delivery in the State of Arizona on or after October 1, 1961, by an insurance company or by a hospital or medical service corporation shall have printed on the first page thereof or attached thereto or endorsed thereupon in prominent style a notice declaring that, during a period of 10 days (or, at the insurer's option, a longer period) from the date of delivery to the policyholder, such policy may be returned for cancellation to the insurer at its home office (or, at the insurer's option, to its branch office or to the agent through whom it was purchased) and declaring further that in the event of such return the insurer will refund the entirety of any premium paid therefor, including any policy fees or other charges, and that the policy shall be deemed void from the beginning and that the parties shall be returned to their original position as if no policy had been issued.
2. The Insurance Department does not specify the particular language the notice shall contain but prefers usage of a phraseology approximately along the lines of either the longer (Form A) or shorter (Form B) sample below:

Sample Form A**NOTICE OF TEN-DAY RIGHT TO EXAMINE POLICY**

The _____ Insurance Company urges you to read this policy carefully and trusts that upon doing so you will fully understand, and will be pleased with, its coverage. If, however, questions arise or information is desired, do not hesitate to consult the selling agent. In addition, should the policy for any reason be unsatisfactory, by surrendering it within ten days following receipt to our office at _____ or to the selling agent, immediately full premium will be refunded and the policy will be cancelled and deemed void and as never in force and effect.

Sample Form B**IMPORTANT NOTICE**

If for any reason this policy is unsatisfactory, it may be returned for cancellation within ten days following receipt – in which case the entire premium will be refunded.

(Insurer's name and address)

Historical Note

Former General Rule 61-7. R20-6-501 recodified from R4-14-501 (Supp. 95-1).

ARTICLE 6. TYPES OF INSURANCE CONTRACTS**R20-6-601.****Regulations Governing Bail Transactions**

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A. General provisions

1. Effective date
 - a. These regulations are effective November 1, 1960. On and after date, no bail transaction or severable portion thereof shall be conducted, directly or indirectly except in full conformity herewith.
 - b. No surety insurer shall furnish for use and no bail bond agent shall use any forms or documents which contain any provisions contrary to these regulations on or after the effective date hereof.
2. Authority. Authority for these regulations is A.R.S. §§ 20-142, 20-143 and 20-257 and A.R.S. Chapter 2, Article 3.
3. Public interest served. These regulations serve the public interest by prohibiting inequities in bail transactions and by establishing standards of licensing and conduct for bail bond agents.
4. Regulations as severable. These regulations shall be construed as severable, such that, where one or more Sections are held invalid, such remaining Sections will not be adversely affected.
5. Penalty. Violation of these regulations will subject the guilty party to the penalties of A.R.S. §§ 20-114, 20-220 and 20-316 and to the enforcement procedures of A.R.S. §§ 20-152 and 20-160 through 20-166.

B. Definitions

1. "Bail transaction" defined. As used in these regulations, the term "bail transaction" includes solicitation and inducement, preliminary negotiation and effectuation of a contract of surety insurance and the transaction of matters subsequent thereto and arising therefrom – all in connection with the release of persons arrested or confined.
2. "Bail bond agent" defined. As used in these regulations, the term "bail bond agent" means any person who engages in a bail transaction on behalf of a surety insurer or representative thereof.
3. "Arrestee" defined. As used in these regulations, the term "arrestee" means any person arrested or detained whose release on bail is solicited or procured or concerning whose release negotiations are commenced.
4. "Director" defined. As used in these regulations, the term "Director" means the Director of Insurance of the state.

C. Licensing

1. Application for license. Each application for original or renewal license as a bail bond agent shall be on a form furnished by the Director, and each applicant for such license shall furnish such supplementary information and supporting statements as the Director may require.
2. Prohibited associations. A bail bond license shall not be issued to, renewed for or maintained by any person who associates regularly with criminals, gamblers or persons of poor repute – except to the extent such association is required by business or professional duty and responsibility.
3. Transactions by unlicensed persons prohibited. No bail bond agent shall directly or indirectly permit any person on his behalf to solicit or negotiate bail transactions unless such person is duly licensed by the Director.
4. Employees. Employees of bail bond agents performing only clerical duties need not be licensed hereunder and shall be deemed not engaged in bail transactions.

D. Conduct of bail bond agents

1. Disclosure of business. Every bail bond agent shall conduct his business in such a manner that the public and

those dealing with him shall be aware of the capacity in which he is acting.

2. Control of employees. A bail bond agent shall exercise direct supervision over his employees and keep informed of their actions as his employees.
3. Prohibited employees. No bail bond agent shall have in his employ at any time any criminal, gambler or person of poor repute.
4. Acting for attorney. No bail bond agent shall receive, or collect for an attorney any money or other item of value for attorney's fee, costs or any other purpose on behalf of an arrestee, unless a receipt is given therefor.
5. Informants prohibited. No bail bond agent shall for any purpose, directly or indirectly, enter into an arrangement of any kind or have an understanding with a law enforcement officer, with a newspaper employee, with a messenger service or employee thereof, with a trusty in a jail, with other person incarcerated in a jail, or with any person whatever, to inform or notify any bail bond agent directly or indirectly of:
 - a. The existence of a criminal complaint;
 - b. The fact of an arrest; or
 - c. The fact that an arrest of any person is pending or contemplated; or
 - d. Any information pertaining to matters set forth in (a), (b), and (c) hereof or to the persons involved therewith.
6. Compliance with rules of public authority. No bail bond agent shall solicit any person in a bail transaction in a prison or jail or other place of detention, court or public institution connected with the administration of justice unless said bail bond agent has fully complied with every rule, regulation and ordinance issued by each public authority governing the conduct of persons in or about said premises.
7. Representations to public authority
 - a. No bail bond agent shall make any misleading or untrue representation to a court or to a public official with respect to a bail transaction, nor for the purpose of avoiding or preventing a forfeiture of bail or of having set aside a forfeiture which has occurred.
 - b. Every bail bond agent shall truthfully and fully answer every question asked him by the Director or his representative respecting his bail transactions and matters relating to the conduct of his bail business. Any bail bond agent may have his attorney present when he answers any such question.
8. Maintenance of records. Every bail bond agent shall keep complete records of all business done under authority of his license. Such records shall be open to inspection or examination by the Director or his representatives at all reasonable times at the principal place of business of the bail bond agent as designated in his license.

E. Charges, collateral, refunds and rebates

1. Rates
 - a. No bail bond agent shall issue or deliver a bail bond except at the premium rates most recently filed and approved by the Director in accordance with A.R.S. § 20-357.
 - b. Every bail bond agent shall post the premium rates of the surety insurer he represents in a conspicuous manner at his place of business.
2. Charges permitted. No bail bond agent shall, in any bail transaction or in connection therewith, directly or indi-

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rectly, charge or collect money or other valuable consideration from any person except for the following purposes:

- a. To pay the premium at the rates established by the surety insurer and approved by the Director.
 - b. To provide collateral.
 - c. To reimburse himself for actual and reasonable expenses incurred in connection with the individual bail transaction, including:
 - i. Guard fees after the first 12 hours following release of an arrestee on bail;
 - ii. Notary fees, recording fees, necessary long distance telephone expenses, telegram charges, and travel expenses for other than local community travel.
 - iii. Any other actual expenditure necessary to the bail transaction which is not usually and customarily incurred in connection with the ordinary operation and conduct of bail transactions.
3. Delivery of documents to arrestee
- a. Every bail bond agent shall, at the time of obtaining the release of an arrestee on bail or immediately thereafter, deliver to such arrestee or to the principal person with whom negotiations were made, if other than the arrestee, a copy of the bail bond premium agreement, which shall include:
 - i. The name of the surety insurer and the name and business address of the bail bond agent.
 - ii. The amount of bail and the premium thereof.
 - b. The bail bond agent shall also deliver at such time a statement detailing all charges in addition to the premium, the amount received on account, the unpaid balance if any, and a description of and a receipt for any collateral received.
4. Collateral
- a. Any bail bond agent who receives collateral in connection with a bail transaction shall do so in a fiduciary capacity and, prior to any forfeiture of bail, shall keep such collateral separate and apart from any other funds, assets or property of such bail bond agent.
 - b. Any collateral received shall be returned to the person who deposited it with the bail bond agent or any assignee as soon as the obligation, the satisfaction of which was secured by the collateral, is discharged. Where such collateral has been deposited to secure the obligation of a bond, it shall be returned immediately upon the entry of any order by an authorized official by virtue of which liability under the bond is terminated, or, if any bail bond agent fails to cooperate fully with any authorized official to secure the termination of such liability, immediately upon the accrual of any right to secure an order of termination of liability.
 - c. When such collateral has been deposited as security for unpaid premium or charges and, if such premium or charges remained unpaid at the time of exoneration and after demand therefor has thereafter been made by the bail bond agent, collateral other than cash may be levied upon in the manner provided by law and cash collateral up to the amount of such unpaid premium on charges may be applied in payment thereof.

- d. If collateral received by a bail bond agent is in excess of the bail forfeited, such excess shall be returned to the depositor immediately upon application of the collateral to the forfeiture subject, however, to any claim of the bail bond agent for unpaid premium or charges as provided in subparagraph (c) of paragraph (4) of subsection (E), or as agreed to in writing by the bail bond agent and arrestee or his indemnitor.
5. Premium refund upon surrender of arrestee. No bail bond agent shall surrender an arrestee to custody prior to the time specified in the bail bond for the appearance of the arrestee, or prior to any other occasion when the presence of the arrestee in court is lawfully required, without returning all premium paid therefor, unless as a result of judicial action, or material misrepresentation by the arrestee or his indemnitor with respect to the execution of the bail bond agreement, or a material and substantial increase in the hazard assumed. Failure of the arrestee to pay the premium, or charges permitted under these regulations or any part thereof, and failure to furnish collateral required by the bail bond agent, shall not be considered a material and substantial increase in the hazard assumed.
6. Rebating prohibited. No bail bond agent shall pay or allow in any manner, directly or indirectly, to any person who is not also a bail bond agent any commission or valuable consideration on or in connection with a bail transaction. This Section shall not prohibit payments by a bail bond agent to an unlicensed person of charges by such persons for services of the kind specified in paragraph (2) subsection (E) of this Section.

Historical Note

Former General Rule 60-5. R20-6-601 recodified from R4-14-601 (Supp. 95-1).

R20-6-602. Nationwide Inland Marine Definition

- A.** Applicability. This rule applies to risks and coverages which may be classified or identified as Marine, Inland Marine or Transportation insurance but shall not be construed to mean that the kinds of risks and coverages are solely Marine, Inland Marine or Transportation insurance in all instances. This rule shall not be construed to restrict or limit in any way the exercise of any insuring powers granted under charters and license whether used separately, in combination or otherwise.
- B.** Marine and/or transportation policies may cover under the following conditions:
1. Imports.
 - a. Imports may be covered wherever the property may be and without restriction as to time, provided the coverage of the issuing companies includes hazards of transportation.
 - b. An import, as a proper subject of marine or transportation insurance, shall be deemed to maintain its character as such so long as the property remains segregated in such a way that it can be identified and has not become incorporated and mixed with the general mass of property in the United States, and shall be deemed to have been completed when such property has been:
 - i. Sold and delivered by the importer, factor or consignee; or
 - ii. Removed from place of storage and placed on sale as part of the importer's stock in trade at a point of sale or distribution; or

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- iii. Delivered for manufacture, processing or change in form to premises of the importer or of another for any such purposes.
- 2. Exports.
 - a. Exports may be covered wherever the property may be located without restriction as to time, provided the coverage of each issuing company includes hazards of transportation.
 - b. An export, as a proper subject of marine or transportation insurance, shall be deemed to acquire its character as such when designated or while being prepared for export and retain that character unless diverted for domestic trade, and when so diverted, the provisions of this rule respecting domestic shipments shall apply, provided, however, that this provision shall not apply to long established methods of insuring certain commodities, e.g., cotton.
- 3. Domestic shipments.
 - a. Domestic shipments on consignment, for sale or distribution, exhibit, or trial, or approval or auction, while in transit, while in the custody of others and while being returned, provided the coverage of each issuing company includes hazards of transportation, and further provided that in no event shall the policy cover domestic shipments on consignment on premises owned, leased or operated by the consignor.
 - b. Domestic shipments not on consignment, provided the coverage of the issuing companies includes hazards of transportation, beginning and ending within the United States, and further provided that such shipments shall not be covered at manufacturing premises nor after arrival at premises owned, leased or operated by assured or purchaser.
- 4. Bridges, tunnels and other instrumentalities of transportation and communication excluding buildings, their improvements and betterments, their furniture and furnishings, fixed contents and supplies held in storage. The foregoing includes:
 - a. Bridges, tunnels, other similar instrumentalities, including auxiliary facilities and equipment attendant thereto.
 - b. Piers, wharves, docks, slips, dry docks and marine railways.
 - c. Pipelines, including on-line propulsion, regulating and other equipment appurtenant to such pipelines, but excluding all property at manufacturing, producing, refining, converting, treating or conditioning plants.
 - d. Power transmission and telephone and telegraph lines, excluding all property at generating, converting or transforming stations, substations and exchanges.
 - e. Radio and television communication equipment in use as such including towers and antennae with auxiliary equipment, and appurtenant electrical operating and control apparatus.
 - f. Outdoor cranes, loading bridges and similar equipment used to load, unload and transport.
- 5. Personal Property Floater Risks covering individuals and/or generally
 - a. Personal Effects Floater Policies
 - b. The Personal Property Floater
 - c. Government Service Floater
 - d. Personal Fur Floaters
 - e. Personal Jewelry Floaters
 - f. Wedding Present Floaters for not exceeding 90 days after the date of the wedding.
 - g. Silverware Floaters.
 - h. Fine Arts Floaters, covering paintings, etchings, pictures, tapestries, art glass windows, and other bona fide works of art of rarity, historical value or artistic merit.
 - i. Stamp and Coin Floaters.
 - j. Musical Instrument Floaters. Radios, televisions, record players and combinations thereof are not deemed musical instruments.
 - k. Mobile Articles, Machinery and Equipment Floaters, excluding vehicles designed for highway use and auto homes, trailers and semi-trailers except when hauled by tractors not designed for highway use, covering identified property of a mobile or floating nature pertaining to or usual to a household. Such policies shall not cover furniture and fixtures not customarily used away from premises where such property is usually kept.
 - l. Installment Sales and Leased Property Policies covering property pertaining to a household and sold under conditional contract of sale, partial payment contract or installment sales contract or leased, but excluding motor vehicles designed for highway use. Such policies must cover in transit but shall not extend beyond the termination of the seller's or lessor's interest.
 - m. Live Animal Floaters.
- 6. Commercial Property Floater Risks covering property pertaining to a business, profession or occupation.
 - a. Radium Floaters.
 - b. Physicians' and Surgeons Instrument Floaters. Such policies may include coverage of such furniture, fixtures and tenant assured's interest in such improvements and betterments of buildings as are located in that portion of the premises occupied by the assured in the practice of his profession.
 - c. Pattern and Die Floaters.
 - d. Theatrical Floaters, excluding buildings and their improvements and betterments, and furniture and fixtures that do not travel about with theatrical troupes.
 - e. Film Floaters, including builders' risk during the production and coverage on completed negatives and positives and sound records.
 - f. Salesmen's Samples Floaters.
 - g. Exhibition Policies on property while on exhibition and in transit to or from such exhibitions.
 - h. Live Animal Floaters.
 - i. Builders Risks and/or Installation Risks covering interest of owner, seller or contractor, against loss or damage to machinery, equipment, building materials or supplies, being used with and during the course of installation, testing, building, renovating or repairing. Such policies may cover at points or places where work is being performed, while in transit and during temporary storage or deposit, of property designated for and awaiting specific installation, building, renovating or repairing.
 - i. Such coverage shall be limited to Builders Risks or Installation Risks where Perils in addi-

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- tion to Fire and Extended Coverage are to be insured.
- ii. If written for account of owner, the coverage shall cease upon completion and acceptance thereof; or if written for account of a seller or contractor the coverage shall terminate when the interest of the seller or contractor ceases.
 - j. Mobile Articles, Machinery and Equipment Floaters, excluding motor vehicles designed for highway use and auto homes, trailers and semi-trailers except when hauled by tractors not designed for highway use and snow plows constructed exclusively for highway use covering identified property of a mobile or floating nature, not on sale or consignment, or in course of manufacture, which has come into the custody or control of parties who intend to use such property for the purpose for which it was manufactured or created. Such policies shall not cover furniture and fixtures not customarily used away from premises where such property is usually kept.
 - k. Property in transit to and from and in custody of bailees not owned, controlled or operated by the bailor. Such policies shall not cover bailee's property at his premises.
 - l. Installment sales and leased property. Policies covering property sold under conditional contract of sale, partial payment contract, installment sales contract, or leased but excluding motor vehicles designed for highway use. Such policies must cover in transit but shall not extend beyond the termination of the seller's or lessor's interest. This Section is not intended to include machinery and equipment under certain "lease-back" contracts.
 - m. Garment Contractors Floaters.
 - n. Furriers or Fur Storer's Customer's Policies, i.e., policies under which certificates or receipt are issued by furriers or fur storers covering specified articles the property of customers.
 - o. Accounts Receivable Policies, Valuable Papers and Records Policies.
 - p. Floor Plan Policies, covering property for sale while in possession of dealers under a Floor Plan or any similar plan under which the dealer borrows money from a bank or lending institution with which to pay the manufacturer, provided:
 - i. Such merchandise is specifically identifiable as encumbered to the bank or lending institution.
 - ii. The dealer's right to sell or otherwise dispose of such merchandise is conditioned upon its being released from encumbrance by the bank or lending institution.
 - iii. That such policies cover in transit and do not extend beyond the termination of the dealer's interest.
 - iv. That such policies shall not cover automobiles or motor vehicles; merchandise for which the dealer's collateral is the stock or inventory as distinguished from merchandise specifically identifiable as encumbered to the lending institution.
 - q. Sign and Street Clock Policies, including neon signs, automatic or mechanical signs, street clocks, while in use as such.
 - r. Fine Arts Policies covering paintings, etchings, pictures, tapestries, art glass windows, and other bona fide works of art of rarity, historical value or artistic merit, for account of museums, galleries, universities, businesses, municipalities and other similar interests.
 - s. Policies covering personal property which, when sold to the ultimate purchaser, may be covered specifically, by the owner, under Inland Marine Policies including:
 - i. Musical Instrument Dealers Policies, covering property consisting principally of musical instruments and their accessories. Radios, televisions, record players and combinations thereof are not deemed musical instruments.
 - ii. Camera Dealers Policies, covering property consisting principally of cameras and their accessories.
 - iii. Furrier's Dealers Policies, covering property consisting principally of furs and fur garments.
 - iv. Equipment Dealers Policies, covering mobile equipment consisting of binders, reapers, tractors, harvesters, harrows, tedders and other similar agricultural equipment and accessories therefor; construction equipment consisting of bulldozers, road scrapers, tractors, compressors, pneumatic tools, and similar equipment and accessories therefor; but excluding motor vehicles designed for highway use.
 - v. Stamp and Coin Dealers covering property of philatelic and numismatic nature.
 - vi. Jewelers' Block Policies.
 - vii. Fine Arts Dealers.
Such policies may include coverage of money in locked safes or vaults on the Assured's premises. Such policies also may include coverage of furniture, fixtures, tools, machinery, patterns, molds, dies and tenant insureds interest in improvements of buildings.
 - t. Wool Growers Floaters.
 - u. Domestic Bulk Liquids Policies, covering tanks and domestic bulk liquids stored therein.
 - v. Difference in Conditions Coverage excluding fire and extended coverage perils.
 - w. Electronic Data Processing Policies.
- C. Unless otherwise permitted, nothing in the foregoing shall be construed to permit MARINE OR TRANSPORTATION POLICIES TO COVER:
1. Storage of assured's merchandise, except as hereinbefore provided.
 2. Merchandise in course of manufacture, the property of and on the premises of the manufacturer.
 3. Furniture and fixtures and improvements and betterments to buildings.
 4. Monies and/or securities in safes, vaults, safety deposit vaults, bank or assured's premises, except while in course of transportation.

Historical Note

Former General Rule 59-4; Amended effective August 30, 1985 (Supp. 85-4). R20-6-602 recodified from R4-14-602 (Supp. 95-1).

R20-6-603. Repealed

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Historical Note

Former General Rule 69-18; Repealed effective July 27, 1981 (Supp. 81-4). R20-6-603 recodified from R4-14-603 (Supp. 95-1).

R20-6-604. Consumer Credit Insurance; Definitions

The definitions in A.R.S. § 20-1603 and this Section apply to R20-6-604 through R20-6-604.10.

1. "Actual loss ratio" means incurred claims divided by earned premiums at rates in use.
2. "Actuarially equivalent" means of equal actuarial present value determined as of a given date with each value based on the same set of actuarial assumptions. When used in this Article in reference to rates and coverage, "actuarially equivalent" means a rate or coverage that is actuarially determined to yield loss ratios of 50% for credit life insurance and 60% for credit disability insurance.
3. "Credit insurance" means credit life insurance, credit disability insurance, or both, but does not include any insurance for which there is no identifiable charge.
4. "Earned premiums" means earned premiums at prima facie rates and earned premiums at rates in use.
5. "Earned premiums at prima facie rates" means an insurer's actual earned premiums, adjusted to the amount that the insurer would have earned if the insurer's premium rates had equaled the prima facie rates in effect during the experience period.
6. "Earned premiums at rates in use" means the premiums that an insurer actually earns on the premium rates the insurer charges during an experience period.
7. "Evidence of individual insurability" means information about a debtor's health status or medical history that a debtor provides as a condition of credit insurance becoming effective.
8. "Experience" means an insurer's earned premiums and incurred claims during an experience period.
9. "Experience period" means a period of time for which an insurer reports income and expense information on the insurer's credit insurance business.
10. "Final adjusted rates" means the prima facie rates referred to in R20-6-604.04 and R20-6-604.05, subject to any deviations approved under R20-6-604.08.
11. "Incurred claims" means the total claims an insurer pays during an experience period, adjusted for the change in the claim reserves.
12. "Plan of credit insurance" means an insurance plan based on one of the following rate and coverage categories:
 - a. Credit life insurance, other than on revolving accounts, including joint and single life coverage, decreasing and level insurance, and outstanding balance and single premium;
 - b. Credit life insurance on revolving accounts;
 - c. Credit life insurance on an age-graded basis;
 - d. Credit disability insurance, other than on revolving accounts, including outstanding balance and single premium, and each combination of waiting period and retroactive or non-retroactive benefits;
 - e. Credit disability insurance on revolving accounts, including each combination of waiting period and retroactive or non-retroactive benefits.
13. "Preexisting condition" means a condition:
 - a. For which a debtor received medical advice, consultation, or treatment within six months before the effective date of credit insurance coverage; and

- b. From which the debtor dies, in the case of life insurance, or becomes disabled, in the case of disability insurance, within six months after the effective date of coverage.

14. "Prima facie adjusted loss ratio" means incurred claims divided by earned premiums at prima facie rates.
15. "Prima facie rates" means the rates established by the Director as prescribed in R20-6-604.03.
16. "Reasonableness standard" means the requirement in A.R.S. § 20-1610(B) that an insurer's premiums for credit insurance shall not be excessive in relation to the benefits provided under the policy.
17. "Rule of Anticipation" means the product of the gross single premium per \$100 of indebtedness for a debtor's remaining term of indebtedness, times the number of hundreds of dollars of remaining indebtedness.

Historical Note

Former General Rule 70-22; Correction, original publication did not include Exhibit C (Supp. 76-1). Amended effective January 8, 1980 (Supp. 80-1). Former Section R4-14-604 repealed, new Section R4-14-604 adopted effective April 1, 1982. See subsection (N) for further detail (Supp. 82-2). Amended subsection (N) and Exhibit A effective March 30, 1983 (Supp. 83-2). R20-6-604 recodified from R4-14-604 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2725, effective June 7, 2002 (Supp. 02-2). Section amended by final rulemaking at 29 A.A.R. 3621 (November 24, 2023), effective January 7, 2024 (Supp. 23-4). Effective date corrected (Supp. 23-4, Ver. 2).

Exhibit A. Repealed**Historical Note**

Former General Rule 70-22; Correction, original publication did not include Exhibit C (Supp. 76-1). Amended effective January 8, 1980 (Supp. 80-1). Former Section R4-14-604 repealed, new Section R4-14-604 adopted effective April 1, 1982. See subsection (N) for further detail (Supp. 82-2). Amended subsection (N) and Exhibit A effective March 30, 1983 (Supp. 83-2). R20-6-604 recodified from R4-14-604 (Supp. 95-1). Section repealed by final rulemaking at 8 A.A.R. 2725, effective June 7, 2002 (Supp. 02-2).

R20-6-604.01. Rights and Treatment of Debtors**A. Creditor Obligations.**

1. Multiple plans of insurance. If a creditor makes more than one plan of credit insurance available to debtors, the creditor shall inform each debtor of each plan for which the debtor is eligible and of the premium and charges for each plan.
2. Substitution. If a creditor requires a debtor to have credit insurance as additional security for a debt, the creditor shall inform the debtor in writing of the debtor's right to obtain alternative coverage as prescribed in A.R.S. § 20-1614 before the loan transaction is completed.
3. Remittance of premiums. If a creditor adds an insurance charge or premium to a debt, the creditor shall remit the insurance charge or premium to the insurer within 60 days after it is added to the debt.

B. Creditor and insurer obligations regarding insurance on refinanced debt.

1. If a debt is discharged because the debtor refinances the debt before the scheduled maturity date, the creditor shall

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notify the insurer that issued the credit insurance on the discharged debt.

2. An insurer shall not issue any credit insurance that covers the refinanced debt with an effective date preceding the termination date of the insurance on the original debt.
 3. The insurer issuing the coverage on the discharged debt shall refund to or credit the debtor with all unearned insurance charges or premium according to R20-6-604.06.
 4. If a debt is refinanced, the effective date of the policy provisions in any new insurance covering the refinanced debt shall be the first date on which the debtor became insured under the previous policy. An insurer may apply any new exclusion period or preexisting condition limitation only to the portion of the new loan that exceeds the previous loan.
- C. Required policy provisions.
1. Termination provisions for group policies. A group credit insurance policy shall provide for continued coverage of debtors covered under the policy if the policy terminates, as follows:
 - a. For a policy with a single premium payment, or any other payment method that prepays coverage for more than one month, a provision requiring continued insurance coverage for the entire period for which the premium has been paid; and
 - b. For a policy with a monthly premium payment, a provision requiring the insurer to send the debtor a termination notice at least 30 days before the effective date of termination, unless an insurer is issuing replacement coverage in at least the same amount, without lapse of coverage.
 2. Maximum aggregate provisions. A provision in an individual policy or group certificate that sets a maximum limit on total claim payments shall apply only to that individual policy or group certificate.
- D. Creditor and insurer obligations when debtor prepays debt.
1. Except as provided in subsection (D)(2), if a debtor prepays a debt in full, any credit insurance covering the debt shall terminate on the date of prepayment. The creditor and insurer shall refund to or credit the debtor with any unearned premium according to R20-6-604.06.
 2. If a debt is fully prepaid because of the debtor's death or any other lump-sum credit insurance payment, a creditor or insurer is not required to refund premium for the coverage under which the lump sum was paid.
 3. If a claim under credit disability coverage is in progress at the time of prepayment, the insurer:
 - a. May calculate the refund as if the prepayment did not occur until the end of the period for payment of benefits, and
 - b. Is not required to refund premiums for any period for which credit disability benefits are payable.
- E. Benefits payable on revolving account. If a debtor is paying for credit insurance coverage on a revolving account and dies, the insurer shall pay a benefit amount equal to the amount of indebtedness outstanding on the date of death. The insurer may exclude preexisting conditions occurring within six months of any advance on the revolving account, running separately for each advance or charge.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2725, effective June 7, 2002 (Supp. 02-2).

R20-6-604.02. Satisfying the Reasonableness Standard

- A. An insurer shall comply with all requirements of A.R.S. § 20-1610 regarding premium and insurance charges.
- B. An insurer may satisfy the reasonableness standard in A.R.S. § 20-1610(B) if the insurer's premium rate develops a loss ratio of not less than 50% for credit life insurance and not less than 60% for credit disability insurance.
- C. While in effect, the rates described in R20-6-604.04 and R20-6-604.05, subject to any deviations approved under R20-6-604.08 are conclusively presumed to develop the loss ratios described in subsection (B). For purposes of prospective effect, the Department may rebut this presumption by disproving or withdrawing approval for the rates as prescribed in A.R.S. § 20-1610.
- D. An insurer may provide coverage other than the standard coverage described in R20-6-604.04 and R20-6-604.05. An insurer that wishes to provide nonstandard coverage shall:
 1. File the nonstandard coverage policy information as prescribed in A.R.S. § 20-1609, and
 2. Demonstrate that the rates for the coverage are reasonably expected to develop a loss ratio of not less than 50% for credit life insurance and not less than 60% for credit disability insurance.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2725, effective June 7, 2002 (Supp. 02-2).

R20-6-604.03. Determination of Prima Facie Rates

- A. The Director shall, by order, establish prima facie rates as prescribed in this Section.
- B. At least once every three years, the Director shall:
 1. Determine the rate of expected claims on a statewide basis;
 2. Compare the rate of expected claims with the rate of actual claims for the past three years determined from the incurred claims and earned premiums at prima facie rates; and
 3. If the Director determines that the prima facie rates require adjustment, issue a notice of hearing and proposed order adjusting the actual statewide prima facie rates. The hearing date on the proposed order shall be no earlier than 45 days from the date of the notice.
- C. The Director shall mail a copy of the notice and proposed order to:
 1. Each insurer that reported transaction of credit insurance on its annual statement immediately preceding the date of the notice, and
 2. Any other person who sends the Director a written request for notice of proceedings to adjust the prima facie rates.
- D. Any person may submit written comments to the Director or appear at the hearing and provide oral comments on the record. Written comments shall be received no later than the close of record date specified in the notice of hearing.
- E. The Director shall:
 1. Consider written and oral comments; and
 2. Issue a final order setting prima facie rates no later than 30 days after the close of record date specified in the notice of hearing.

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Historical Note

New Section made by final rulemaking at 8 A.A.R. 2725, effective June 7, 2002 (Supp. 02-2).

R20-6-604.04. Credit Life Insurance Rates and Provisions

- A.** Under the process prescribed in R20-6-604.03, the Director shall issue an order establishing prima facie rates for credit life insurance.
- B.** The Department shall presume that an insurer meets the loss ratios prescribed in R20-6-604.02(B) if the insurer uses the prima facie rates, subject to the requirements in this Section and R20-6-604.08. An insurer may use the prima facie rates without filing additional actuarial support.
- C.** A credit life insurance policy shall meet the requirements listed in this Section. The policy shall:
1. Provide coverage for death, by whatever means caused, to all eligible debtors, with or without evidence of individual insurability for debtors that purchase coverage within 30 days of being eligible;
 2. Have no exclusions other than for:
 - a. Suicide within six months after the effective date of coverage, or
 - b. A preexisting condition;
 3. Have no age restrictions, except the following permissible exclusions:
 - a. An age restriction providing that no insurance will become effective on a debtor on or after the attainment of age 70 and that all insurance shall terminate on a debtor attaining age 70; and
 - b. An age restriction for a revolving credit life insurance policy that:
 - i. Excludes a class of debtors determined by age, or
 - ii. Provides for termination of insurance or reduction in the amount of insurance when a debtor reaches age 70; and
 4. For insurance on revolving accounts, have the date on which an advance or charge occurs as the effective date of coverage for each part of the insurance attributable to a different advance or a charge to the plan account. Any exclusion period or preexisting condition limitation shall run separately for each advance or charge.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2725, effective June 7, 2002 (Supp. 02-2).

R20-6-604.05. Credit Disability Insurance Rates and Provisions

- A.** Under the process prescribed in R20-6-604.03, the Director shall issue an order establishing prima facie rates for credit disability insurance.
- B.** The Department shall presume that an insurer meets the loss ratios prescribed in R20-6-604.02(B) if the insurer uses the prima facie rates, subject to the requirements in this Section and R20-6-604.08. An insurer may use the prima facie rates without filing additional actuarial support.
- C.** A credit disability insurance policy shall meet the requirements listed in this Section. The policy shall:
1. Provide coverage for disability, by whatever means caused, to all eligible debtors, with or without evidence of individual insurability for debtors that purchase coverage within 30 days of becoming eligible;
 2. Include a definition of disability that is no more restrictive than the following:

- a. For the first 12 months of disability, the inability of the insured to perform the essential functions of the insured's occupation; and
 - b. After the first 12 months of disability, the inability of the insured to perform the essential functions of any occupation for which the insured is reasonably suited by virtue of education, training, or experience;
3. Not include any employment requirement that a debtor be employed more than full-time on the effective date of coverage, with a definition of "full-time" as a regular work week of at least 30 hours;
 4. Have no exclusions other than for disabilities resulting from:
 - a. Normal pregnancy,
 - b. Intentionally self-inflicted injury, or
 - c. A preexisting condition;
 5. For insurance on revolving accounts, have the date on which an advance or charge occurs as the effective date of coverage for each part of the insurance attributable to a different advance or a charge to the plan account. Any exclusion period or preexisting condition limitation shall run separately for each advance or charge;
 6. Have no age restrictions, except the following permissible exclusion:

An age restriction providing that no insurance will become effective on a debtor on or after the attainment of age 65 and that all insurance shall terminate on a debtor attaining age 66; and
 7. Include a provision for a daily benefit of not less than one-thirtieth of the monthly benefit payable under the policy.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2725, effective June 7, 2002 (Supp. 02-2).

R20-6-604.06. Refund Methods

- A.** When refunding premiums as prescribed in A.R.S. § 20-1611, an insurer shall use the following methods:
1. For insurance paid by a single premium, the Rule of Anticipation method; and
 2. For insurance paid by other than a single premium, a method that refunds at least the pro rata gross unearned amount charged to the debtor.
- B.** The Director may approve other refund methods similar to those described in subsection (A), that are actuarially equivalent to the type of coverage the debtor purchased.
- C.** An insurer's refund method may recognize adjustments to a daily basis for interest or payments if the adjustments are consistent with the underlying credit transaction.
- D.** An insurer is not required to refund any amount less than \$5.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2725, effective June 7, 2002 (Supp. 02-2).

R20-6-604.07. Experience Reports

- A.** By April 1 of each year, an insurer that transacts credit insurance in this state shall file with the Director an experience report, on a form specified by the Director, for each class of business that the insurer transacts as provided in this Section.
1. In this Section, a "class of business" means:
 - a. Credit unions;
 - b. Banks, savings and loan institutions, and mortgage companies;

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- c. Finance companies, small loan companies, and consumer lenders defined in A.R.S. § 6-601(5);
 - d. Dealers, including auto, truck, and boat dealers, retail stores, and other persons selling financed goods; and
 - e. All other persons selling credit insurance not specifically listed in subsection (A)(1)(a) through (d).
2. The report shall include the following information:
- a. Mode of premium payment,
 - b. Plan of benefits description,
 - c. Earned premiums,
 - d. Incurred claims,
 - e. Loss ratios, and
 - f. For credit life insurance, mean insurance in force.

- B. For each day a report is late, the Director may assess a penalty as prescribed in A.R.S. § 20-223.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2725, effective June 7, 2002 (Supp. 02-2).

R20-6-604.08. Use of Prima Facie Rates; Rate Deviations

- A. Use of rates greater than prima facie rates. An insurer may file for approval and use of any deviated rates that are higher than the prima facie rates referred to in R20-6-604.04 and R20-6-604.05 as prescribed in A.R.S. § 20-1610.
- 1. The deviated rates shall meet the minimum loss ratio standards and other requirements prescribed by R20-6-604.02.
 - 2. The filing shall specify the accounts to which the rates apply.
 - 3. The rates may be:
 - a. Applied uniformly to all accounts of the insurer; or
 - b. Applied on an equitable basis approved by the Director to accounts of the insurer for which the insurer's experience has been less favorable than expected.
- B. Approval period of deviated rates. An insurer may use a deviated rate for the same period of time as the experience period used to establish the rate, not to exceed a period of three years from the date of approval. An insurer may file for a new deviated rate before the end of the approval period, but not more often than once in any 12 month period.
- C. Approval is non-transferable. The Director's approval of a deviated rate is not transferable to another insurer. If an insurer acquires an account for which another insurer obtained a deviated rate, the successor insurer may not charge the deviated rate without obtaining approval for the deviated rate as prescribed in subsection (B).
- D. Use of rates lower than filed rates. An insurer may use a rate that is less than its filed rate without notice to the Director.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2725, effective June 7, 2002 (Supp. 02-2).

R20-6-604.09. Supervision of Consumer Credit Insurance Operations

- A. At least once every three years, an insurer transacting credit insurance in Arizona shall review the credit insurance operations of each creditor with whom the insurer does business to ensure that each creditor is complying with applicable credit insurance laws. The insurer shall review the following:
- 1. The creditor does not charge rates in excess of the prima facie rates or any deviated rates for which the insurer obtains approval;

- 2. The creditor makes benefit payments as prescribed in the policy; and
 - 3. The creditor refunds unearned premiums as prescribed in R20-6-604.06.
- B. The insurer shall maintain for the Director's inspection a written record of each review and action the insurer takes to address any creditor noncompliance found by the insurer, for at least three years following the end of the review.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2725, effective June 7, 2002 (Supp. 02-2).

R20-6-604.10. Prohibited Transactions

- A. The practices listed in this Section are deemed unfair trade practices under A.R.S. § 20-442. An insurer that commits any of the following practices is subject to penalties as prescribed in A.R.S. § 20-456:
- 1. Offering or providing a creditor with any special advantage or any service not set out in either the group insurance contract or in the agency contract, other than payment of commissions;
 - 2. Agreeing to deposit with a bank or financial institution, the insurer's money or securities as a substitute for a deposit of money or securities that the financial institution would otherwise require from the creditor as a compensating balance or deposit offset for a loan or other advancement; or
 - 3. Depositing money or securities without interest or at a lesser rate of interest than the creditor, bank, or financial institution is currently paying on other similar deposits.
- B. This Section does not prohibit an insurer from maintaining demand deposits or premium deposit accounts that are reasonably necessary for use in the ordinary course of the insurer's business.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2725, effective June 7, 2002 (Supp. 02-2).

R20-6-605. Emergency Expired**Historical Note**

Former General Rule 72-26. Repealed effective December 4, 1986 (Supp. 86-6). Adopted as an emergency effective January 9, 1990, pursuant to A.R.S. § 41-1026 valid for only 90 days; re-adopted as an emergency with changes effective March 26, 1990, pursuant to A.R.S. § 41-1026 valid for only 90 days (Supp. 90-1). Re-adopted as an emergency without change effective June 20, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-2). Emergency expired. R20-6-605 recodified from R4-14-605 (Supp. 95-1).

R20-6-606. Repealed**Historical Note**

Adopted effective July 1, 1980 (Supp. 80-3). Amended effective June 1, 1981. See also subsection (G) (Supp. 81-1). Amended subsections (D), (E)(3)(a), (F)(2)(b), (3)(a), (4)(e), (G), and (H) effective January 11, 1982 (Supp. 82-1). Amended subsections (G) and (H) as an emergency effective August 1, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Amended and readopted as an emergency effective November 18, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Corrected and readopted as an emergency effective February

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10, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Amended effective August 4, 1989 (Supp. 89-3). Amended and adopted as an emergency effective September 13, 1989 (Supp. 89-3). Emergency expired (Supp. 89-4). Amended effective November 19, 1990 (Supp. 90-4). Repealed by emergency action effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Repealed again by emergency action effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Repealed effective May 28, 1992 (Supp. 92-2). R20-6-606 recodified from R4-14-606 (Supp. 95-1).

R20-6-607. Reasonableness of Benefits in Relation to Premium Charged

- A. Applicability. This rule shall apply to individual disability insurance (as defined in A.R.S. § 20-253) policy forms and rates.
- B. When rate filing is required. Every individual policy form, rider or endorsement form affecting benefits which is submitted for approval shall be accompanied by a rate filing unless such rider or endorsement form does not require a change in the rate. Any subsequent addition to or change in rates applicable to such policy, rider or endorsement form shall also be filed.
- C. General contents of all rate filings. Each rate submission shall include an actuarial memorandum describing the basis on which rates were determined and shall indicate and describe the calculation of the ratio, hereinafter called "anticipated loss ratio," of the present value of the expected benefits to the present value of the expected premiums over the entire period for which rates are computed to provide coverage. Each rate submission must also include a certification by a qualified actuary that to the best of the actuary's knowledge and judgment, the rate filing is in compliance with applicable laws and regulations of this state and that the benefits are reasonable in relation to the premiums.
- D. Previously approved forms. Filings of rate revisions for a previously approved policy, rider or endorsement form shall also include the following:
 1. A statement of the scope and reason for the revision, and an estimate of the expected average effect on premiums including the anticipated loss ratio for the form.
 2. A statement as to whether the filing applies only to new business, only to in-force business, or both, and the reasons.
 3. A history of the experience under existing rates, including at least the data indicated in subsection (E). The history may also include, if available and appropriate, the ratios of actual claims to the claims expected according to the assumptions underlying the existing rates. All additional data must be reconciled, as appropriate, to the required data. Additional data might include:
 - a. Substitution of actual claim run-offs for claim reserves and liabilities,
 - b. Determination of loss ratios with the increase in policy reserves (other than unearned premium reserves) added to benefits rather than subtracted from premiums,
 - c. Substitution of net level policy reserves for preliminary term policy reserves,
 - d. Adjustment of premiums to an annual mode basis, or
 - e. Other adjustments or schedules suited to the form and to the records of the company.

4. The date and magnitude of each previous rate change, if any.

- E. Experience records. Insurers shall maintain records of earned premiums and incurred benefits for each calendar year for each policy form, including data for rider and endorsement forms which are used with the policy form, on the same basis, including all reserves, as required for the Accident and Health Policy Experience Exhibit to the NAIC annual statement convention blank. Separate data may be maintained for each rider or endorsement form to the extent appropriate. Experience under forms which provide substantially similar coverage may be combined. The data shall be for all years of issue combined, for each calendar year of experience since the year the form was first issued, except the data for calendar years prior to the most recent five years may be combined.
- F. Evaluation experience data. In determining the credibility and appropriateness of experience data, due consideration must be given to all relevant factors, such as:
 1. Statistical credibility of premiums and benefits, e.g., low exposure, low loss frequency.
 2. Experienced and projected trends relative to the kind of coverage, e.g., inflation in medical expenses, economic cycles affecting disability income experience.
 3. The concentration of experience at early policy durations where select morbidity and preliminary term reserves are applicable and where loss ratios are expected to be substantially lower than at later policy durations.
 4. The mix of business by risk classification.
- G. Anticipated loss ratio standard. With respect to a new form or a currently approved form, except currently approved non-cancelable policy forms, under which the average annual premium (as defined below) is expected to be at least \$700, benefits shall be deemed reasonable in relation to premiums provided the anticipated loss ratio is at least as great as shown in the following table:

| Type of Coverage | Renewal Clause | | | |
|--------------------------|----------------|-----|-----|-----|
| | OR | CR | GR | NC |
| Medical expense | 60% | 55% | 55% | 50% |
| Loss of income and other | 60% | 55% | 50% | 45% |

For a policy form including riders and endorsements, under which the expected average annual premium per policy is \$200 or more but less than \$700, subtract 5 percentage points from the numbers in the table above, or if less than \$200, subtract 10 percentage points.

The average annual premium per policy shall be computed by the insurer based on an anticipated distribution of business by all applicable criteria having a price difference, such as age, sex, amount, dependent status, rider frequency, etc., except assuming an annual mode for all policies (i.e., the fractional premium loading shall not affect the average annual premium or anticipated loss ratio calculation.)

The above anticipated loss ratio standards do not apply to a class of business which is regulated by specific statutes or regulations mandating loss ratios for such business, e.g., Medicare Supplement and Credit Life and Disability.

Definitions of Renewal Clause

OR – Optionally Renewable: renewal is at the option of the insurance company.

CR – Conditionally Renewable: renewal can be declined by the insurance company only for stated reasons other than deterioration of health.

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GR – Guaranteed Renewable: renewal cannot be declined by the insurance company for any reason, but the insurance company can revise rates on a class basis.

NC – Non-Cancelable: renewal cannot be declined nor can rates be revised by the insurance company.

- H.** Rate revisions. With respect to filings of rate revisions for a previously approved form, benefits shall be deemed reasonable in relation to premiums provided both the following loss ratios meet the standards in subsection (G) above.

1. The anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage;
2. The anticipated loss ratio derived by dividing (a) by (b) where:
 - a. Is the sum of the accumulated benefits, from the original effective date of the form or the effective date of this regulation, whichever is later, to the effective date of the revision, and the present value of future benefits; and
 - b. Is the sum of the accumulated premiums from the original effective date of the form or the effective date of the regulation, whichever is later, to the effective date of the revision, and the present value of future premiums. Such present values shall be taken over the entire period for which the revised rates are computed to provide coverage, and such accumulated benefits and premiums to include an explicit estimate of the actual benefits and premiums from the last date as of which an accounting has been made to the effective date of the revision. Interest shall be used in the calculation of these accumulated benefits and premiums and present values only if it is a significant factor in the calculation of this loss ratio.

- I.** Anticipated loss ratios lower than those indicated in subsections (H)(1) and (H)(2) will require justification based on the special circumstances that may be applicable.

1. Examples of coverages requiring special consideration are as follows:
 - a. Accident only;
 - b. Short term nonrenewable, e.g., airline trip, student accident;
 - c. Specified peril, e.g., common carrier; and
 - d. Other special risks.
2. Examples of other factors requiring special consideration are as follows:
 - a. Marketing methods, giving due consideration to acquisition and administration costs and to premium mode;
 - b. Extraordinary expenses;
 - c. High risk of claim fluctuation because of the low loss frequency of the catastrophic, or experimental nature of the coverage;
 - d. Product features such as long elimination periods, high deductibles and high maximum limits;
 - e. The industrial or debit method of distribution; and
 - f. Forms issued prior to the effective date of this rule. Companies are urged to review their experience periodically and to file rate revisions, as appropriate, in a timely manner to avoid the necessity of later filing of exceptionally large rate increases.
3. Notwithstanding the foregoing paragraphs to the contrary, hospital indemnity and cancer and other dread diseases

policies shall develop the loss ratios pursuant to subsection (G).

- J.** Severability provision. If any provision of this rule or the application thereof to any person or circumstances is held invalid, the remainder of the rule and the application of such provision to other persons or circumstances shall not be affected thereby.
- K.** Effective date. This rule shall become effective upon filing with the Secretary of State and shall apply to all individual disability policy form and rate filings submitted on and after said date.

Historical Note

Adopted effective July 14, 1981 (Supp. 81-1). R20-6-607 recodified from R4-14-607 (Supp. 95-1). Amended by final rulemaking at 24 A.A.R. 103, effective February 17, 2018 (Supp. 17-4).

ARTICLE 7. LICENSING PROVISIONS AND PROCEDURES**R20-6-701. Repealed****Historical Note**

Former General Rule 56-1; Repealed effective January 1, 1981 (Supp. 80-6). R20-6-701 recodified from R4-14-701 (Supp. 95-1).

R20-6-702. Expired**Historical Note**

Former General Rule 56-2. R20-6-702 recodified from R4-14-702 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 2115, effective April 30, 2003 (Supp. 03-2).

R20-6-703. Expired**Historical Note**

Former General Rule 61-6. R20-6-703 recodified from R4-14-703 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 2115, effective April 30, 2003 (Supp. 03-2).

R20-6-704. Expired**Historical Note**

Former General Rule 6-19. R20-6-704 recodified from R4-14-704 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 2115, effective April 30, 2003 (Supp. 03-2).

R20-6-705. Expired**Historical Note**

Former General Rule 66-13. R20-6-705 recodified from R4-14-705 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 2115, effective April 30, 2003 (Supp. 03-2).

R20-6-706. Expired**Historical Note**

Former General Rule 69-15; Repealed effective February 22, 1977 (Supp. 77-1). New Section R4-14-706 adopted effective November 5, 1980 (Supp. 80-5). R20-6-706 recodified from R4-14-706 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 2115, effective April 30, 2003 (Supp. 03-2).

R20-6-707. Expired

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Historical Note

Former General Rule 69-18; Amended effective March 17, 1981 (Supp. 81-2). R20-6-707 recodified from R4-14-707 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 2115, effective April 30, 2003 (Supp. 03-2).

R20-6-708. Licensing Time-frames

- A.** Definitions. The definitions in A.R.S. § 41-1072 and the following definitions apply to this Article.
1. "Department" means the Insurance Division of the Department of Insurance and Financial Institutions.
 2. "License" has the meaning prescribed in A.R.S. § 41-1001(13).
- B.** The time-frames listed in Table A apply to licenses issued by the Department. The licensing time-frames consist of an administrative completeness review, a substantive review, and an overall review.
- C.** Within the time-frame for the administrative completeness review set forth in Table A, the Department shall notify the applicant in writing whether the application is complete or deficient.
1. If the application is deficient, the Department shall issue a notice of deficiency to the applicant which shall include a comprehensive list of the specific deficiencies. If the Department issues a written notice of deficiency within the administrative completeness review time-frame, the administrative completeness review time-frame and the overall review time-frame are suspended from the date the notice is issued until the date that the Department receives an adequate response from the applicant.
 2. The Department is not precluded from issuing additional notices of deficiency during an administrative completeness review.
 3. If an applicant does not adequately respond to each specified deficiency in a notice of deficiency issued under subsection (C)(1) within 60 days after the date of a notice of deficiency, the application is deemed withdrawn, and the Department is not required to take further action with respect to the application.

- D.** Within the time-frame for the substantive review set forth in Table A, the Department may issue one comprehensive written request for additional information to the applicant specifying each component or item of information required.
1. If the Department issues a comprehensive written request for additional information within the substantive review time-frame, the substantive review time-frame and the overall time-frame are suspended from the date the written request is issued until the date that the Department receives an adequate response from the applicant.
 2. The Department is not precluded from issuing supplemental requests by mutual agreement for additional information, during the substantive review.
 3. If an applicant does not adequately respond to each component or item of information required in a comprehensive written request or a supplemental request for additional information within 60 days after the date of a comprehensive written request, or within 60 days after the date of the supplemental request for additional information, the application is deemed withdrawn, and the Department is not required to take further action with respect to the application.
- E.** Within the overall time-frames set forth in Table A, unless extended by mutual agreement under A.R.S. § 41-1075, the Department shall notify the applicant in writing that the application is granted or denied. If the application is denied, the Department shall provide to the applicant a written notice that complies with the provisions of A.R.S. § 41-1076.
- F.** In computing the time periods prescribed in these time-frame rules, the last day of a notice period is included in the computation, unless it is a Saturday, Sunday, or legal holiday.

Historical Note

Former General Rule 70-22; Correction, original publication did not include Exhibit C. (Supp. 76-1). Repealed effective January 8, 1980 (Supp. 80-1). R20-6-708 recodified from R4-14-708 (Supp. 95-1). Amended effective January 1, 1999; filed in the Office of the Secretary of State December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 29 A.A.R. 612 (February 24, 2023), effective April 10, 2023 (Supp. 23-1).

Table A. Licensing Time-frames

| License | Relevant A.R.S. | Administrative Completeness | Substantive Review | Overall Time-frame |
|---------------------------------------------------------------|-----------------|-----------------------------|--------------------|--------------------|
| Insurance | | | | |
| Captive Insurer | § 20-1098.01 | 150 | 30* | 180 |
| Certificate of Authority | § 20-216 | 210 | 90* | 300 |
| Certificate of Exemption | § 20-401.05 | 92 | 30 | 122 |
| Health Care Services Organization | § 20-1052 | 210 | 90 | 300 |
| Hospital, Medical, Dental, and Optometric Service Corporation | § 20-825 | 210 | 90 | 300 |
| Life Care Provider Permit | § 20-1803 | 60* | 30* | 90 |
| Life Settlement Provider | § 20-3202 | 60 | 60 | 120 |
| Mechanical Reimbursement Reinsurer | § 20-1096.04 | 210 | 90 | 300 |
| Prepaid Dental Plan Organization | § 20-1004 | 210 | 90 | 300 |
| Prepaid Legal Insurer* | § 20-1097.02 | 45 | 15 | 60* |
| Qualifying Surplus Lines Insurer | § 20-413 | 45 | 30 | 75 |
| Reinsurance Intermediary | § 20-486.01 | 120 | 60 | 180 |
| Insurance Professional | | | | |
| Adjuster | § 20-321.01 | 60 | 60 | 120 |
| Bail Bond Agent | § 20-340.01 | 60 | 60 | 120 |
| Certified Application Counselor | § 20-336.04 | 60 | 60 | 120 |

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| | | | | |
|------------------------------------------------------------------|--------------|----|----|-----|
| Life Settlement Broker | § 20-3202 | 60 | 60 | 120 |
| Limited Travel Agent | § 20-3553 | 60 | 60 | 120 |
| Navigator | § 20-336.03 | 60 | 60 | 120 |
| Nonresident Insurance Producer (Agent/Broker) | § 20-287 | 60 | 60 | 120 |
| Portable Electronics Insurance Adjuster | § 20-321.01 | 60 | 60 | 120 |
| Portable Electronics Insurance Vendor | § 20-1693.01 | 60 | 60 | 120 |
| Rental Car Agent | § 20-331 | 60 | 60 | 120 |
| Resident Insurance Producer (Agent/Broker) | § 20-285 | 60 | 60 | 120 |
| Risk Management Consultant | § 20-331.01 | 60 | 60 | 120 |
| Self-service Storage Agents | § 20-332 | 60 | 60 | 120 |
| Surplus Lines Broker | § 20-411 | 60 | 60 | 120 |
| Temporary License | § 20-294 | 60 | 60 | 120 |
| Title Insurance Agent | § 20-1580 | 60 | 60 | 120 |
| Variable Contract Agent | § 20-2662 | 60 | 60 | 120 |
| Other | | | | |
| Rating Organization* | § 20-361 | 30 | 30 | 60* |
| Rate Service Organization | § 20-389 | 60 | 60 | 120 |
| Third Party Administrator | § 20-485.12 | 45 | 45 | 90 |
| Senior Residential Entrance Fee Contracts: Provider Registration | § 44-6952 | 60 | 60 | 120 |
| Service Company | § 20-1095.01 | 30 | 30 | 60 |
| Utilization Review Agent | § 20-2505 | 30 | 90 | 120 |
| Risk Retention Groups | | | | |
| Risk Retention Group (Foreign) | § 20-2403 | 60 | 0 | 60 |
| Risk Purchasing Groups | § 20-2407 | 30 | 30 | 60 |

* Statutory time-frames

Historical Note

Table A adopted effective January 1, 1999; filed in the Office of the Secretary of State December 4, 1998 (Supp. 98-4). Table A amended by final rulemaking at 29 A.A.R. 612 (February 24, 2023), effective April 10, 2023 (Supp. 23-1).

R20-6-709. Repealed**Historical Note**

Former General Rule 71-23; Repealed effective January 1, 1981 (Supp. 80-6). R20-6-709 recodified from R4-14-709 (Supp. 95-1).

ARTICLE 8. PROHIBITED PRACTICES, PENALTIES**R20-6-801. Unfair Claims Settlement Practices**

- A.** Applicability. This rule applies to all persons and to all insurance policies, insurance contracts and subscription contracts except policies of Worker's Compensation and title insurance. This rule is not exclusive, and other acts not herein specified, may also be deemed to be a violation of A.R.S. § 20-461, The Unfair Claims Settlement Practices Act.
- B.** Definitions
1. "Agent" means any individual, corporation, association, partnership or other legal entity authorized to represent an insurer with respect to a claim. "Agent" has the same meaning as "Insurance producer" as defined at A.R.S. § 20-281(5).
 2. "Claimant" means either a first party claimant, a third party claimant, or both and includes the claimant's designated legal representative and includes a member of the claimant's immediate family designated by the claimant.
 3. "Department" means the Arizona Department of Insurance and Financial Institutions – Insurance Division.
 4. "Director" has the meaning of A.R.S. § 20-102.
 5. "First party claimant" means an individual, corporation, association, partnership or other legal entity asserting a right to payment under an insurance policy or insurance

contract arising out of the occurrence of the contingency of loss covered by the policy or contract.

6. "Insurance policy or insurance contract" has the meaning of A.R.S. § 20-103.
 7. "Insurer" has the meaning of A.R.S. § 20-106(C).
 8. "Investigation" means all activities of an insurer directly or indirectly related to the determination of liabilities under coverages afforded by an insurance policy or insurance contract.
 9. "Notification of claim" means any notification, whether in writing or other means, acceptable under the terms of any insurance policy or insurance contract, to an insurer or its agent, by a claimant, which reasonably apprises the insurer of the facts pertinent to a claim.
 10. "Person" has the meaning of A.R.S. § 20-105.
 11. "Third party claimant" means any individual, corporation, association, partnership or other legal entity asserting a claim against any individual, corporation, association, partnership or other legal entity insured under an insurance policy or insurance contract of an insurer.
 12. "Worker's compensation" includes, but is not limited to, Longshoremen's and Harbor Worker's Compensation.
- C.** File and record documentation. The insurer's claim files shall be subject to examination by the Director or by his duly appointed designees. The files shall contain all notes and work papers pertaining to the claim in such detail that pertinent events and the dates of the events can be reconstructed.
- D.** Misrepresentation of policy provisions
1. No insurer shall fail to fully disclose to first party claimants all pertinent benefits, coverages or other provisions

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of an insurance policy or insurance contract under which a claim is presented.

2. No agent shall conceal from first party claimants benefits, coverages or other provisions of any insurance policy or insurance contract when the benefits, coverages or other provisions are pertinent to a claim.
 3. No insurer shall deny a claim on the basis that the claimant has failed to exhibit the damaged property to the insurer, unless the insurer has requested the claimant to exhibit the property and the claimant has refused without a sound basis.
 4. No insurer shall, except where there is a time limit specified in the policy, make statements, written or otherwise, requiring a claimant to give written notice of loss or proof of loss within a specified time limit and which seek to relieve the company of its obligations if the time limit is not complied with unless the failure to comply with the time limit prejudices the insurer's rights.
 5. No insurer shall request a first party claimant to sign a release that extends beyond the subject matter that gave rise to the claim payment.
 6. No insurer shall issue checks or drafts in partial settlement of a loss or claim under a specific coverage which contain language that releases the insurer or its insured from its total liability.
- E. Failure to acknowledge pertinent communications**
1. Every insurer, upon receiving notification of a claim shall, within 10 working days, acknowledge the receipt of the notice unless payment is made within the 10 working days. If an acknowledgment is made by means other than writing, an appropriate notation of such acknowledgment shall be made in the claim file of the insurer and dated. Notification given to an agent of an insurer shall be notification to the insurer.
 2. Every insurer, upon receipt of any inquiry from the Department respecting a claim shall, within 15 working days of receipt of the inquiry, furnish the Department with an adequate response to the inquiry.
 3. An appropriate reply shall be made within 10 working days on all other pertinent communications from a claimant which reasonably suggest that a response is expected.
 4. Every insurer, upon receiving notification of a claim, shall promptly provide necessary claim forms, instructions, and reasonable assistance so that first party claimants can comply with the policy conditions and the insurer's reasonable requirements. Compliance with this subsection within 10 working days of notification of a claim shall constitute compliance with subsection (E)(1).
- F. Standards for prompt investigation of claims.** Every insurer shall complete investigation of a claim within 30 days after notification of a claim, unless the investigation cannot reasonably be completed within 30 days.
- G. Standards for prompt, fair and equitable settlements applicable to all insurers**
1. Notice of acceptance or denial of claim.
 - a. Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first party claimant shall be advised of the acceptance or denial of the claim by the insurer. No insurer shall deny a claim on the grounds of a specific policy provision, condition, or exclusion unless reference to the provision, condition or exclusion is included in the denial. The denial must be given to the claimant in writing
- and the claim file of the insurer shall contain a copy of the denial.
- b. If the insurer needs more time to determine whether a first party claim should be accepted or denied, it shall also notify the first party claimant within 15 working days after receipt of the proofs of loss, giving the reasons more time is needed. If the investigation remains incomplete, the insurer shall, 45 days from the date of the initial notification and every 45 days thereafter, send to the claimant a letter setting forth the reasons additional time is needed for investigation.
 - c. Where there is a reasonable basis supported by specific information available for review by the Director for suspecting that the first party claimant has fraudulently caused or contributed to the loss by arson, the insurer is relieved from the requirements of subsections (G)(1)(a) and (b). Provided, however, that the claimant shall be advised of the acceptance or denial of the claim by the insurer within a reasonable time for full investigation after receipt by the insurer of a properly executed proof of loss.
2. If a claim is denied for reasons other than those described in subsection (G)(1)(a), and is made by any other means than writing, an appropriate notation shall be made in the claim file of the insurer.
 3. Insurers shall not fail to settle first party claims on the basis that responsibility for payment should be assumed by others, except as may otherwise be provided by policy provisions.
 4. Insurers shall not continue negotiations for settlement of a claim directly with a claimant who is neither an attorney nor represented by an attorney until the claimant's rights may be affected by a statute of limitations or a policy or contract time limit, without giving the claimant written notice that the time limit may be expiring and may affect the claimant's right. The notice shall be given to first party claimants 30 days, and to third party claimants 60 days, before the date on which the time limit may expire.
 5. No insurer shall make statements which indicate that the rights of a third party claimant may be impaired if a form or release is not completed within a given period of time unless the statement is given for the purpose of notifying the third party claimant of the provision of a statute of limitations.
- H. Standards for prompt, fair and equitable settlements applicable to automobile insurance**
1. When the insurance policy provides for the adjustment and settlement of first party automobile total losses on the basis of actual cash value or replacement with another of like kind and quality, one of the following methods must apply:
 - a. The insurer may elect to offer a replacement automobile which is a specific comparable automobile available to the insured, with all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the automobile paid, at no cost other than any deductible provided in the policy. The offer and any rejection of the offer must be documented in the claim file.
 - b. The insurer may elect a cash settlement based upon the actual cost, less any deductible provided in the policy, to purchase a comparable automobile including all applicable taxes, license fees and other fees

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incident to transfer of evidence of ownership of a comparable automobile. The cost may be determined by:

- i. The cost of a comparable automobile in the local market area when a comparable automobile is available in the local market area.
 - ii. One of two or more quotations obtained by the insurer from two or more qualified dealers located within the local market area when a comparable automobile is not available in the local market area.
 - c. When a first party automobile total loss is settled on a basis which deviates from the methods described in subsections (H)(1)(a) and (b), the deviation must be supported by documentation giving particulars of the automobile condition. Any deductions from the cost, including deduction for salvage, must be measurable, discernible, itemized and specified as to dollar amount and shall be appropriate in amount. The basis for the settlement shall be fully explained to the first party claimant.
2. Where liability and damages are reasonably clear, insurers shall not recommend that third party claimants make claim under their own policies solely to avoid paying claims under the insurer's policy or insurance contract.
 3. Insurers shall not require a claimant to travel unreasonably either to inspect a replacement automobile, to obtain a repair estimate, or to have the automobile repaired at a specific repair shop.
 4. Insurers shall, upon the claimant's request, include the first party claimant's deductible, if any, in subrogation demands. Subrogation recoveries shall be shared on a proportionate basis with the first party claimant, unless the deductible amount has been otherwise recovered. No deduction for expenses can be made from the deductible recovery unless an outside attorney is retained to collect the deductible recovery. The deduction may then be for only a pro rata share of the allocated loss adjustment expense.
 5. If an insurer prepares an estimate of the cost of automobile repairs, the estimate shall be in an amount for which it may be reasonably expected the damage can be satisfactorily repaired. The insurer shall give a copy of the estimate to the claimant and may furnish to the claimant the names of one or more conveniently located repair shops.
 6. When the amount claimed is reduced because of betterment or depreciation, all information for the reduction shall be contained in the claim file. The reductions shall be itemized and specified as to dollar amount and shall be appropriate for the amount of reductions.
 7. When the insurer elects to repair and designates a specific repair shop for automobile repairs, the insurer shall cause the damaged automobile to be restored to its condition prior to the loss at no additional cost to the claimant other than as stated in the policy and within a reasonable period of time.
 8. The insurer shall not use as a basis for cash settlement with a first party claimant an amount which is less than the amount which the insurer would pay if the repairs were made, other than in total loss situations, unless the amount is agreed to by the insured.
- I. Severability.** If any provision of this Section or its application to any person or circumstances is held invalid, the remainder

of the Section and the application of the provision to other persons and circumstances shall not be affected.

Historical Note

Adopted effective January 12, 1982 (Supp. 81-5). R20-6-801 recodified from R4-14-801 (Supp. 95-1). The reference to subsections as "subparagraphs" in this Section has been updated to current Chapter style (Supp. 22-1). Section amended by final rulemaking at 29 A.A.R. 3621 (November 24, 2023), effective January 7, 2024 (Supp. 23-4). Effective date corrected (Supp. 23-4, Ver. 2).

R20-6-802. Emergency Expired**Historical Note**

Emergency rule adopted effective May 31, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule readopted without change effective September 5, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency expired. R20-6-802 recodified from R4-14-802 (Supp. 95-1).

ARTICLE 9. TERMINATION OR DISSOLUTION**R20-6-901. Reserved****ARTICLE 10. LONG-TERM CARE INSURANCE****R20-6-1001. Applicability and Scope**

Except as otherwise specifically provided, this Article applies to all long-term care insurance policies, including qualified long-term care contracts and life insurance policies that accelerate benefits for long-term care, delivered or issued for delivery in this state by insurers; fraternal benefit societies; nonprofit health, hospital and medical service corporations; prepaid health plans; health care service organizations and all similar organizations.

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1001 recodified from R4-14-1001 (Supp. 95-1). Amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1002. Definitions

The definitions in A.R.S. § 20-1691 and the following definitions apply in this Article.

- A.** "Benefit trigger," for purposes of a tax-qualified long-term care insurance contract, as defined in Section 7702B(b) of the Internal Revenue Code of 1968, as amended, "benefit trigger" shall include a determination by a licensed health care practitioner that an insured is a chronically ill individual.
- B.** "Exceptional increase" means only those rate increases that an insurer has filed as exceptional and that the Director determines the need for the premium rate increase is justified due to changes in laws or regulations applicable to long-term care coverage in this state; or due to increased and unexpected utilization that affects the majority of insurers of similar products.
 1. Except as provided in Sections R20-6-1014 and R20-6-1015, exceptional increases are subject to the same requirements as other premium rate schedule increases.
 2. The Director may request independent actuarial review on the issue of whether an increase should be deemed an exceptional increase.
 3. The Director may also determine whether there are any potential offsets to higher claims costs.

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- C. "Incidental," as used in R20-6-1014(L) and R20-6-1015(L), means that the value of the long-term care benefits provided is less than 10% of the total value of the benefits provided over the life of the policy, with value measured as of the date of issue.
- D. "Licensed health care professional" means an individual qualified by education and experience in an appropriate field, to determine, by record review, an insured's actual functional or cognitive impairment.
- E. "Long-term care benefit classification" means one of the following:
 1. Institutional long-term care – benefits only;
 2. Non-institutional long-term care – benefits only; or
 3. Comprehensive long-term care benefits.
- F. "Managed care plan" means a health care or assisted living arrangement designed to coordinate patient care or control costs through utilization review, case management, use of specific provider networks, or a combination of these methods.
- G. "Personal information" has the same meaning prescribed in A.R.S. § 20-2102(19).
- H. "Privileged information" has the same meaning prescribed in A.R.S. § 20-2102(22).
- I. "Qualified actuary" means a member in good standing of the American Academy of Actuaries.
- J. "Similar policy forms" means all long-term care insurance policies and certificates that are issued by a particular insurer and that have the same long-term care benefit classification as a policy form being reviewed.

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1002 recodified from R4-14-1002 (Supp. 95-1).
 Amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1003. Policy Terms

- A. A long-term care insurance policy delivered or issued for delivery in this state shall not use the terms set forth below, unless the terms are defined in the policy and the definitions satisfy the following requirements:
 1. "Activities of daily living" means eating, toileting, transferring, bathing, dressing, or continence.
 2. "Acute condition" means that an individual is medically unstable and requires frequent monitoring by medical professionals, such as physicians and registered nurses, to maintain the individual's health status.
 3. "Adult day care" means a program of social and health-related services for six or more individuals, that is provided during the day in a community group setting, for the purpose of supporting frail, impaired, elderly, or other disabled adults who can benefit from the services and care in a setting outside the home.
 4. "Agent" means an insurance producer as defined in A.R.S. § 20-281(5).
 5. "Bathing" means washing oneself by sponge bath, or in a tub or shower, and includes the act of getting in and out of the tub or shower.
 6. "Chronically ill individual" has the meaning prescribed for this term by A.R.S. § 20-1691(3) and Section 7702B(c)(2) of the Internal Revenue Code of 1986, as amended.
 7. "Cognitive impairment" means a deficiency in a person's:
 - a. Short or long-term memory;
 - b. Orientation as to person, place, or time;
 - c. Deductive or abstract reasoning; or
 - d. Judgment as it relates to safety awareness.
 8. "Continence" means the ability to maintain control of bowel and bladder function, or when unable to maintain control, the ability to perform associated personal hygiene, such as caring for a catheter or colostomy bag.
 9. "Dressing" means putting on and taking off all items of clothing and any necessary braces, fasteners, or artificial limbs.
 10. "Eating" means feeding oneself by getting food into the body from a receptacle such as a plate, cup, or table, or by a feeding tube or intravenously.
 11. "Guaranteed renewable" means the insured has the right to continue a long-term-care insurance policy in force by the timely payment of premiums and the insurer has no unilateral right to make any change in any provision of the policy or rider while the insurance is in force, and cannot decline to renew, except that the insurer may revise rates on a class basis.
 12. "Hands-on assistance" means physical help to an individual who could not perform an activity of daily living without help from another individual, and includes minimal, moderate, or maximal help.
 13. "Home health services" means the services described at A.R.S. § 36-151.
 14. "Level premium" means that an insurer does not have any right to change the premium, even at renewal.
 15. "Licensed health care practitioner" has the same meaning as A.R.S. § 20-1691(6).
 16. "Maintenance or personal care services" has the same meaning as A.R.S. § 20-1691(10).
 17. "Medicare" means "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended," or "Title I, Part I of Public Law 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof," or words of similar import.
 18. "Noncancellable" means the insured has the right to continue the long-term care insurance in force by the timely payment of premiums during which period the insurer has no right to unilaterally cancel or make any change in any provision of the insurance or in the premium rate.

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19. "Personal care" means the provision of hands-on assistance to help an individual with activities of daily living in relation to the level of skill required, the nature of the care, and the setting in which the care must be delivered.
20. "Qualified long-term care services" has the meaning prescribed for this term under A.R.S. § 20-1691(13) and means services that meet the requirements of Section 7702B(c)(1) of the Internal Revenue Code of 1986, as amended, as follows: necessary diagnostic, preventative, therapeutic, curing, treating, mitigating and rehabilitative services, and maintenance or personal care services which are required by a chronically ill individual, and are provided pursuant to a plan of care prescribed by a licensed health care practitioner.
21. "Toileting" means getting to and from the toilet, getting on and off the toilet, and performing tasks associated with personal hygiene.
22. "Transferring" means moving into or out of a bed, chair, or wheelchair.

B. Any long-term care policy delivered or issued for delivery in this state shall include the following policy terms and provisions as specified in this subsection:

1. "Home care" shall be defined in relation to the level of skill required, the nature of the care, and the setting in which the care must be delivered.
2. "Intermediate care" shall be defined in relation to the level of skill required, the nature of the care, and the setting in which the care must be delivered.
3. "Mental or nervous disorder" shall not be defined to include more than neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder.
4. "Skilled nursing care," "specialized care," "assisted living care" and other services shall be defined in relation to the level of skill required, the nature of the care and the setting in which care is delivered.
5. Service providers, including "skilled nursing facility," "extended care facility," "convalescent nursing home," "personal care facility," "specialized care providers," "assisted living facility" and "home care agency" shall be defined in relation to the services and facilities required to be available and the licensure, certification, registration or degree status of those providing or supervising the services. When the definition requires that the provider be appropriately licensed, certified or registered, it shall also state what requirements a provider must meet in lieu of licensure, certification or registration when the state in which the service is to be furnished does not require a provider of these services to be licensed, certified or registered, or when the state licenses, certifies or registers the provider of services under another name.

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1003 recodified from R4-14-1003 (Supp. 95-1).

Amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2). Section amended by final rulemaking at 29 A.A.R. 3621 (November 24, 2023), effective January 7, 2024 (Supp. 23-4). Effective date corrected (Supp. 23-4, Ver. 2).

R20-6-1004. Required Policy Provisions

A. Renewability

1. An individual long-term care insurance policy shall contain a renewability provision which shall be either "guaranteed renewable" or "noncancellable." The renewability provision shall be appropriately captioned, shall appear on the first page of the policy, and shall state that the coverage is guaranteed renewable or noncancellable. This requirement does not apply to a long-term care insurance policy that is part of or combined with a life insurance policy that does not contain a renewability provision and that reserves the right not to renew solely to the policyholder.
2. An insurer shall not use the terms "guaranteed renewable" and "noncancellable" in any individual long-term care insurance policy without further explanatory language according to the disclosure requirements of this Article.
3. A qualified long-term care insurance policy shall have the guaranteed renewability provisions specified in Section 7702B(b)(1)(C) of the Internal Revenue Code of 1986, as amended, in the policy.
4. A long-term care insurance policy or certificate shall include a statement that premium rates are subject to change, unless the policy does not afford the insurer the right to raise premiums.

B. Limitations and Exclusions

1. If a long-term care insurance policy or certificate contains any limitations with respect to preexisting conditions, the limitations shall appear as a separate paragraph of the policy or certificate and shall be labeled as "Preexisting Condition Limitations."
2. A long-term care insurance policy or certificate containing any limitations or conditions for eligibility not prohibited by A.R.S. §§ 20-1691.03 and 20-1691.05 shall describe the limitations or conditions, including any required number of days of confinement, in a separate paragraph of the policy or certificate and shall label the paragraph "Limitations or Conditions on Eligibility for Benefits."
3. A policy shall not be delivered or issued for delivery in this state as long-term care insurance if the policy limits or excludes coverage by type of illness, treatment, medical condition or accident, except as follows:
 - a. Preexisting conditions or disease;
 - b. Mental or nervous disorders; however, this shall not permit exclusion or limitation of the benefits on the basis of Alzheimer's Disease;
 - c. Alcoholism and drug addiction;
 - d. Illness, treatment or medical condition arising out of:
 - i. War, declared or undeclared, or act of war;
 - ii. Participation in a felony, riot or insurrection;
 - iii. Service in the armed forces or auxiliary units;
 - iv. Suicide, attempted suicide, or intentionally self-inflicted injury; or
 - v. Aviation, if non-fare-paying passenger;
 - e. Treatment provided in a government facility, unless otherwise required by law;
 - f. Services for which benefits are available under Medicare or other governmental program, except Medicaid;
 - g. Any state or federal workers' compensation, employer's liability or occupational disease law, or any motor vehicle no-fault law;

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- h. Services provided by a member of the covered person's immediate family and services for which no charge is normally made in the absence of insurance;
 - i. Expenses for services or items available or paid under another long-term care insurance or health insurance policy; or
 - j. In the case of a qualified long-term care insurance policy, expenses for services or items to the extent that the expenses are reimbursable under Title XVIII of the Social Security Act or would be reimbursable but for the application of a deductible or coinsurance amount;
4. Subsection (B) does not prohibit exclusions and limitations by type of provider or territorial limitations. No long-term care issuer may deny a claim because services are provided in a state other than the state of policy issued under the following conditions:
- a. When the state other than the state of policy issue does not have the provider licensing, certification or registration required in the policy, but where the provider satisfies the policy requirements outlined for providers in lieu of licensure, certification or registration; or
 - b. When the state other than the state of policy issue licenses, certifies or registers the provider under another name.
5. "State of policy issue" means the state in which the insurer issued the individual policy or certificate.
- C. Extension of benefits.** A long-term care insurance policy shall provide that termination of long-term care insurance is without prejudice to any benefits payable for institutionalization if the institutionalization began while the long-term care insurance was in force and continues without interruption after termination. An insurer may limit this extension of benefits period to the duration of the benefit period, if any, or to payment of the maximum benefits and the insurer may still apply any policy waiting period and all other applicable provisions of the policy.
- D. Reinstatement.** A long-term care insurance policy shall include a provision for reinstatement of coverage if a lapse occurs if the insurer receives proof that the insured was cognitively impaired or had a loss of functional capacity before expiration of the grace period in the policy. The option to reinstate shall be available to the insured for at least five months after the date of termination and shall allow for the collection of past due premiums, as appropriate. The standard of proof of cognitive impairment or loss of functional capacity shall not be more stringent than the benefit eligibility criteria for these conditions set forth in the original long-term care policy.
- E. Continuation or conversion.**
- 1. A group long-term care insurance policy shall provide covered individuals with a basis for continuation or conversion of coverage as specified in this subsection.
 - 2. The policy shall include a provision that maintains coverage under the existing group policy when the coverage would otherwise terminate, subject only to the continued timely payment of premiums when due. A group policy that restricts provision of benefits and services to, or has incentives to use certain providers or facilities, may provide continuation benefits that are substantially equivalent to the benefits of the existing group policy. The Director shall make a determination as to the substantial equivalency of benefits and, in doing so, shall take into consideration the differences between managed care and non-managed care plans, including provider system arrangements, service availability, benefit levels and administrative complexity.
- 3. The policy shall include a provision that an individual, whose coverage under the group policy would otherwise terminate or has been terminated for any reason, including discontinuation of the group policy in its entirety or with respect to an insured class, who has been continuously insured under the group policy (and any group policy which it replaced) for at least six months immediately prior to termination, is entitled to the issuance of a converted policy by the insurer under whose group policy the individual is covered, without evidence of insurability.
 - 4. A converted policy shall be an individual policy of long-term care insurance providing benefits identical to or benefits that the Director determines to be substantially equivalent to or in excess of those provided under the group policy from which conversion is made. Where the group policy from which conversion is made restricts provision of benefits and services to, or contains incentives to use certain providers or facilities, the Director, in making a determination as to the substantial equivalency of benefits, shall take into consideration the differences between managed care and non-managed care plans, including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity, and other plan elements.
 - 5. An insurer may require an individual seeking a conversion policy to make a written application for the converted policy and pay the first premium due, if any, as directed by the insurer not later than 31 days after termination of coverage under the group policy. The insurer shall issue the converted policy effective on the day following the termination of coverage under the group policy. The converted policy shall be renewable annually.
 - 6. Unless the group policy from which conversion is made replaced previous group coverage, the insurer shall calculate the premium for the converted policy on the basis of the insured's age at inception of coverage under the group policy from which conversion is made. If the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy replaced.
 - 7. An insurer is required to provide continuation of coverage or issuance of a converted policy as provided in this subsection, unless:
 - a. Termination of group coverage resulted from an individual's failure to make any required payment of premium or contribution when due; or
 - b. The terminating coverage is replaced not later than 31 days after termination, by group coverage that:
 - i. Is effective on the day following the termination of coverage;
 - ii. Provides benefits identical to or benefits the Director determines to be substantially equivalent to or in excess of those provided by the terminating coverage; and
 - iii. Has a premium calculated in a manner consistent with the requirements of subsection (E)(6).
 - 8. Notwithstanding any other provision of this Section, a converted policy that an insurer issues to an individual who at the time of conversion is covered by another long-term care insurance policy providing benefits on the basis

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of incurred expenses, may contain a provision that reduces benefits payable if the benefits provided under the additional coverage, together with the full benefits provided by the converted policy, would result in payment of more than 100% of incurred expenses. An insurer may include this provision in the converted policy only if the converted policy also provides for a premium decrease or refund that reflects the reduction in payable benefits.

9. The converted policy may provide that the benefits payable under the converted policy, together with the benefits payable under the group policy from which conversion is made, shall not exceed those that would have been payable had the individual's coverage under the group policy remained in force and effect.
 10. Notwithstanding any other provision of this Section, an insured individual whose eligibility for group long-term care coverage is based upon the individual's relationship to another person, is entitled to continuation of coverage under the group policy if the qualifying relationship terminates by death or dissolution of marriage.
- F. Discontinuance and replacement.** If a group long-term care policy is replaced by another group long-term care policy issued to the same policyholder, the succeeding insurer shall offer coverage to all persons covered under the previous group policy on its date of termination. Coverage provided or offered to individuals by the insurer and premiums charged to persons under the new group policy:
1. Shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced; and
 2. Shall not vary or otherwise depend on the individual's health or disability status, claim experience, or use of long-term care services.
- G. Premium Increases.**
1. An insurer shall not increase the premium charged to an insured because of:
 - a. The increasing age of the insured at ages beyond 65, or
 - b. The duration of coverage under the policy.
 2. Purchase of additional coverage is not considered a premium rate increase, however, for the calculation required under R20-6-1019, an insurer shall add to and consider the portion of the premium attributable to the additional coverage as part of the initial annual premium.
 3. A reduction in benefits is not considered a premium change, however, for the calculation required under R20-6-1019, an insurer shall base the initial annual premium on the reduced benefits.
- H. Electronic enrollment for group policies.**
1. For coverage offered to a group defined in A.R.S. § 20-1691(5)(a), any requirement that an insurer or insurance producer obtain an insured's signature is satisfied if:
 - a. The group policyholder or insurer obtains the insured's consent by telephonic or electronic enrollment, and provides the enrollee with verification of enrollment information within five business days of enrollment; and
 - b. The telephonic or electronic enrollment process has necessary and reasonable safeguards to assure the accuracy, retention, and prompt retrieval of records, and the confidentiality of individually identifiable and privileged information.

2. If the Director requests, the insurer shall make available records showing the insurer's ability to confirm enrollment and coverage amounts.

I. Minimum standards for home health and community care benefits.

1. If an insurer issues a long-term care insurance policy or certificate that provides benefits for home-health or community care, the policy or certificate shall not limit or exclude benefits by any of the following:
 - a. Requiring that the insured would need skilled care in a skilled nursing facility if home health services are not provided;
 - b. Requiring that the insured first or simultaneously receive nursing or therapeutic services, or both, in a home, community or institutional setting before home health services are covered;
 - c. Requiring that eligible services be provided by a registered nurse or licensed practical nurse;
 - d. Requiring that a nurse or therapist provide services covered by the policy that can be provided by a home health aide or other licensed or certified home care worker acting within the scope of licensure or certification;
 - e. Requiring that the insured or claimant have an acute condition before home health services are covered;
 - f. Limiting benefits to services provided by Medicare-certified agencies or providers;
 - g. Excluding coverage for personal care services provided by a home health aide;
 - h. Requiring that home health care services be provided at a level of certification or licensure greater than that required by the eligible service; or
 - i. Excluding coverage for adult day care services.
2. If a long-term care insurance policy provides benefits for home health or community care services, it shall provide home health or community care coverage that equals a dollar amount equivalent to at least one-half of one year's missing home benefit coverage available at the time covered home health or community care services are being received. This requirement does not apply to policies or certificates issued to residents of continuing care retirement communities.
3. An insurer may apply home health care coverage to non-home health care benefits in the policy or certificate when determining maximum coverage under the terms of the policy or certificate.

- J. Appeals.** Policy shall include a clear description of the process for appealing and resolving benefit determinations.

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1004 recodified from R4-14-1004 (Supp. 95-1).

Amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1005. Unintentional Lapse

- A.** An insured may designate in writing at least one person to receive notice of lapse or termination of a long-term care insurance policy for nonpayment of premium, in addition to the insured. Designation shall not constitute acceptance of any liability by the third-party notice recipient for services provided to the insured.

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- B. An insurer shall not issue an individual long-term care insurance policy or certificate until the applicant has provided either a written designation of at least one person, in addition to the applicant, who shall receive notice of lapse or termination of the policy or certificate for nonpayment of premium, with the person's full name and home address, or the applicant's written waiver, dated and signed, indicating that the applicant chooses not to designate a notice recipient.
- C. The insurer shall use a form for written designation or waiver that provides space clearly delineated for the designation. The insurer shall include the following language on the form for waiver of the right to name a designated recipient: "Protection against unintended lapse. I understand that I have the right to designate at least one person other than myself to receive notice of lapse or termination of this long-term care insurance policy for nonpayment of premium. I understand that this notice will not be given until 30 days after a premium is due and unpaid. I elect NOT to designate a person to receive this notice."
- D. At least once every two years, an insurer shall notify the insured of the right to change the person designated to receive notice in subsection (A). An insured may add, delete, or change a designated recipient or change a designated recipient at any time by notifying the insurer in writing, and providing the name and home address for the new designated recipient or the designated recipient to be deleted.
- E. If the insured pays premiums for the long-term care insurance policy or certificate through a payroll or pension deduction plan, the insurer is not required to comply with the requirements in subsections (A) through (D) until 60 days after the insured is no longer on the payment plan.
- F. An individual long-term care insurance policy shall not lapse or be terminated for nonpayment of premium unless the insurer gives the insured and any recipient designated under subsections (A) through (D) written notice at least 30 days before the effective date of termination or lapse, by first class mail, postage prepaid, at the address provided by the insured for purposes of receiving notice of lapse or termination. An insurer shall not give notice until 30 days after the date on which a premium is due and unpaid. Notice is deemed given five days after the date of mailing.
- G. Reinstatement. In addition to the requirement in subsections (A) through (D), a long-term care insurance policy or certificate shall include a provision that provides for reinstatement of coverage in the event of a lapse if the insurer is provided proof that the policyholder or certificateholder was cognitively impaired or had a loss of functional capacity before the grace period contained in the policy expired. This option shall be available to the insured if requested within five months after termination and shall allow for the collection of past due premium, where appropriate. The standard of proof of cognitive impairment or loss of functional capacity shall not be more stringent than the benefit eligibility criteria on cognitive impairment or the loss of functional capacity contained in the policy or certificate. Reinstatement after termination for other than unintentional lapse shall be governed by A.R.S. § 20-1348.

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1005 recodified from R4-14-1005 (Supp. 95-1). Section R20-6-1005 renumbered to R20-6-1006; new Section R20-6-1005 made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final

exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1006. Inflation Protection

- A. An insurer shall not offer a long-term care insurance policy unless the insurer offers to the policyholder, at the time of purchase, in addition to any other inflation protection, the option to purchase a policy with an inflation protection provision that provides for benefit levels to increase with benefit maximums or reasonable durations which are meaningful to account for reasonably anticipated increases in the costs of long-term care services covered by the policy. The terms of the required provision shall be no less favorable than one of the following:
 1. A provision that provides for annual increases in benefit levels compounding annually at a rate of not less than 5%;
 2. A provision that guarantees an insured the right to periodically increase benefit levels without providing evidence of insurability or health status, if the insured did not decline the option for the previous period. The increased benefit shall be no less than the difference between the existing policy benefit and that benefit compounded annually at a rate of at least 5% for the period beginning from the purchase of the existing benefit and extending until the year in which the offer is made; or
 3. A provision for coverage of a specified percentage of actual or reasonable charges that is not subject to a maximum specified indemnity amount or limit.
- B. If the policy is issued to a group, the insurer shall extend the offer required by subsection (A) to the group policyholder; except, if the policy is issued under A.R.S. § 20-1691.04(C) to a group, other than to a continuing care retirement community, the insurer shall make the offer to each proposed certificateholder.
- C. An insurer is not required to make the offer in subsection (A) for life insurance policies or riders with accelerated long-term care benefits.
- D. An insurer shall include the information listed in this subsection in or with the outline of coverage.
 1. A graphic comparison of the benefit levels of a policy that increases benefits over the policy period with a policy that does not increase benefits. The graphic comparison shall show benefit levels over at least a 20-year period.
 2. Any expected premium increases or additional premiums to pay for automatic or optional benefit increases. If premium increases or additional premiums will be based on the attained age of the applicant at the time of the increase, the insurer shall provide a revised schedule of attained-age premiums. An insurer may use a reasonable hypothetical or a graphic demonstration for this disclosure.
- E. Inflation-protection benefit increases shall continue without regard to an insured's age, claim status, claim history, or length of time the person has been insured under the policy.
- F. An insurer's offer of inflation protection that provides for automatic benefit increases shall include an offer of a premium that the insurer expects to remain constant. The insurer shall disclose in the offer in a conspicuous manner that the premium may change in the future unless the premium is guaranteed to remain constant.
- G. An insurer shall include in a long-term care insurance policy inflation protection as provided in subsection (A)(1) unless the insurer obtains a rejection of inflation protection signed by the

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insured as required in subsection (H). The rejection may be either on the application form or on a separate form.

- H.** A rejection of inflation protection is deemed part of an application and shall state: "I have reviewed the outline of coverage and the graphs that compare the benefits and premiums of this policy with and without inflation protection. Specifically, I reviewed Plans [insert description of plans], and I reject inflation protection."

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1006 recodified from R4-14-1006 (Supp. 95-1). R20-6-1006 renumbered to R20-6-1007; new Section R20-5-1006 renumbered from R20-6-1005 and amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1007. Required Disclosure Provisions

- A.** Riders and endorsements. Except for riders or endorsements by which an insurer effectuates a request made in writing by the insured under an individual long-term care insurance policy, if an insurer adds a rider or endorsement to an individual long-term care insurance policy after date of issue or at reinstatement or renewal that reduces or eliminates benefits or coverage in the policy, the insurer shall require signed acceptance by the individual insured. After the date of policy issue, any rider or endorsement that increases benefits or coverage with a concomitant increase in premium during the policy term shall require the signed written agreement of the insured unless the increased benefits or coverage are required by law. If the insurer charges a separate additional premium for benefits provided in connection with riders or endorsements, the premium charge shall be set forth in the policy, rider, or endorsement.
- B.** Payment of Benefits. A long-term care insurance policy that provides for the payment of benefits based on standards described as "usual and customary," "reasonable and customary" or words of similar import shall define the terms and explain them in its accompanying outline of coverage.
- C.** Disclosure of tax consequences. For life insurance policies that provide an accelerated benefit for long-term care, an insurer shall provide a disclosure statement at the time of application for the policy or rider and at the time the accelerated benefit payment request is submitted, that receipt of these accelerated benefits may be taxable, and that assistance should be sought from a personal tax adviser. The disclosure statement shall be prominently displayed on the first page of the policy or rider and any other related documents. This subsection shall not apply to qualified long-term care insurance contracts.
- D.** Benefit triggers. A long-term care insurance policy shall use activities of daily living and cognitive impairment to measure an insured's need for long-term care. The long-term care insurance policy shall describe these terms and provisions in a separate paragraph in the policy labeled "Eligibility for the Payment of Benefits" that includes and explains:
1. Any additional benefit triggers,
 2. Benefit triggers that result in payment of different benefit levels, and
 3. Any requirement that an attending physician or other specified person certify a certain level of functional dependency for the insured to be eligible for benefits.
- E.** A long-term care insurance contract shall contain a disclosure statement in the policy and in the outline of coverage indicat-

ing whether it is intended to be a qualified long-term care insurance contract as specified in the outline of coverage in Appendix J, paragraph 3. The contract shall also include a Specification Page which shall include the benefits, amounts, durations, the premium rate including all optional benefits selected by the insured, and any other benefit data applicable to the insured.

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1007 recodified from R4-14-1007 (Supp. 95-1). Former Section R20-6-1007 renumbered to R20-6-1010; new Section R20-6-1007 renumbered from R20-6-1006 and amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1008. Required Disclosure of Rating Practices to Consumers

- A.** This Section applies as follows:
1. Except as provided in subsection (A)(2), this Section applies to any long-term care policy or certificate issued in this state on or after May 10, 2005.
 2. For certificates issued under an in-force, long-term care insurance policy issued to a group as defined in A.R.S. § 20-1691(5)(a), the provisions of this Section apply on the first policy anniversary that occurs on or after November 10, 2005.
- B.** Unless a policy is one for which an insurer cannot increase the applicable premium rate or rate schedule, the insurer shall provide the information listed in this subsection to the applicant at the time of application or enrollment. If the method of application does not allow for delivery at that time, the insurer shall provide the information to the applicant no later than at the time of delivery of the policy or certificate.
1. A statement that the policy may be subject to rate increases in the future.
 2. An explanation of potential future premium rate revisions, and the policyholder's or certificateholder's option if a premium rate revision occurs.
 3. The premium rate or rate schedules applicable to the applicant that will be in effect until the insurer makes a request for an increase.
 4. A general explanation for applying premium rate or rate schedule adjustments that includes:
 - a. A description of when premium rate or rate-schedule adjustments will be effective (e.g., next anniversary date, next billing date); and
 - b. The insurer's right to a revised premium rate or rate schedule as provided in subsection (B)(3) if the premium rate or rate schedule is changed.
 5. Information regarding each premium rate increase on this policy form or similar policy form over the past 10 years for this state or any other state that, at a minimum, identifies:
 - a. The policy forms for which premium rates have been increased;
 - b. The calendar years when the form was available for purchase; and
 - c. The amount or percent of each increase, which may be expressed as a percentage of the premium rate before the increase, or as minimum and maximum percentages if the rate increase is variable by rating characteristics.

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6. The insurer may, in a fair manner, provide explanatory information related to the rate increases in addition to the information required under subsection (B)(5).
- C. An insurer may exclude from the disclosure required under subsection (B)(5), premium rate increases applicable to:
 1. Blocks of business acquired from other nonaffiliated insurers, and
 2. Policies acquired from other nonaffiliated insurers if the increases occurred before the acquisition.
- D. If an acquiring insurer files for a rate increase on a long-term care insurance policy form or a block of policy forms acquired from a nonaffiliated insurer on or before the later of the January 10, 2005, or the end of a 24-month period following the acquisition of the policies or block of policies, the acquiring insurer may exclude that rate increase from the disclosure required under subsection (B)(5). However, the nonaffiliated insurer that sells the policy form or a block of policy forms shall include that rate increase in the disclosure required under subsection (B)(5). If the acquiring insurer files for a subsequent rate increase, even within the 24-month period, on the same policy form acquired from a nonaffiliated insurer or block of policy forms acquired from nonaffiliated insurers, the acquiring insurer shall make all disclosures required by subsection (B)(5), including disclosure of the earlier rate increase.
- E. Unless the method of application does not allow an insured to sign an acknowledgement that the insurer made the disclosures required under subsection (B) at the time of application, the applicant shall sign an acknowledgement of disclosure at that time. Otherwise, the applicant shall sign a disclosure acknowledgement no later than at the time of delivery of the policy or certificate.
- F. An insurer shall use the forms in Appendix A and Appendix B to comply with the requirements of subsections (B) through (E). The text and format of an insurer's forms shall be substantially similar to the text and format of Appendices A and B.
- G. An insurer shall provide notice of an upcoming premium rate schedule increase to all policyholders or certificateholders, if applicable, at least 45 days before the effective date of the increase. The notice shall include the information required by subsection (B).
3. The underwriting and claims adjudication processes have been reviewed and taken into consideration;
4. The premiums contain at least the minimum margin for moderately adverse experience as defined in subsection (4)(a) or the specification of and justification for a lower margin as required by subsection (4)(b).
 - a. A composite margin shall not be less than 10% of lifetime claims.
 - b. A composite margin that is less than 10% may be justified in uncommon circumstances. The proposed amount, full justification of the proposed amount and methods to monitor developing experience that would be the basis for withdrawal of approval for such lower margins must be submitted.
 - c. A composite margin lower than otherwise considered appropriate for the stand-alone long-term care policy may be justified for long-term care benefits provided through a life policy or an annuity contract. Such lower composite margin, if utilized, shall be justified by appropriate actuarial demonstration addressing margins and volatility when considering the entirety of the product.
 - d. A greater margin may be appropriate in circumstances where the company has less credible experience to support its assumptions used to determine the premium rates.
5. A statement that the premium rate schedule:
 - a. Is not less than the premium rate schedule for existing similar policy forms also available from the insurer except for reasonable differences attributable to benefits, or
 - b. A comparison of the premium schedules for similar policy forms that are currently available from the insurer with an explanation of the differences; and
6. A statement that reserve requirements have been reviewed and considered. Support for this statement shall include:
 - a. Sufficient detail or sample calculations provided so as to have a complete depiction of the reserve amounts to be held; and
 - b. A statement that the difference between the gross premium and the net valuation premium for renewal years is sufficient to cover expected renewal expenses; or if such a statement cannot be made, a complete description of the situations where this does not occur. An aggregate distribution of anticipated issues may be used as long as the underlying gross premiums maintain a reasonably consistent relationship.

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1008 recodified from R4-14-1008 (Supp. 95-1). Former Section R20-6-1008 renumbered to R20-6-1011; new Section R20-6-1008 made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1009. Initial Filing Requirements

- A. This Section applies to any long-term care policy issued in this state on or after May 10, 2005.
- B. At the time of making a filing under A.R.S. § 20-1691.08, an insurer shall provide to the Director a copy of the disclosure documents required under R20-6-1008 and an actuarial certification that includes the following:
 1. The initial premium rate schedule is sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated;
 2. The policy design and coverage provided have been reviewed and taken into consideration;
- C. An actuarial memorandum shall be included that is signed by a member of the Academy of Actuaries and that addresses and supports each specific item required as part of the actuarial certification and provides at least the following:
 1. An explanation of the review performed by the actuary prior to making the statements in subsections (B)(2) and (B)(3);
 2. A complete description of pricing assumptions;
 3. Sources and levels of margins incorporated into the gross premiums that are the basis for the statement in subsection (B)(1) of the actuarial certification and an explanation of the analysis and testing performed in determining the sufficiency of the margins. The actuary shall clearly describe deviations in margins between ages, sexes, plans or states. Deviations in margins required to be described

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are other than those produced utilizing generally accepted actuarial methods for smoothing and interpolating gross premium scales; and

4. A demonstration that the gross premiums include the minimum composite margin specified in subsection (B)(4).

- D. In any review of the actuarial certification and actuarial memorandum, the Director may request review by an actuary with experience in long-term care pricing who is independent of the insurer. In the event the Director asks for additional information as a result of any review, the period in A.R.S. § 20-1691.08 does not include the period during which the insurer is preparing the requested information.

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1009 recodified from R4-14-1009 (Supp. 95-1). Section R20-6-1009 renumbered to R20-6-1012; new Section R20-6-1009 made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1010. Requirements for Application Forms and Replacement Coverage; Prohibition Against Preexisting Conditions and Probationary Periods in Replacement Policies or Certificates; Reporting Requirements

- A. An insurer's application form for a long-term care insurance policy shall include the questions listed in this Section to elicit information as to whether, as of the date of the application, the applicant has another long-term care insurance policy or certificate in force or whether a long-term care policy or certificate is intended to replace any other health or long-term care policy or certificate presently in force. An insurer may include the questions in a supplementary application or other form to be signed by the applicant and insurance producer, except where the coverage is sold without an insurance producer. For a replacement policy issued to a group as defined in A.R.S. § 20-1691(5)(a), the insurer may modify the questions only to the extent necessary to elicit information about health or long-term care insurance policies other than the group policy being replaced if the certificateholder has been notified of the replacement.
 1. Do you have another long-term care insurance policy or certificate in force (including health care service contract, health maintenance organization contract)?
 2. Did you have another long-term care insurance policy or certificate in force during the last 12 months?
 - a. If so, with which company?
 - b. If that policy lapsed, when did it lapse?
 3. Are you covered by Medicaid?
 4. Do you intend to replace any of your medical or health insurance coverage with this policy or certificate?
- B. The application or enrollment form for such policies or certificates shall clearly indicate the payment plan the applicant selects.
- C. An insurance producer shall list any other health insurance policies the insurance producer has sold to the applicant, including:
 1. Policies that are still in force, and
 2. Policies sold in the past five years that are no longer in force.
- D. Solicitations Other than Direct Response. On determining that a sale will involve replacement, an insurer, other than an insurer using direct response solicitation methods, or its insur-

ance producer; shall furnish the applicant, before issuing or delivering the individual long-term care insurance policy, a notice that substantially conforms to the form prescribed in Appendix C or D regarding replacement of health or long-term care coverage. The insurer shall:

1. Give one copy of the notice to the applicant, and
 2. Keep an additional copy signed by the applicant.
- E. Direct Response Solicitations. Insurers using direct response solicitation methods as defined in A.R.S. § 20-1661 shall deliver a notice that substantially conforms to the form prescribed in Appendix C or D regarding replacement of health or long-term care coverage to the applicant upon issuance of the policy.
 - F. If replacement is intended, the replacing insurer shall send the existing insurer written notice of the proposed replacement within five working days from the date the replacing insurer receives the application or issues the policy, whichever is sooner. The notice shall identify the existing policy by name of the insurer and the insured, and policy number or insured's address including zip code.
 - G. A life insurance policy that accelerate benefits for long-term care shall comply with this Section if the policy being replaced is a long-term care insurance policy. If the policy being replaced is a life insurance policy, the insurer shall comply with the replacement requirements of Title 20, Chapter 6, Article 1.1. If a life insurance policy that accelerates benefits for long-term care is replaced by another such policy, the replacing insurer shall comply with the requirements of this Section and with A.R.S. Title 20, Chapter 6, Article 1.1.
 - H. Prohibition against preexisting conditions and probationary periods in replacement policies or certificates. If a long-term care insurance policy or certificate replaces another long-term care policy or certificate, the replacing insurer shall waive any time periods applicable to preexisting conditions and probationary periods in the new long-term care policy for similar benefits if similar exclusions are satisfied under the original policy.
 - I. Reporting requirements.
 1. An insurer shall maintain the following records for each insurance producer:
 - a. The amount of the insurance producer's replacement sales as a percent of the insurance producer's total annual sales, and
 - b. The amount of lapses of long-term care insurance policies sold by the insurance producer as a percent of the insurance producer's total annual sales.
 2. No later than June 30 of each year, on the forms specified in Appendix E and Appendix F, an insurer shall report the following information for the preceding calendar year to the Department:
 - a. The 10% of its insurance producers licensed in Arizona with the greatest percentages of lapses and replacements as measured by subsection (I)(1);
 - b. The number of lapsed policies as a percent of the total annual sales and as a percent of the insurer's total number of policies in force as of the end of the preceding calendar year;
 - c. The number of replacement policies sold as a percent of the insurer's total annual sales and as a percent of its total number of policies in force as of the end of the preceding calendar year; and
 - d. For qualified long-term care insurance contracts, the number of claims denied for each class of business, expressed as a percentage of claims denied.

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- J.** In subsection (I):
1. “Claim” means a request for payment of benefits under an in-force policy, regardless of whether the benefit claimed is covered under the policy or any terms or conditions of the policy have been met.
 2. “Denied” means the insurer refuses to pay a claim for any reason other than for claims not paid for failure to meet the waiting period or because of an applicable preexisting condition.
 3. “Policy” means only long-term care insurance.
 4. “Report” means on a statewide basis.
- K.** Reported replacement and lapse rates do not alone constitute a violation of insurance laws or necessarily imply wrongdoing. The reports are for the purpose of reviewing more closely agent activities regarding the sale of long-term care insurance. Reports required under this Section shall be filed with the Director.
- L.** Annual rate certification requirements. This subsection applies to any long-term care policy issued in Arizona on or after November 10, 2017. The following annual submission requirements apply subsequent to initial rate filings for individual long-term care insurance policies made under this Section:
1. An actuarial certification prepared, dated and signed by a member of the American Academy of Actuaries which contains a statement of the sufficiency of the current premium rate schedule, including:
 - a. For the rate schedules currently marketed, that the premium rate schedule continues to be sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated or a statement that margins for moderately adverse experience may no longer be sufficient. For a statement that margins for moderately adverse experience may no longer be sufficient, the insurer shall provide to the Director, within 60 days of the date the actuarial certification is submitted to the Director, a plan of action, including a time frame, for the re-establishment of adequate margins for moderately adverse experience so that the ultimate premium rate schedule would be reasonably expected to be sustainable over the future life of the form with no future premium increases anticipated. Failure to submit a plan of action to the Director within 60 days or to comply with the time frame stated in the plan of action constitutes grounds for the Director to withdraw or modify approval of the form for future sales pursuant to A.R.S. § 20-1691.08.
 - b. For the rate schedules that are no longer marketed, that the premium rate schedule continues to be sufficient to cover anticipated costs under best estimate assumptions or that the premium rate schedule may no longer be sufficient. If the premium rate schedule is no longer sufficient, the insurer shall provide to the Director, within 60 days of the date the actuarial certification is submitted to the Director, a plan of action, including time frame, for the re-establishment of adequate margins for moderately adverse experience;
 2. A description of the review performed that led to the statement; and
 3. An actuarial memorandum dated and signed by a member of the American Academy of Actuaries who prepares the information shall be prepared to support the actuarial certification and provide at least the following information:
 - a. A detailed explanation of the data sources and review performed by the actuary prior to making the statement in subsection (L)(1),
 - b. A complete description of experience assumptions and their relationship to the initial pricing assumptions,
 - c. A description of the credibility of the experience data, and
 - d. An explanation of the analysis and testing performed in determining the current presence of margins.
 4. The actuarial certification required pursuant to subsection (L)(1) must be based on calendar year data and submitted annually starting in the second year following the year in which the initial rate schedules are first used. The actuarial memorandum required pursuant to subsection (L)(3) must be submitted at least once every three years with the certification.

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1010 recodified from R4-14-1010 (Supp. 95-1). R20-6-1010 renumbered to R20-6-1013; new Section R20-6-1010 renumbered from R20-6-1007 and amended by final by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1011. Prohibition Against Post-claims Underwriting

- A.** An application for a long-term care insurance policy or certificate that is not guaranteed issue shall meet the requirements of this Section.
1. The application shall contain clear and unambiguous questions designed to ascertain the applicant’s health condition.
 - a. If the application has a question asking whether the applicant has had medication prescribed by a physician, the application shall also ask the applicant to list the prescribed medication.
 - b. If the insurer knew or reasonably should have known that the medications listed in the application are related to a medical condition for which coverage would otherwise be denied, the insurer shall not rescind the policy or certificate for that condition.
 2. The application shall include the following language which shall be set out conspicuously and in close conjunction with the applicant’s signature block: **“Caution: If your answers on this application are incorrect or untrue, [company] has the right to deny benefits or rescind your policy.”**
 3. The policy or certificate shall contain, at the time of delivery, the following language, or language substantially similar to the following, set out conspicuously: **“Caution: The issuance of this long-term care insurance [policy] [certificate] is based on your responses to the questions on your application. A copy of your [application] [enrollment form] [is enclosed] [was retained by you when you applied]. If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to**

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clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: [insert address]."

- B.** Before issuing a long-term care insurance policy or certificate that is not guaranteed issue to an applicant age 80 or older, the insurer shall obtain one of the following:
 - 1. A report of a physical examination,
 - 2. An assessment of functional capacity,
 - 3. An attending physician's statement, or
 - 4. Copies of medical records.
- C.** The insurer or its insurance producer shall deliver a copy of the completed application or enrollment form, as applicable, to the insured no later than at the time of delivery of the policy or certificate unless the insurer gave a copy to the applicant it at the time of application.
- D.** An insurer selling or issuing long-term care insurance benefits shall maintain a record of all policy or certificate rescissions, both state and country-wide, except those which the insured voluntarily effectuated.
- E.** On or before March 31 of each year, an insurer shall report the following information to the Director for the preceding calendar year, using the form prescribed in Appendix G:
 - 1. Insurer name, address, phone number;
 - 2. As to each rescission except those voluntarily effectuated by the insured:
 - a. Policy form number,
 - b. Policy and certificate number,
 - c. Name of the insured,
 - d. Date of policy issuance,
 - e. Date claim submitted,
 - f. Date of rescission, and
 - g. Detailed reason for rescission; and
 - 3. Signature, name and title of the preparer, and date prepared.

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1011 recodified from R4-14-1011 (Supp. 95-1). R20-6-1011 renumbered to R20-6-1014; new Section R20-6-1011 renumbered from R20-6-1008 and amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1012. Reserve Standards

- A.** If long-term care benefits are provided through the acceleration of benefits under group or individual life policies or riders, an insurer shall determine policy reserves for long-term care benefits under A.R.S. § 20-510. An insurer shall also establish claim reserves for a policy or rider in claim status.
- B.** An insurer shall base reserves for policies and riders under subsection (A) on the multiple decrement model using all relevant decrements except for voluntary termination rates. An insurer may use single decrement approximations if the calculation produces essentially similar reserves, if the reserve is clearly more conservative, or if the reserve is immaterial. The insurer, when calculating reserves, may take into account the reduction in life insurance benefits due to the payment of long-term care benefits. The insurer shall not set the reserves for the long-term care benefit and the life insurance benefit to be less than the reserves for the life insurance benefit assuming no long-term care benefit.
- C.** In the development and calculation of reserves for policies and riders subject to this Section, an insurer shall give due regard to the applicable policy provisions, marketing methods,

administrative procedures and all other considerations which impact projected claim costs including the following:

- 1. Definition of insured events,
 - 2. Covered long-term care facilities,
 - 3. Existence of home convalescence care coverage,
 - 4. Definition of facilities,
 - 5. Existence or absence of barriers to eligibility,
 - 6. Premium waiver provision,
 - 7. Renewability,
 - 8. Ability to raise premiums,
 - 9. Marketing method,
 - 10. Underwriting procedures,
 - 11. Claims adjustment procedures,
 - 12. Waiting period,
 - 13. Maximum benefit,
 - 14. Availability of eligible facilities,
 - 15. Margins in claim costs,
 - 16. Optional nature of benefit,
 - 17. Delay in eligibility for benefit,
 - 18. Inflation protection provisions,
 - 19. Guaranteed insurability option, and
 - 20. Other similar or comparable factors affecting risk.
- D.** A member of the American Academy of Actuaries shall certify an insurer's use of any applicable valuation morbidity table as appropriate as a statutory valuation table.
 - E.** When long-term care benefits are provided other than as described in subsection (A), an insurer shall determine reserves under A.R.S. § 20-508.

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1012 recodified from R4-14-1012 (Supp. 95-1). R20-6-1012 renumbered to R20-6-1016; new Section R20-6-1012 renumbered from R20-6-1009 and amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Section repealed; new Section renumbered from R20-6-1013 and amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1013. Loss Ratio

- A.** This Section applies to policies and certificates issued any time prior to May 10, 2005.
- B.** Benefits under an individual long-term care insurance policy are deemed reasonable in relation to premiums if the expected loss ratio is at least 60% calculated in a manner that provides for adequate reserving of the long-term care insurance risk. In evaluating the expected loss ratio, the director shall consider all relevant factors, including:
 - 1. Statistical credibility of incurred claims experience and earned premiums;
 - 2. The period for which rates are computed to provide coverage;
 - 3. Experienced and projected trends;
 - 4. Concentration of experience within early policy duration;
 - 5. Expected claim fluctuation;
 - 6. Experience refunds, adjustments, or dividends;
 - 7. Renewability features;
 - 8. All appropriate expense factors;
 - 9. Interest;
 - 10. Experimental nature of the coverage;
 - 11. Policy reserves;
 - 12. Mix of business by risk classification; and
 - 13. Product features such as long elimination periods, high deductibles, and high maximum limits.

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- C. A premium rate schedule or proposed revision to a premium rate schedule that is expected to produce, over the lifetime of the long-term care insurance policy, benefits that are less than 60% of the proposed premium rate schedule is deemed to be unreasonable.
- D. Subsections (B) and (C) do not apply to life insurance policies that accelerate benefits for long-term care. A life insurance policy that funds long-term care benefits entirely by accelerating the death benefit is deemed to provide reasonable benefits in relation to premiums paid if the policy complies with all of the following:
 1. The interest credited internally to determine cash value accumulations, including long-term care, if any, is guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;
 2. The portion of the policy that provides life insurance benefits complies with the nonforfeiture requirements of A.R.S. § 20-1231;
 3. The policy complies with the disclosure requirements of A.R.S. § 20-1691.06(A) through (E);
 4. At the time of making a filing under A.R.S. § 20-1691.08, the insurer files an actuarial memorandum that includes the following information:
 - a. A description of the basis on which the long-term care rates were determined;
 - b. A description of the basis for the reserves;
 - c. A summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance;
 - d. A description and a table of each actuarial assumption used; for expenses, an insurer shall include percent of premium dollars per policy and dollars per unit of benefits, if any;
 - e. A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;
 - f. The estimated average annual premium per policy and the average issue age;
 - g. A statement as to whether underwriting is performed, including:
 - i. Time of underwriting;
 - ii. A description of the type of underwriting used, such as medical underwriting or functional assessment underwriting; and
 - iii. For a group policy, whether an enrollee's dependents are subject to underwriting; and
 - h. A description of the effect of the long-term care policy provisions on the required premiums, nonforfeiture values, and reserves on the underlying life insurance policy, both for active lives and those in long-term care claim status.

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1013 recodified from R4-14-1013 (Supp. 95-1). Section R20-6-1013 renumbered to R20-6-1017; new Section R20-6-1013 renumbered from R20-6-1010 and amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Section R20-6-1013 renumbered to R20-6-1012; new Section R20-6-1013 renumbered from R20-6-1014 and amended by final exempt rulemaking at

23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1014. Premium Rate Schedule Increase

- A. This Section applies to any long-term care policy or certificate issued in this state on or after May 10, 2005 and prior to November 10, 2017.
- B. An insurer shall notify the Director of a proposed premium rate schedule increase, including an exceptional increase, at least 60 days before issuing notice to its policyholders. The notice to the Director shall include:
 1. Information required by R20-6-1008;
 2. Certification by a qualified actuary that:
 - a. If the requested premium rate schedule increase is implemented and the underlying assumptions, which reflect moderately adverse conditions, are realized, no further premium rate schedule increases are anticipated;
 - b. The premium rate filing complies with the provisions of this Section; and
 - c. The insurer may request a premium rate schedule increase less than what is required under this Section and the Director may approve the premium rate schedule increase, without submission of the certification required by subsection (B)(2)(a), if the actuarial memorandum discloses the premium rate schedule increase necessary to make the certification required by subsection (B)(2)(a), the premium rate schedule increase filing satisfies all other requirements of this Section, and is, in the opinion of the Director, in the best interest of the policyholders.
 3. An actuarial memorandum justifying the rate schedule change request that includes:
 - a. Lifetime projections of earned premiums and incurred claims based on the filed premium rate schedule increase; and the method and assumptions used in determining the projected values, including the following:
 - i. Any assumptions that deviate from those used for pricing other forms currently available for sale;
 - ii. Annual values for the five years preceding and the three years following the valuation date, provided separately;
 - iii. Development of the lifetime loss ratio, unless the rate increase is an exceptional increase; and
 - iv. A demonstration of compliance with subsection (C).
 - b. For exceptional increases, the actuarial memorandum shall also include:
 - i. The projected experience that is limited to the increases in claims expenses attributable to the approved reasons for the exceptional increase; and
 - ii. If the Director determines under Section R20-6-1002(B)(3) that offsets may exist, the insurer shall use appropriate net projected experience;
 - c. Disclosure of how reserves have been incorporated in this rate increase when the rate increase will trigger contingent benefit upon lapse;
 - d. Disclosure of the analysis performed to determine why a rate adjustment is necessary, which pricing assumptions were not realized and why, and any other actions of the insurer on which the actuary has relied;

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- e. A statement that the actuary has considered policy design, underwriting, and claims adjudication practices;
- f. Composite rates reflecting projections of new certificates in the event it is necessary to maintain consistent premium rates for new certificates and certificates receiving a rate increase; and
- g. A demonstration that actual and projected costs exceed costs anticipated at the time of the initial pricing under moderately adverse experience and that the composite margin specified in R20-6-1009(B)(4) is projected to be exhausted;
- 4. A statement that renewal premium rate schedules are not greater than new business premium rate schedules except for differences attributable to benefits, unless the insurer provides the Director with documentation justifying the greater rate; and
- 5. Upon the Director's request, other similar and related information the Director may require to evaluate the premium rate schedule increase.
- C. All premium rate schedule increases shall be determined in accordance with the following requirements:
 - 1. The insurer shall return 70% of the present value of projected additional premiums from an exceptional increase to policyholders in benefits;
 - 2. The sum of the accumulated value of incurred claims, without the inclusion of active life reserves, and the present value of future projected incurred claims, without the inclusion of active life reserves, shall not be less than the sum of the following:
 - a. The accumulated value of the initial earned premium times 58%;
 - b. 85% of the accumulated value of prior premium rate schedule increases on an earned basis;
 - c. The present value of future projected initial earned premiums times 58%; and
 - d. 85% of the present value of future projected premiums not in subsection (C)(2)(c) on an earned basis;
 - 3. If a policy form has both exceptional and other increases, the values in subsections (C)(2)(b) and (C)(2)(d) shall also include 70% for exceptional rate increase amounts; and
 - 4. All present and accumulated values used to determine rate increases shall use the maximum valuation interest rate for contract reserves as specified in the NAIC Accounting Practices and Procedures Manual to which insurers are subject under A.R.S. § 20-223. The actuary shall disclose the use of any appropriate averages in the actuarial memorandum required under subsection (B)(3).
- D. For each rate increase that is implemented, the insurer shall file for approval by the Director updated projections, as defined in subsection (B)(3)(a), annually for the next three years and shall include a comparison of actual results to projected values. The Director may extend the period to greater than three years if actual results are not consistent with projected values from prior projections. For group insurance policies that meet the conditions in subsection (M), the insurer shall provide the projections required by this subsection to the policyholder in lieu of filing with the Director.
- E. If any premium rate in the revised premium rate schedule is greater than 200% of the comparable rate in the initial premium schedule, the insurer shall file lifetime projections, as defined in subsection (B)(3)(a), for the Director's approval every five years following the end of the required period in subsection (D). For group insurance policies that meet the conditions in subsection (M), the insurer shall provide the projections required by this subsection to the policyholder instead of filing with the Director.
- F. If the Director finds that the actual experience following a rate increase does not adequately match the projected experience and that the current projections under moderately adverse conditions demonstrate that incurred claims will not exceed proportions of premiums specified in subsection (C), the Director may require the insurer to implement premium rate schedule adjustments or other measures to reduce the difference between the projected and actual experience. In determining whether the actual experience matches the projected experience, the Director shall consider subsection (B)(3)(f), if applicable.
- G. If the majority of the policies or certificates to which the increase applies are eligible for the contingent benefit upon lapse, the insurer shall file:
 - 1. A plan, subject to Director approval, for improved administration or claims processing designed to eliminate the potential for further deterioration of the policy form experience requiring further premium rate schedule increases, or both, or to demonstrate that appropriate administration and claims processing have been implemented or are in effect; otherwise the Director may impose the conditions in subsections (H) through (J); and
 - 2. The original anticipated lifetime loss ratio, and the premium rate schedule increase that would have been calculated according to subsection (C) had the greater of the original anticipated lifetime loss ratio or 58% been used in the calculations described in subsections (C)(2)(a) and (C)(2)(c).
- H. For a rate increase filing that meets the criteria listed in this subsection, the Director shall review, for all policies included in the filing, the projected lapse rates and past lapse rates during the 12 months following each increase to determine if lapsation in excess of projected lapsation has occurred or is anticipated:
 - 1. The rate increase is not the first rate increase requested for the specific policy form or forms,
 - 2. The rate increase is not an exceptional increase, and
 - 3. The majority of the policies or certificates to which the increase applies are eligible for the contingent benefit upon lapse.
- I. If the Director finds excess lapsation under subsection (H) has occurred, is anticipated in the filing or is evidenced in the actual results as presenting in the updated projections provided by the insurer following the requested rate increase, the Director may find that a rate spiral exists and may require the insurer to offer, without underwriting, to all in-force insureds subject to the rate increase, the option to replace existing coverage with one or more reasonably comparable products being offered by the insurer or its affiliates. The information communicating the offer is subject to the Director's approval. The offer shall:
 - 1. Be based on actuarially sound principles, but not on attained age;
 - 2. Provide that maximum benefits under any new policy accepted by an insured shall be reduced by comparable benefits already paid under the existing policy; and
 - 3. Allow the insured the option of retaining the existing coverage.
- J. The insurer shall maintain the experience of the insureds whose coverage was replaced under subsection (I) separate

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from the experience of insureds originally issued the policy forms. If the insurer requests a rate increase on the policy form, the rate increase shall be limited to the lesser of:

1. The maximum rate increase determined based on the combined experience; and
 2. The maximum rate increase determined based only on the experience of the insureds originally issued the form, plus 10%.
- K.** If the Director finds that an insurer has exhibited a history or pattern of filing inadequate initial premium rates for long-term care insurance, after considering the total number of policies filed over a period of time and the percentage of policies with inadequate rates, the Director may, in addition to remedies available under subsections (H) through (J), prohibit the insurer from the following:
1. Filing and marketing comparable coverage for a period of up to five years, and
 2. Offering all other similar coverages and limiting marketing of new applications to the products subject to recent premium rate schedule increases.
- L.** Subsections (A) through (K) shall not apply to a policy for which long-term care benefits provided by the policy are incidental, as defined under R20-6-1002(C), if the policy complies with all of the following provisions:
1. The interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;
 2. The portion of the policy that provides insurance benefits other than long-term care coverage meets the applicable nonforfeiture requirements under state law, including A.R.S. §§ 20-1231, 20-1232 and 20-2636;
 3. The policy meets the disclosure requirements of A.R.S. § 20-1691.06;
 4. The portion of the policy that provides insurance benefits other than long-term care coverage meets the disclosure requirements as applicable in the following:
 - a. A.R.S. Title 20, Chapter 6, Article 1.2; and
 - b. A.R.S. Title 20, Chapter 16, Article 2;
 5. At the time of making a filing under A.R.S. § 20-1691.08, the insurer files an actuarial memorandum that includes:
 - a. Description of the bases on which the actuary determined the long-term care rates and the reserves;
 - b. A summary of the type of policy, benefits, renewability provisions, general marketing method, and limits on ages of issuance;
 - c. A description and a table of each actuarial assumption used, with the percent of premium dollars per policy and dollars per unit of benefits, if any, for expenses;
 - d. A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;
 - e. The estimated average annual premium per policy and the average issue age;
 - f. A statement as to whether the insurer performs underwriting at the time of application with an explanation of the following:
 - i. Whether underwriting is used, and if used, a description of the type of underwriting, such as medical underwriting or functional assessment underwriting; and
 - ii. For a group policy, whether the enrollee or any dependent will be underwritten and when underwriting occurs; and
 - g. A description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values, and reserves on the underlying insurance policy, both for active lives and those in long-term care claim status.
- M.** Subsections (F) and (H) through (J) shall not apply to group insurance as defined in A.R.S. § 20-1691(6) where:
1. The policies insure 250 or more persons and the policyholder has 5,000 or more eligible employees of a single employer; or
 2. The policyholder, and not the certificateholder, pays a material portion of the premium, which shall not be less than 20% of the total premium for the group in the calendar year prior to the year a rate increase is filed.

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1014 recodified from R4-14-1014 (Supp. 95-1). Section repealed; R20-6-1014 renumbered from R20-6-1011 and amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Section R20-6-1014 renumbered to R20-6-1013; new Section R20-6-1014 renumbered from R20-6-1015 and amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1015. Premium Rate Schedule Increases for Policies Subject to Loss Ratio Limits Related to Original Filings

- A.** This Section applies to any long-term care policy or certificate issued in this state on or after November 10, 2017.
- B.** An insurer shall notify the Director of a proposed premium rate schedule increase, including an exceptional increase, at least 60 days before issuing notice to its policyholders. The notice to the Director shall include:
1. Information required by R20-6-1008;
 2. Certification by a qualified actuary that:
 - a. If the requested premium rate schedule increase is implemented and the underlying assumptions, which reflect moderately adverse conditions, are realized, no further premium rate schedule increases are anticipated;
 - b. The premium rate filing complies with the provisions of this Section; and
 - c. The insurer may request a premium rate schedule increase less than what is required under this Section and the Director may approve the premium rate schedule increase, without submission of the certification required by subsection (B)(2)(a), if the actuarial memorandum discloses the premium rate schedule increase necessary to make the certification required by subsection (B)(2)(a), the premium rate schedule increase filing satisfies all other requirements of this Section, and is, in the opinion of the Director, in the best interest of the policyholders.
 3. An actuarial memorandum justifying the rate schedule change request that includes:
 - a. Lifetime projections of earned premiums and incurred claims based on the filed premium rate schedule increase; and the method and assumptions used in determining the projected values, including the following:

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- i. Any assumptions that deviate from those used for pricing other forms currently available for sale;
 - ii. Annual values for the five years preceding and the three years following the valuation date, provided separately;
 - iii. Development of the lifetime loss ratio, unless the rate increase is an exceptional increase; and
 - iv. A demonstration of compliance with subsection (C).
 - b. For exceptional increases, the actuarial memorandum shall also include:
 - i. The projected experience that is limited to the increases in claims expenses attributable to the approved reasons for the exceptional increase; and
 - ii. If the Director determines under Section R20-6-1002(B)(3) that offsets may exist, the insurer shall use appropriate net projected experience;
 - c. Disclosure of how reserves have been incorporated in this rate increase when the rate increase will trigger contingent benefit upon lapse;
 - d. Disclosure of the analysis performed to determine why a rate adjustment is necessary, which pricing assumptions were not realized and why, and any other actions of the insurer on which the actuary has relied;
 - e. A statement that the actuary has considered policy design, underwriting, and claims adjudication practices;
 - f. Composite rates reflecting projections of new certificates in the event it is necessary to maintain consistent premium rates for new certificates and certificates receiving a rate increase; and
 - g. A demonstration that actual and projected costs exceed costs anticipated at the time of the initial pricing under moderately adverse experience and that the composite margin specified in R20-6-1009(B)(4) is projected to be exhausted.
 - 4. A statement that renewal premium rate schedules are not greater than new business premium rate schedules except for differences attributable to benefits, unless the insurer provides the Director with documentation justifying the greater rate; and
 - 5. Upon the Director's request, other similar and related information the Director may require to evaluate the premium rate schedule increase.
- C. All premium rate schedule increases shall be determined in accordance with the following requirements:
- 1. Exceptional increases shall provide that 70% of the present value of projected additional premiums from the exceptional increase will be returned to policyholders in benefits;
 - 2. The insurer shall calculate premium rate increases such that the sum of the lesser of either the accumulated value of the actual incurred claims (without the inclusion of active life reserves) or the accumulated value of historic expected claims (without the inclusion of active life reserves) plus the present value of the future expected incurred claims (projected without the inclusion of active life reserves) will not be less than the sum of the following:
 - a. The accumulated value of the initial earned premium times the greater of 58% or the lifetime loss ratio consistent with the original filing including margins for moderately adverse experience;
 - b. 85% of the accumulated value of prior premium rate schedule increases on an earned basis;
 - c. The present value of future projected initial earned premiums times the greater of 58% or the lifetime loss ratio consistent with the original filing including margins for moderately adverse experience; and
 - d. 85% of the present value of future projected premiums not in subsection (C)(2)(c) on an earned basis;
3. Historic expected claims shall be calculated based on the original filing assumptions assumed until new assumptions are filed as part of a rate increase. New assumptions shall be used for all periods beyond each requested effective date of a rate increase. Historic expected claims are calculated for each calendar year based on the in-force at the beginning of the calendar year. Historic expected claims shall include margins for moderately adverse experience; either amounts included in the claims that were used to determine the lifetime loss ratio consistent with the original filing or as modified in any rate increase filing;
4. In the event that a policy form has both exceptional and other increases, the values in subsections (C)(2)(b) and (C)(2)(d) will also include 70% for exceptional rate increase amounts; and
5. All present and accumulated values used to determine rate increases, including the lifetime loss ratio consistent with the original filing reflecting margins for moderately adverse experience, shall use the maximum valuation interest rate for contract reserves as specified in A.R.S. § 20-508. The actuary shall disclose as part of the actuarial memorandum the use of any appropriate averages.
- D. For each rate increase that is implemented, the insurer shall file for approval by the Director updated projections, as defined in subsection (B)(3)(a), annually for the next three years and shall include a comparison of actual results to projected values. The Director may extend the reporting period beyond three years if actual results are not consistent with projected values from prior projections. For group insurance policies that meet the conditions in subsection (M), the projections required by this subsection shall be provided to the policyholder in lieu of filing with the Director.
- E. If any premium rate in the revised premium rate schedule is greater than 200% of the comparable rate in the initial premium schedule, the insurer shall file lifetime projections, as defined in subsection (B)(3)(a), for the Director's approval every five years following the end of the required period in subsection (D). For group insurance policies that meet the conditions in subsection (M), the insurer shall provide the projections required by this subsection to the policyholder instead of filing with the Director.
- F. If the Director finds that the actual experience following a rate increase does not adequately match the projected experience and that the current projections under moderately adverse conditions demonstrate that incurred claims will not exceed proportions of premiums specified in subsection (C), the Director may require the insurer to implement premium rate schedule adjustments or other measures to reduce the difference between the projected and actual experience. In determining whether the actual experience matches the projected experience, the Director shall consider subsection (B)(3)(f), if applicable.

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- G.** If the majority of policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse, the insurer shall file a plan, subject to approval by the Director, for improved administration or claims processing designed to eliminate the potential for further deterioration of the policy form experience requiring further premium rate schedule increases, or both, or to demonstrate that appropriate administration and claims processing have been implemented or are in effect. Otherwise, the Director may impose the conditions in subsections (H) through (J).
- H.** For a rate increase filing that meets the criteria listed in this subsection, the Director shall review, for all policies included in the filing, the projected lapse rates and past lapse rates during the 12 months following each increase to determine if lapsation in excess of projected lapsation has occurred or is anticipated:
1. The rate increase is not the first rate increase requested for the specific policy form or forms;
 2. The rate increase is not an exceptional increase; and
 3. The majority of the policies or certificates to which the increase applies are eligible for the contingent benefit upon lapse.
- I.** If the Director finds excess lapsation under subsection (H) has occurred, is anticipated in the filing or is evidenced in the actual results as presenting in the updated projections provided by the insurer following the requested rate increase, the Director may find that a rate spiral exists and may require the insurer to offer, without underwriting, to all in-force insureds subject to the rate increase, the option to replace existing coverage with one or more reasonably comparable products being offered by the insurer or its affiliates. The information communicating the offer is subject to the Director's approval. The offer shall:
1. Be based on actuarially sound principles, but not on attained age; and
 2. Provide that maximum benefits under any new policy accepted by an insured shall be reduced by comparable benefits already paid under the existing policy; and
 3. Allow the insured the option of retaining the existing coverage.
- J.** The insurer shall maintain the experience of the insureds whose coverage was replaced under subsection (I) separate from the experience of insureds originally issued the policy forms. If the insurer requests a rate increase on the policy form, the rate increase shall be limited to the lesser of:
1. The maximum rate increase determined based on the combined experience; and
 2. The maximum rate increase determined based only on the experience of the insureds originally issued the form, plus 10%.
- K.** If the Director finds that an insurer has exhibited a history or pattern of filing inadequate initial premium rates for long-term care insurance, after considering the total number of policies filed over a period of time and the percentage of policies with inadequate rates, the Director may, in addition to remedies available under subsections (H) through (J), prohibit the insurer from the following:
1. Filing and marketing comparable coverage for a period of up to five years; and
 2. Offering all other similar coverages and limiting marketing of new applications to the products subject to recent premium rate schedule increases.
- L.** Subsections (A) through (K) shall not apply to a policy for which long-term care benefits provided by the policy are incidental, as defined under R20-6-1002(C), if the policy complies with all of the following provisions:
1. The interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;
 2. The portion of the policy that provides insurance benefits other than long-term care coverage meets the applicable nonforfeiture requirements under state law, including A.R.S. §§ 20-1231, 20-1232 and 20-2636;
 3. The policy meets the disclosure requirements of A.R.S. § 20-1691.06;
 4. The portion of the policy that provides insurance benefits other than long-term care coverage meets the disclosure requirements as applicable in the following:
 - a. A.R.S. Title 20, Chapter 6, Article 1.2; and
 - b. A.R.S. Title 20, Chapter 16, Article 2.
 5. At the time of making a filing under A.R.S. § 20-1691.08, the insurer files an actuarial memorandum that includes:
 - a. Description of the bases on which the actuary determined the long-term care rates and the reserves;
 - b. A summary of the type of policy, benefits, renewability provisions, general marketing method, and limits on ages of issuance;
 - c. A description and a table of each actuarial assumption used, with the percent of premium dollars per policy and dollars per unit of benefits, if any, for expenses;
 - d. A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;
 - e. The estimated average annual premium per policy and the average issue age;
 - f. A statement as to whether the insurer performs underwriting at the time of application with an explanation of the following:
 - i. Whether underwriting is used, and if used, a description of the type of underwriting, such as medical underwriting or functional assessment underwriting; and
 - ii. For a group policy, whether the enrollee or any dependent will be underwritten and when underwriting occurs; and
 - g. A description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values, and reserves on the underlying insurance policy, both for active lives and those in long-term care claim status.
- M.** Subsections (F) and (H) through (J) shall not apply to group insurance as defined in A.R.S. § 20-1691(6) where:
1. The policies insure 250 or more persons and the policyholder has 5,000 or more eligible employees of a single employer; or
 2. The policyholder, and not the certificateholder, pays a material portion of the premium, which shall not be less than 20% of the total premium for the group in the calendar year prior to the year a rate increase is filed.

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1015 recodified from R4-14-1015 (Supp. 95-1). Section R20-6-1015 renumbered to R20-6-1022; new Section R20-6-1015 made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Section R20-6-

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1015 renumbered to R20-6-1014; new Section R20-6-1015 made by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1016. Filing Requirements for Group Policies

- A.** Out-of-State Policies. Before an insurer or similar organization may offer group long-term care insurance to a resident of this state under A.R.S. § 20-1691.02(D), the insurer or organization shall file with the Director evidence that a state with statutory or regulatory long-term care insurance requirements substantially similar to those of this state has approved the group policy or certificate for use in that state.
- B.** Associations. For long-term policies marketed or issued to associations, the insurer or organization shall file with the insurance department the policy, certificate, and corresponding outline of coverage.

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1016 recodified from R4-14-1016 (Supp. 95-1). Section R20-6-1016 renumbered to R20-6-1023; new Section R20-6-1016 renumbered from R20-6-1012 and amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4).

R20-6-1017. Standards for Marketing

- A.** Every insurer marketing long-term care insurance coverage in this state, directly or through an insurance producer shall:
1. Establish marketing procedures to assure that any comparison of policies by its insurance producers is fair and accurate, and that excessive insurance is not sold or issued;
 2. Display prominently by type, stamp or other appropriate means, on the first page of the outline of coverage and policy, the following language: "Notice to buyer: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations;"
 3. Provide the applicant with copies of the disclosure forms in Appendices A and B;
 4. Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has health or long-term care insurance and the types and amounts of any such insurance;
 5. Provide an explanation of contingent benefit upon lapse as provided for in R20-6-1019(D)(3);
 6. Provide written notice to an applicant or prospective policyholder or certificateholder advising of this state's senior insurance counseling program (SHIP), and the name, address, and phone number for the SHIP, at the time of solicitation; and
 7. Establish auditable procedures for verifying compliance with this subsection (A).
- B.** In addition to the practices prohibited in A.R.S. § 20-441 et seq., the following acts and practices are prohibited:
1. Twisting. Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any insurance policy or to take out a policy of insurance with another insurer.
 2. High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase

of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

3. Cold lead advertising. Making use directly or indirectly or any method of marketing that fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance producer or insurance company.
 4. Misrepresentation. Misrepresenting a material fact in selling or offering to sell a long-term care insurance policy.
- C.** An insurer shall not market or issue a long-term care policy or certificate to an association unless the insurer files the information required under R20-6-1016(B) and annually certifies that the association has complied with the requirements of this Section.

Historical Note

New Section R20-5-1017 renumbered from R20-6-1013 and amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1018. Suitability

- A.** This Section does not apply to life insurance policies that accelerate benefits for long-term care.
- B.** Every insurer or other person marketing long-term care insurance, including an insurance producer or managing general agent, (the "issuer") shall:
1. Develop and use suitability standards to determine whether the purchase or replacement of long-term care insurance is appropriate for the needs of the applicant,
 2. Train its insurance producers in the use of its suitability standards, and
 3. Maintain a copy of its suitability standards and make them available for inspection upon the Director's request.
- C.** To determine whether an applicant meets an issuer's suitability standards, the insurance producer and issuer shall develop procedures that take the following into consideration:
1. The applicant's ability to pay for the proposed coverage and other pertinent financial information related to the purchase of the coverage;
 2. The applicant's goals or needs with respect to long-term care and the advantages and disadvantages of insurance to meet these goals or needs; and
 3. The values, benefits, and costs of the applicant's existing insurance, if any, when compared to the values, benefits, and costs of the recommended purchase or replacement.
- D.** The issuer shall make reasonable efforts to obtain the information set out in subsection (C), including giving the applicant the "Long-Term Care Insurance Personal Worksheet" prescribed in Appendix A, to complete before or at the time of application. The issuer shall use a personal worksheet that contains, at a minimum, the information contained in Appendix A, in substantially the same text and format, in not less than 12 point type. The issuer may ask the applicant to provide additional information to comply with its suitability standards. An issuer shall file a copy of its personal worksheet with the Director.
- E.** An issuer shall not consider an applicant for coverage until the issuer has received the applicant's completed personal worksheet, except the personal worksheet need not be returned for sales of employer group long-term care insurance to employees and their spouses.

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- F. No one shall sell or disseminate information obtained through the personal worksheet outside the issuer that obtains the worksheet.
- G. The issuer shall use its suitability standards to determine whether issuance of long-term care insurance coverage to a particular applicant is appropriate.
- H. An insurance producer shall use the suitability standards developed by the issuer in marketing long-term care insurance.
- I. When giving an applicant a personal worksheet, the issuer shall also provide the applicant with a disclosure form entitled "Things You Should Know Before You Buy Long-Term Care Insurance." The form shall be in substantially the same format and text contained in Appendix H, in not less than 12 point type.
- J. If the issuer determines that the applicant does not meet its financial suitability standards, or if the applicant has declined to provide the information, the issuer may reject the application. In the alternative, the issuer shall send the applicant a letter that is substantially similar to Appendix I. However, if the applicant has declined to provide financial information, the issuer may use some other method to verify the applicant's intent to purchase the long-term care policy. The issuer shall have either the applicant's returned Appendix I letter or a record of the alternative method of verification as part of the applicant's file.
- K. The issuer shall report annually to the Director the total number of applications received from residents of this state, the number of those who declined to provide information on the personal worksheet, the number of applicants who did not meet the suitability standards, and the number of those who chose to confirm after receiving a suitability letter as prescribed in subsection (J).
2. If a group policyholder elects to make the nonforfeiture benefit an option to a certificateholder, the certificate shall provide either the nonforfeiture benefit or the contingent benefit upon lapse.
3. The contingent benefit on lapse is triggered when:
- An insurer increases the premium rates to a level that results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth in the chart below, based on the insured's issue age; and
 - The policy or certificate lapses within 120 days of the due date of the increased premium.
 - Unless otherwise required, an insurer shall notify policyholders at least 30 days before the due date of the premium reflecting the rate increase.

Triggers for a Substantial Premium Increase

| Issue Age | Percent Increase Over Initial Premium |
|--------------|---------------------------------------|
| 29 and under | 200% |
| 30-34 | 190% |
| 35-39 | 170% |
| 40-44 | 150% |
| 45-49 | 130% |
| 50-54 | 110% |
| 55-59 | 90% |
| 60 | 70% |
| 61 | 66% |
| 62 | 62% |
| 63 | 58% |
| 64 | 54% |
| 65 | 50% |
| 66 | 48% |
| 67 | 46% |
| 68 | 44% |
| 69 | 42% |
| 70 | 40% |
| 71 | 38% |
| 72 | 36% |
| 73 | 34% |
| 74 | 32% |
| 75 | 30% |
| 76 | 28% |
| 77 | 26% |
| 78 | 24% |
| 79 | 22% |
| 80 | 20% |
| 81 | 19% |
| 82 | 18% |
| 83 | 17% |
| 84 | 16% |
| 85 | 15% |
| 86 | 14% |

Historical Note

New Section made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1019. Nonforfeiture Benefit Requirement

- A. This Section does not apply to life insurance policies or riders containing accelerated long-term care benefits.
- B. To comply with the requirement to offer a nonforfeiture benefit pursuant to the provisions of A.R.S. § 20-1691.11, an insurer shall meet the following requirements:
- A policy or certificate offered with nonforfeiture benefits shall have the same coverage elements, eligibility, benefit triggers and benefit length as a policy or certificate issued without nonforfeiture benefits. The nonforfeiture benefit included in the offer shall be the benefit described in subsection (E); and
 - The offer shall be in writing if the nonforfeiture benefit is not otherwise described in the Outline of Coverage or other materials given to the prospective policyholder.
- C. If the offer required to be made under A.R.S. § 20-1691.11 is rejected, the insurer shall provide the contingent benefit upon lapse described in this Section. Even if the non-forfeiture benefit offer is accepted for a policy with a fixed or limited premium paying period, the contingent benefit on lapse in subsection (D)(4) shall still apply.
- D. Contingent Benefit Upon Lapse.
- If a prospective policyholder rejects the offer of a nonforfeiture benefit, the insurer shall provide the contingent benefit upon lapse described in this Section for individual

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| | | |
|-------------|--|-----|
| 87 | | 13% |
| 88 | | 12% |
| 89 | | 11% |
| 90 and over | | 10% |

4. A contingent benefit on lapse is also triggered for policies with a fixed or limited premium paying period when:
- An insurer increases the premium rates to a level that results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth in the chart below, based on the insured's issue age; and
 - The policy or certificate lapses within 120 days of the due date of the increased premium; and
 - The ratio in subsection (D)(6)(b) is 40% or more.
 - Unless otherwise required, an insurer shall notify policyholders at least 30 days before the due date of the premium reflecting the rate increase.

| Triggers for a Substantial Premium Increase on policies with a fixed or limited premium paying period | | |
|-------------------------------------------------------------------------------------------------------|--|---------------------------------------|
| Issue Age | | Percent Increase Over Initial Premium |
| Under 65 | | 50% |
| 65-80 | | 30% |
| Over 80 | | 10% |

- This provision shall be in addition to the contingent benefit provided by subsection (D)(3) and where both are triggered, the benefit provided shall be at the option of the insured.
5. On or before the effective date of a substantial premium increase as defined in subsection (D)(3), an insurer shall:
- Offer the insured the option of reducing policy benefits under the current coverage consistent with the requirements of R20-6-1025 so that required premium payments are not increased;
 - Offer to convert the coverage to a paid-up status with a shortened benefit period according to the terms of subsection (E), which the insured may elect at any time during the 120-day period referenced in subsection (D)(3); and
 - Notify the policyholder or certificateholder that a default or lapse at any time during the 120-day period referenced in subsection (D)(3) is deemed to be the election of the offer to convert under subsection (5)(b) unless the automatic option in subsection (D)(6)(c) applies.
6. On or before the effective date of a substantial premium increase on policies with a fixed or limited premium paying period as defined in subsection (D)(4), an insurer shall:
- Offer the insured the option of reducing policy benefits under the current coverage consistent with the requirements of R20-6-1025 so that required premium payments are not increased;
 - Offer to convert the coverage to paid-up status where the amount payable for each benefit is 90% of the amount payable in effect immediately prior to lapse times the ratio of the number of completed months of paid premiums divided by the number of months in the premium paying period. The insured

may elect this option at any time during the 120-day period referenced in subsection (D)(4); and

- Notify the policyholder or certificateholder that a default or lapse at any time during the 120-day period referenced in subsection (D)(4) is deemed to be the election of the offer to convert under subsection (D)(6)(b) if the ratio is 40% or more.
7. For any long-term care policy issued on or after November 10, 2017, that an insurer issued at least 20 years prior to the effective date of a substantial premium increase, the insurer shall use a rate increase value of 0% in place of all values in the above tables.
- E. Benefits continued as nonforfeiture benefits, including contingent benefits upon lapse in accordance with subsection (D)(3) but not subsection (D)(4), mean any of the following:
- Attained age rating is defined as a schedule of premiums starting from the issue date that increases age at least 1% per year before age 50, and at least 3% per year beyond age 50.
 - For purposes of this subsection, the nonforfeiture benefit shall be of a shortened benefit period providing paid-up long-term care insurance coverage after lapse. The same benefits (amounts and frequency in effect at the time of lapse but not increased thereafter) will be payable for a qualifying claim, but the lifetime maximum dollars or days of benefits shall be determined as specified in subsection (E)(3).
 - The standard nonforfeiture credit equals 100% of the sum of all premiums paid, including the premiums paid before any change in benefits. The insurer may offer additional shortened benefit period options, as long as the benefits for each duration equal or exceed the standard nonforfeiture credit for that duration. The minimum nonforfeiture credit shall not be less than 30 times the daily nursing home benefit at the time of lapse. In either event, the calculation of the nonforfeiture credit is subject to the limitation of subsection (F).
 - When the nonforfeiture benefit begins.
 - The nonforfeiture benefit shall begin not later than the end of the third year following the policy or certificate issue date. The contingent benefit upon lapse shall be effective during the first three years, and thereafter.
 - Notwithstanding subsection (E)(4)(a), for a policy or certificate with attained age rating, the nonforfeiture benefit shall begin on the earlier of:
 - The end of the tenth year following the policy or certificate issue date, or
 - The end of the second year following the date the policy or certificate is no longer subject to attained age rating.
 - Nonforfeiture credits may be used for all care and services qualifying for benefits under the terms of the policy or certificate, up to the limits specified in the policy or certificate.
- F. All benefits paid by the insurer while the policy or certificate is in premium-paying status and in the paid-up status shall not exceed the maximum benefits that would be payable if the policy or certificate had remained in premium-paying status.
- G. There shall be no difference in the minimum nonforfeiture benefits for group and individual policies.
- H. The requirements in this Section are effective on or after November 10, 2005 and shall apply as follows:

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1. Except as provided in subsection (H)(2) and (H)(3), this Section applies to any long-term care policy issued in this state on or after January 10, 2005.
 2. The provisions of this Section do not apply to certificates issued on or after January 10, 2005, under a group long-term care insurance policy as defined in A.R.S. § 20-1691(5)(a), that was in force on January 10, 2005.
 3. The provisions of this Section that apply to fixed or limited premium paying period policies shall only apply to policies issued on or after November 10, 2017.
- I.** Premiums charged for a policy or certificate containing nonforfeiture benefits or a contingent benefit on lapse shall be subject to the loss ratio requirements of R20-6-1013, R20-6-1014 or R20-6-1015, whichever is applicable, treating the policy as a whole.
- J.** To determine whether contingent nonforfeiture upon lapse provisions are triggered under subsection (D)(3) or (D)(4), a replacing insurer that purchased or otherwise assumed a block or blocks of long-term care insurance policies from another insurer shall calculate the percentage increase based on the initial annual premium the insured paid when first buying the policy from the original insurer.
- K.** An insurer shall offer a nonforfeiture benefit for a qualified long-term care insurance contract that is a level premium contract and the benefit shall meet the following requirements:
1. The nonforfeiture provision shall be separately captioned using the term "nonforfeiture benefit" or a substantially similar caption;
 2. The nonforfeiture provision shall provide a benefit available in the event of a default in the payment of any premiums and shall state that the insurer may adjust the amount of the benefit initially granted only as needed to reflect changes in claims, persistency, and interest as reflected in changes in rates for premium paying contracts approved by the Director under to A.R.S. § 20-1691.08 for the same contract form; and
 3. The nonforfeiture provision shall provide at least one of the following:
 - a. Reduced paid-up premiums,
 - b. Extended term insurance,
 - c. Shortened benefit period, or
 - d. Other similar offerings that the Director has approved.
- Historical Note**
- New Section made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).
- R20-6-1020. Standards for Benefit Triggers**
- A.** A long-term care insurance policy shall condition the payment of benefits on a determination of the insured's ability to perform activities of daily living and on cognitive impairment. Except as otherwise provided in R20-6-1021, eligibility for the payment of benefits shall not be more restrictive than requiring either a deficiency in the ability to perform not more than three of the activities of daily living or the presence of cognitive impairment.
- B.** Activities of daily living shall include at least the following as defined in R20-6-1003(A)(1) and in the policy:
1. Bathing,
 2. Continence,
 3. Dressing,
 4. Eating,
 5. Toileting, and
 6. Transferring.
- C.** An insurer may use additional activities of daily living to trigger covered benefits if the activities are defined in the policy.
- D.** An insurer may use additional provisions to determine when benefits are payable under a policy or certificate; however the provisions shall not restrict, and are not in lieu of, the requirements in subsections (A), (B) and (C).
- E.** For purposes of this Section the determination of a deficiency shall not be more restrictive than:
1. Requiring the hands-on assistance of another person to perform the prescribed activities of daily living; or
 2. If the deficiency is due to the presence of a cognitive impairment, requiring supervision or verbal cueing by another person to protect the insured or others.
- F.** Licensed or certified professionals, such as physicians, nurses or social workers, shall perform assessments of activities of daily living and cognitive impairment.
- G.** The requirements in this Section are effective on and after November 10, 2005 and shall apply as follows:
1. Except as provided in subsection (G)(2), the provisions of this Section apply to a long-term care policy issued in this state on or after January 10, 2005.
 2. The provisions of this Section do not apply to certificates issued on or after January 10, 2005, under a long-term care insurance policy issued to a group as defined in A.R.S. § 20-1691(5)(a), which policy was in force on January 10, 2005.
- Historical Note**
- New Section made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).
- R20-6-1021. Additional Standards for Benefit Triggers for Qualified Long-term Care Insurance Contracts**
- A.** A qualified long-term care insurance contract shall pay only for qualified long-term care services received by a chronically ill individual provided under a plan of care prescribed by a licensed health care practitioner, which is not subject to approval or modification by the insurer.
- B.** A qualified long-term care insurance contract shall condition the payment of benefits on a certified determination of the insured's inability to perform activities of daily living for an expected period of at least 90 days due to a loss of functional capacity or to severe cognitive impairment.
- C.** Licensed health care practitioners shall perform the certified determinations regarding activities of daily living and cognitive impairment required under subsection (B).
- D.** Certified determinations required under subsection (B) may be performed at the direction of the carrier as is reasonably necessary with respect to a specific claim, except that when a licensed health care practitioner has certified that an insured is unable to perform activities of daily living for an expected period of at least 90 days due to a loss of functional capacity and the insured is in claim status, the certified determination may not be rescinded and additional certified determinations may not be performed until after the expiration of the 90-day period.
- Historical Note**
- New Section made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended

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by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1022. Standard Format Outline of Coverage

- A. The outline of coverage prescribed in A.R.S. § 20-1691.06 shall be a free-standing document, using no smaller than 10 point type, and shall contain no advertising or promotional material.
- B. Text that is capitalized or underscored in the standard format outline of coverage may be emphasized by other means that give prominence equivalent to capitalization or underscoring.
- C. An insurer shall use the text and sequence of text in the standard format outline of coverage prescribed in Appendix J, unless otherwise specifically indicated.

Historical Note

New Section R20-6-1022 renumbered from R20-6-1015 and amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4).

R20-6-1023. Requirement to Deliver Shopper's Guide

- A. All prospective applicants of a long-term care insurance policy or certificate shall receive a long-term care insurance shopper's guide approved by the Director. This requirement may be satisfied by delivery of the current edition of the long-term care insurance shopper's guide in the format developed by the National Association of Insurance Commissioners.
 - 1. In the case of insurance producer solicitation, an insurance producer shall deliver the shopper's guide before presenting an application or enrollment form.
 - 2. In the case of direct response solicitations, the insurer shall provide the shopper's guide with any application or enrollment form.
- B. A prospective applicant for a life insurance policy or rider containing accelerated long-term care benefits is not required to receive the guide described in subsection (A), but shall receive the policy summary required under A.R.S. § 20-1691.06.

Historical Note

New Section R20-6-1023 renumbered from R20-6-1016 and amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1024. Availability of New Health Care Services or Providers

- A. An insurer shall notify policyholders of the availability of a new long-term policy series that provides coverage for new long-term care services or health care providers material in nature and not previously available through the insurer to the general public. The notice shall be provided within 12 months of the date the new policy series is made available for sale in this state.
- B. Notwithstanding subsection (A), notification is not required for any policy issued prior to the effective date of this Section or to any policyholder or certificateholder who is currently eligible for benefits, within an elimination period or on a claim, or who previously had been in claim status, or who would not be eligible to apply for coverage due to issue age limitations under the new policy. The insurer may require that policyholders meet all eligibility requirements, including underwriting and payment of the required premium to add such new services or providers.
- C. The insurer shall make the new coverage available in one of the following ways:
 1. By adding a rider to the existing policy and charging a separate premium for the new rider based on the insured's attained age;
 2. By exchanging the existing policy or certificate for one with an issue age based on the present age of the insured and recognizing past insured status by granting premium credits toward the premiums for the new policy or certificate. The premium credits shall be based on premiums paid or reserves held for the prior policy or certificate;
 3. By exchanging the existing policy or certificate for a new policy or certificate in which consideration for past insured status shall be recognized by setting the premium for the new policy or certificate at the issue age of the policy or certificate being exchanged. The cost for the new policy or certificate may recognize the difference in reserves between the new policy or certificate and the original policy or certificate; or
 4. By an alternative program developed by the insurer that meets the intent of this Section if the program is filed with and approved by the Director.

- D. An insurer is not required to notify policyholders of a new proprietary policy series created and filed for use in a limited distribution channel. For purposes of this subsection, "limited distribution channel" means through a discrete entity, such as a financial institution or brokerage, for which specialized products are available that are not available for sale to the general public. Policyholders who purchased such a new proprietary policy shall be notified when a new long-term care policy series that provides coverage for new long-term care services or providers material in nature is made available to that limited distribution channel.
- E. Policies issued pursuant to this Section shall be considered exchanges and not replacements. These exchanges shall not be subject to R20-6-1010(A), (C) through (G) and R20-6-1018 and are not subject to the reporting requirements of R20-6-1010(I)(1), (I)(2)(a) through (I)(2)(c).
- F. Where an employer, labor organization, professional, trade or occupational association offers the policy, the required notification in subsection (A) shall be made to the offering entity. However, if the policy is issued to a group defined in A.R.S. § 20-1691(5), the notification shall be to each certificateholder.
- G. Nothing in this Section shall prohibit an insurer from offering any policy, rider, certificate or coverage change to any policyholder or certificateholder. However, upon request, any policyholder may apply for currently available coverage that includes the new services or providers. The insurer may require that policyholders meet all eligibility requirements, including underwriting and payment of the required premium, to add such new services or providers.
- H. This Section does not apply to life insurance policies or riders containing accelerated long-term care benefits.
- I. This Section shall become effective on or after November 10, 2017.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Section R20-6-1024 renumbered to R20-6-1026; new Section R20-6-1024 made by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1025. Right to Reduce Coverage and Lower Premiums

- A. Every long-term care insurance policy and certificate shall include a provision that allows the policyholder or certificate-

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holder to reduce coverage and lower the policy or certificate premium in at least one of the following ways:

1. Reducing the maximum benefit; or
 2. Reducing the daily, weekly or monthly benefit amount.
- B.** The insurer may also offer other reduction options that are consistent with the policy or certificate design or the carrier's administrative processes.
- C.** In the event the reduction in coverage involves the reduction or elimination of the inflation protection provision, the insurer shall allow the policyholder to continue the benefit amount in effect at the time of the reduction.
- D.** The provision in subsection (A) shall include a description of the process for requesting and implementing a reduction in coverage.
- E.** The premium for the reduced coverage shall:
1. Be based on the same age and underwriting class used to determine the premium for the coverage currently in force, and
 2. Be consistent with the approved rate table.
- F.** The issuer may limit any reduction in coverage to plans or options available for that policy form and to those for which benefits will be available after consideration of claims paid or payable.
- G.** If a policy or certificate is about to lapse, the insurer shall provide a written reminder to the policyholder or certificateholder of his or her right to reduce coverage and premiums in the notice required by R20-6-1005(F).
- H.** This Section does not apply to life insurance policies or riders containing accelerated long-term benefits.

I. The requirements of subsections (A) through (H) shall apply to any long-term care policy issued in this state on or after November 10, 2017.

J. A premium increase notice required by R20-6-1008(G) shall include:

1. An offer to reduce policy benefits provided by the current coverage consistent with the requirements of this Section;
2. A disclosure stating that all options available to the policyholder may not be of equal value; and
3. In the case of a partnership policy, a disclosure that some benefit reduction options may result in a loss in partnership status that may reduce policyholder protections.

K. The requirements of subsection (J) shall apply to any rate increase implemented in this state on or after November 10, 2017.

Historical Note

New Section R20-6-1025 made by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1026. Instructions for Appendices

Information that is designated as a "Drafting Instruction" in a form appended to this Article is not required to be included as part of the form. Any person using the form shall abide by the instructions when drafting, preparing, or completing the form.

Historical Note

New Section R20-6-1026 renumbered from R20-6-1024 by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

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Appendix A. Long-term Care Insurance Personal Worksheet

Long-term Care Insurance
Personal Worksheet

People buy long-term care insurance for many reasons. Some don't want to use their own assets to pay for long-term care. Some buy insurance to make sure they can choose the type of care they get. Others don't want their family to have to pay for care or don't want to go on Medicaid. But long-term care insurance may be expensive, and may not be right for everyone.

By state law, the insurance company must fill out part of the information on this worksheet and ask you to fill out the rest to help you and the company decide if you should buy this policy.

Premium Information

Policy Form Numbers _____

The premium for the coverage you are considering will be [\$_____ per month, or \$_____ per year,] [a one-time single premium of \$_____].

Type of Policy (noncancellable/guaranteed renewable): _____

The Company's Right to Increase Premiums:

[The company cannot raise your rates on this policy.] [The company has a right to increase premiums on this policy form in the future, provided it raises rates for all policies in the same class in this state.] [Insurers shall use appropriate bracketed statement. Rate guarantees shall not be shown on this form.]

Rate Increase History

The company has sold long-term care insurance since [year] and has sold this policy since [year]. [The company has never raised its rates for any long-term care policy it has sold in this state or any other state.] [The company has not raised its rates for this policy form or similar policy forms in this state or any other state in the last 10 years.] [The company has raised its premium rates on this policy form or similar policy forms in the last 10 years. Following is a summary of the rate increases.]

(Drafting Instruction: A company may use the first bracketed sentence above only if it has never increased rates under any prior policy forms in this state or any other state. The issuer shall list each premium increase it has instituted on this or similar policy forms in this state or any other state during the last 10 years. The list shall provide the policy form, the calendar years the form was available for sale, and the calendar year and the amount (percentage) of each increase. The insurer shall provide minimum and maximum percentages if the rate increase is variable by rating characteristics. The insurer may provide, in a fair manner, additional explanatory information as appropriate.)

Questions Related to Your Income

How will you pay each year's premium?

☐ From my Income ☐ From my Savings/Investments ☐ My Family will Pay

[☐ Have you considered whether you could afford to keep this policy if the premiums went up, for example, by 50%?]

(Drafting Instruction: The issuer is not required to use the bracketed sentence if the policy is fully paid up or is a noncancellable policy.)

What is your annual income? (check one) ☐ Under \$10,000 ☐ \$[10-20,000] ☐ \$[20-30,000] ☐ \$[30-50,000] ☐ Over \$50,000

(Drafting Instruction: The issuer may choose the numbers to put in the brackets to fit its suitability standards.)

How do you expect your income to change over the next 10 years? (check one)

☐ No change ☐ Increase ☐ Decrease

If you will be paying premiums with money received only from your own income, a rule of thumb is that you may not be able to afford this policy if the premiums will be more than 7% of your income.

Will you buy inflation protection? (check one) ☐ Yes ☐ No

If not, have you considered how you will pay for the difference between future costs and your daily benefit amount?

☐ From my Income ☐ From my Savings/Investments ☐ My Family will Pay

The national average annual cost of care in [insert year] was [insert \$ amount], but this figure varies across the country. In ten years the national average annual cost would be about [insert \$ amount] if costs increase 5% annually.

(Drafting Instruction: The projected cost can be based on federal estimates in a current year. In the above statement, the second figure equals 163% of the first figure.)

What elimination period are you considering? Number of days _____ Approximate cost \$ _____ for that period of care.

How are you planning to pay for your care during the elimination period? (check one)

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☐ From my Income ☐ From my Savings/Investments ☐ My Family will Pay

Questions Related to Your Savings and Investments

Not counting your home, about how much are all of your assets (your savings and investments) worth? (check one)

☐ Under \$20,000 ☐ \$20,000-\$30,000 ☐ \$30,000-\$50,000 ☐ Over \$50,000

How do you expect your assets to change over the next ten years? (check one)

☐ Stay about the same ☐ Increase ☐ Decrease

If you are buying this policy to protect your assets and your assets are less than \$30,000, you may wish to consider other options for financing your long-term care.

Disclosure Statement

☐ The answers to the questions above describe my financial situation.

or

☐ I choose not to complete this information.

(Check one.)

☐ I acknowledge that the carrier and/or its insurance provider (below) has reviewed this form with me including the premium, premium rate increase history and potential for premium increases in the future. [For direct mail situations, use the following: I acknowledge that I have reviewed this form including the premium, premium rate increase history and potential for premium increases in the future.] **I understand the above disclosures. I understand that the rates for this policy may increase in the future.** (This box must be checked).

Signed: _____

(Applicant)

(Date)

☐ I explained to the applicant the importance of completing this information.

Signed: _____

(Insurance Producer)

(Date)

Insurance Producer's Printed Name: _____]

[In order for us to process your application, please return this signed statement to [name of company], along with your application.]

[My insurance provider has advised me that this policy does not seem to be suitable for me. However, I still want the company to consider my application.]

Signed: _____

(Applicant)

(Date)

(Drafting Instruction: Choose the appropriate sentences depending on whether this is a direct mail or insurance producer sale.)

The company may contact you to verify your answers.

(Drafting Instruction: When the Long-term Care Insurance Personal Worksheet is furnished to employees and their spouses under employer group policies, the text from the heading "Disclosure Statement" to the end of the document may be removed.)

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). Former Appendix A renumbered to Appendix C; new Appendix A made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

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Appendix B. Long-term Care Insurance Potential Rate Increase Disclosure Form**Instructions:**

This form provides information to the applicant regarding premium rate schedules, rate schedule adjustments, potential rate revisions, and policyholder options in the event of a rate increase.

Insurers shall provide all of the following information to the applicant:

**Long-term Care Insurance
Potential Rate Increase Disclosure Form**

1. **[Premium Rate] [Premium Rate Schedules]:** [Premium rate] [Premium rate schedules] that [is][are] applicable to you and that will be in effect until a request is made and [approved] for an increase [is][are] [on the application][(\$_____)]
2. **The [premium] [premium rate schedule] for this policy [will be shown on the schedule page of] [will be attached to] your policy.**
3. **Rate Schedule Adjustments:**
The company will provide a description of when premium rate or rate schedule adjustments will be effective (e.g., next anniversary date, next billing date, etc.) (fill in the blank): _____.
4. **Potential Rate Revisions:**
This policy is Guaranteed Renewable. This means that the rates for this product may be increased in the future. Your rates can NOT be increased due to your increasing age or declining health, but your rates may go up based on the experience of all policyholders with a policy similar to yours.

If you receive a premium rate or premium rate schedule increase in the future, you will be notified of the new premium amount and you will be able to exercise at least one of the following options:

- ☐ Pay the increased premium and continue your policy in force as is.
- ☐ Reduce your policy benefits to a level such that your premiums will not increase. (Subject to state law minimum standards.)
- ☐ Exercise your nonforfeiture option if purchased. (This option is available for purchase for an additional premium.)
- ☐ Exercise your contingent nonforfeiture rights.* (This option may be available if you do not purchase a separate nonforfeiture option.)

***Contingent Nonforfeiture**

If the premium rate for your policy goes up in the future and you didn't buy a nonforfeiture option, you may be eligible for contingent nonforfeiture. Here's how to tell if you are eligible:

You will keep some long-term care insurance coverage, if:

- Your premium after the increase exceeds your original premium by the percentage shown (or more) in the following table; and
- You lapse (not pay more premiums) within 120 days of the increase.

The amount of coverage (i.e., new lifetime maximum benefit amount) you will keep will equal the total amount of premiums you have paid since your policy was first issued. If you have already received benefits under the policy, so that the remaining maximum benefit amount is less than the total amount of premiums you've paid, the amount of coverage will be that remaining amount.

Except for this reduced lifetime maximum benefit amount, all other policy benefits will remain at the levels attained at the time of the lapse and will not increase thereafter.

Should you choose this Contingent Nonforfeiture option, your policy, with this reduced maximum benefit amount, will be considered "paid-up" with no further premiums due.

Example:

- You bought the policy at age 65 and paid the \$1,000 annual premium for 10 years, so you have paid a total of \$10,000 in premium.
- In the eleventh year, you receive a rate increase of 50%, or \$500 for a new annual premium of \$1,500, and you decide to lapse the policy (not pay any more premiums).
- Your "paid-up" policy benefits are \$10,000 (provided you have at least \$10,000 of benefits remaining under your policy.)

| Contingent Nonforfeiture Cumulative Premium Increase over Initial Premium That qualifies for Contingent Nonforfeiture | |
|--------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|
| (Percentage increase is cumulative from date of original issue. It does NOT represent a one-time increase.) | |
| Issue Age | Percent Increase Over Initial Premium |
| 29 and under | 200% |
| 30-34 | 190% |
| 35-39 | 170% |
| 40-44 | 150% |
| 45-49 | 130% |
| 50-54 | 110% |
| 55-59 | 90% |
| 60 | 70% |

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| | |
|-------------|-----|
| 61 | 66% |
| 62 | 62% |
| 63 | 58% |
| 64 | 54% |
| 65 | 50% |
| 66 | 48% |
| 67 | 46% |
| 68 | 44% |
| 69 | 42% |
| 70 | 40% |
| 71 | 38% |
| 72 | 36% |
| 73 | 34% |
| 74 | 32% |
| 75 | 30% |
| 76 | 28% |
| 77 | 26% |
| 78 | 24% |
| 79 | 22% |
| 80 | 20% |
| 81 | 19% |
| 82 | 18% |
| 83 | 17% |
| 84 | 16% |
| 85 | 15% |
| 86 | 14% |
| 87 | 13% |
| 88 | 12% |
| 89 | 11% |
| 90 and over | 10% |

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). Former Appendix B renumbered to Appendix D; new Appendix B made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2). Amended by final rulemaking at 29 A.A.R. 3621 (November 24, 2023), effective January 7, 2024 (Supp. 23-4). Effective date corrected (Supp. 23-4, Ver. 2).

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Appendix C. Notice to Applicant Regarding Replacement of Individual Health or Long-term Care Insurance**NOTICE TO APPLICANT REGARDING REPLACEMENT OF INDIVIDUAL HEALTH OR LONG-TERM CARE INSURANCE**

[Insurance company's name and address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing health or long-term care insurance and replace it with an individual long-term care insurance policy to be issued by [company name] Insurance Company. Your new policy provides thirty (30) days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all health or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

STATEMENT TO APPLICANT BY [INSURANCE PRODUCER OR OTHER REPRESENTATIVE]:
(Use additional sheets, as necessary.)

I have reviewed your current medical or health insurance coverage. I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following considerations which I call to your attention:

1. Health conditions that you may presently have (preexisting conditions), may not be immediately or fully covered under your new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.
2. State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. The insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.
3. If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all of the relevant factors involved in replacing your present coverage.
4. If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

(Signature of Insurance Producer or Other Representative)

(Typed Name and Address of Insurance Producer)

The above "Notice to Applicant" was delivered to me on:

(Date)

(Applicant's Signature)

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). New Appendix C renumbered from Appendix A and amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

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Appendix D. Notice to Applicant Regarding Replacement of Health or Long-term Care Insurance

NOTICE TO APPLICANT REGARDING REPLACEMENT OF HEALTH OR LONG-TERM CARE INSURANCE

[Insurance company's name and address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing health or long-term care insurance and replace it with the long-term care insurance policy being delivered and issued by [company name] Insurance Company. Your new policy gives you thirty (30) days to decide, without cost, whether you want to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all health or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

1. Health conditions which you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, even though a similar claim might have been payable under your present policy.
2. State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. The insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.
3. If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its insurance producer regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.
4. [To be included only if the application is attached to the policy.] If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to [company name and address] within thirty (30) days if any information is not correct and complete, or if any past medical history has been left out of the application.

Historical Note

New Appendix D renumbered from Appendix B and amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

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Appendix E. Long-Term Care Insurance Replacement and Lapse Reporting Form

Long-term Care Insurance
Replacement and Lapse Reporting Form

For the State of _____
For the Reporting Year of _____

Company Name: _____ Due: June 30 annually
Company Address: _____ Company NAIC Number: _____
Contact Person: _____ Phone Number: (____) _____

Instructions

The purpose of this form is to report on a statewide basis information regarding long-term care insurance policy replacements and lapses. Every insurer shall maintain the following records for each insurance producer: (1) the amount of long-term care insurance replacement sales as a percent of the insurance producer's total annual sales and (2) the amount of lapses of long-term care insurance policies sold by the insurance producer as a percent of the insurance producer's total annual sales. The tables below should be used to report the 10% of the insurer's insurance producers with the greatest percentages of replacements and lapses.

Listing of the 10% of Insurance Producers with the Greatest Percentage of Replacements

| Insurance Producer's Name | Number of Policies Sold By This Insurance Producer | Number of Policies Replaced By This Insurance Producer | Number of Replacements as % of Number of Policies Sold By This Insurance Producer |
|---------------------------|----------------------------------------------------|--------------------------------------------------------|-----------------------------------------------------------------------------------|
| | | | |

Listing of the 10% of Insurance Producers with the Greatest Percentage of Lapses

| Insurance Producer's Name | Number of Policies Sold By This Insurance Producer | Number of Policies Lapsed By This Insurance Producer | Number of Lapses As % of Number Sold By This Insurance Producer |
|---------------------------|----------------------------------------------------|------------------------------------------------------|-----------------------------------------------------------------|
| | | | |

Company Totals

Percentage of Replacement Policies Sold to Total Annual Sales _____ %
Percentage of Replacement Policies Sold to Policies In Force (as of the end of the preceding calendar year) _____ %
Percentage of Lapsed Policies to Total Annual Sales _____ %
Percentage of Lapsed Policies to Policies In Force (as of the end of the preceding calendar year) _____ %

Historical Note

New Appendix E made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

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Appendix F. Long-term Care Insurance Claims Denial Reporting Form

Long-term Care Insurance
Claims Denial Reporting FormFor the State of _____
For the Reporting Year of _____Company Name: _____ Due: June 30 annually
Company Address: _____Company NAIC Number: _____
Contact Person: _____ Phone Number: _____
Line of Business: Individual Group**Instructions**

The purpose of this form is to report all long-term care claim denials under in-force long-term care insurance policies. Indicate the manner of reporting by checking one of the boxes below:

- ☐ Per Claimant - counts each individual who makes one or a series of claim requests
☐ Per Transaction - counts each claim payment request

“Denied” means a claim that is not paid for any reason other than for claims not paid for failure to meet the waiting period or because of an applicable preexisting condition. It does not include a request for payment that is in excess of the applicable contractual limits.

Inforce Data

| | State Data | Nationwide Data ¹ |
|---------------------------------------------------------------------|------------|------------------------------|
| Total Number of Inforce Policies [Certificates] as of December 31st | | |

Claims & Denial Data

| | State Data | Nationwide Data ¹ |
|--------------------------------------------------------------------------------------------------------|------------|------------------------------|
| 1 Total Number of Long-Term Care Claims Reported | | |
| 2 Total Number of Long-Term Care Claims Denied/Not Paid | | |
| 3 Number of Claims Not Paid due to Preexisting Condition Exclusion | | |
| 4 Number of Claims Not Paid due to Waiting (Elimination) Period Not Met | | |
| 5 Net Number of Long-Term Care Claims Denied for Reporting Purposes (Line 2 Minus Line 3 Minus Line 4) | | |
| 6 Percentage of Long-Term Care Claims Denied of Those Reported (Line 5 Divided By Line 1) | | |
| 7 Number of Long-Term Care Claim Denied due to: | | |
| 8 • Long-Term Care Services Not Covered under the Policy ² | | |
| 9 • Provider/Facility Not Qualified under the Policy ³ | | |
| 10 • Benefit Eligibility Criteria Not Met ⁴ | | |
| 11 • Other | | |

- The nationwide data may be viewed as a more representative and credible indicator where the data for claims reported and denied for your state are small in number.
- Example—home health care claim filed under a nursing home only policy.
- Example—a facility that does not meet the minimum level of care requirements or the licensing requirements as outlined in the policy.
- Examples—a benefit trigger not met, certification by a licensed health care practitioner not provided, no plan of care.

Historical Note

New Appendix F made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

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Appendix G. Rescission Reporting Form for Long-term Policies

RESCISSION REPORTING FORM FOR
LONG-TERM CARE POLICIES

FOR THE STATE OF _____
FOR THE REPORTING YEAR _____

Company Name _____

Address: _____

Phone Number: _____

Due: March 1 annually

Instructions:

The purpose of this form is to report all rescissions of long-term care insurance policies or certificates. Those rescissions voluntarily effectuated by an insured are not required to be included in this report. Please furnish one form per rescission.

| Policy Form # | Policy and Certificate # | Name of Insured | Date of Policy Issuance | Date/s Claim/s Submitted | Date of Rescission |
|---------------|--------------------------|-----------------|-------------------------|--------------------------|--------------------|
| | | | | | |

Detailed reason for rescission:

Signature _____

Name and Title (please type) _____

Date _____

Historical Note

New Appendix G made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4).

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Appendix H. Things You Should Know Before You Buy Long-term Care Insurance

Things You Should Know Before You Buy
Long-term Care InsuranceLong-Term
Care
Insurance

- A long-term care insurance policy may pay most of the costs for your care in a nursing home. Many policies also pay for care at home or other community settings. Since policies can vary in coverage, you should read this policy and make sure you understand what it covers before you buy it.
- **[WARNING! You should *not* buy this insurance policy unless you can afford to pay the premiums every year. You are making a multi-year financial commitment.]** [Remember that the company can increase premiums in the future.]

(Drafting Instruction: For single premium policies, delete this bullet; for noncancellable policies, delete the second sentence only.)

Medicare
Medicaid

- The personal worksheet includes questions designed to help you and the company determine whether this policy is suitable for your needs.
- Medicare does **not** pay for most long-term care.
- Medicaid will generally pay for long-term care if you have very little income and few assets. You probably should not buy this policy if you are now eligible for Medicaid.
- Many people become eligible for Medicaid after they have used up their own financial resources by paying for long-term care services.
- When Medicaid pays your spouse's nursing home bills, you are allowed to keep your house and furniture, a living allowance, and some of your joint assets.
- Your choice of long-term care services may be limited if you are receiving Medicaid. To learn more about Medicaid, contact your local or state Medicaid agency.

Shopper's
Guide

- Make sure the insurance company or agent gives you a copy of a book called the National Association of Insurance Commissioners' "Shopper's Guide to Long-Term Care Insurance." Read it carefully. If you have decided to apply for long-term care insurance, you have the right to return the policy within 30 days and get back any premium you have paid if you are dissatisfied for any reason or choose not to purchase the policy.

Counseling

- Free counseling and additional information about long-term care insurance are available through your state's insurance counseling program. Contact your state insurance department or department on aging for more information about the senior health insurance counseling program in your state.

Facilities

- Some long-term care insurance contracts provide for benefit payments in certain facilities only if they are licensed or certified, such as in assisted living centers. However, not all states regulate these facilities in the same way. Also, many people move into a different state from where they purchased their long-term care insurance policy. Read the policy carefully to determine what types of facilities qualify for benefit payments, and to determine that payment for a covered service will be made if you move to a state that has a different licensing scheme for facilities than the one in which you purchased the policy.

Historical Note

New Appendix H made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

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Appendix I. Long-term Care Insurance Suitability Letter**Long-term Care Insurance Suitability Letter**

Dear [Applicant]:

Your recent application for long-term care insurance included a “personal worksheet,” which asked questions about your finances and your reasons for buying long-term care insurance. For your protection, state law requires us to consider this information when we review your application, to avoid selling a policy to those who may not need coverage.

[Your answers indicate that long-term care insurance may not meet your financial needs. We suggest that you review the information provided along with your application, including the booklet “Shopper’s Guide to Long-Term Care Insurance” and the page titled “Things You Should Know Before Buying Long-Term Care Insurance.” Your state insurance department also has information about long-term care insurance and may be able to refer you to a counselor free of charge who can help you decide whether to buy this policy.]

[You chose not to provide any financial information for us to review.]

(Drafting Instruction: Choose the paragraph that applies.)

We have suspended our final review of your application. If, after careful consideration, you still believe this policy is what you want, check the appropriate box below and return this letter to us within the next 60 days. We will then continue reviewing your application and issue a policy if you meet our medical standards.

If we do not hear from you within the next 60 days, we will close your file and not issue you a policy. You should understand that you will not have any coverage until we hear back from you, approve your application and issue you a policy.

Please check one box and return in the enclosed envelope.

- ☐ **Yes**, [although my worksheet indicates that long-term care insurance may not be a suitable purchase,] I wish to purchase this coverage. Please resume review of my application.

Drafting Instruction: Delete the phrase in brackets if the applicant did not answer the questions about income.

- ☐ **No**. I have decided not to buy a policy at this time.

APPLICANT’S SIGNATURE

DATE

Please return to [issuer] at [address] by [date].

Historical Note

New Appendix I made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

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Appendix J. Long-term Care Insurance Outline of Coverage

[COMPANY NAME]
 [ADDRESS - CITY & STATE]
 [TELEPHONE NUMBER]
 LONG-TERM CARE INSURANCE

OUTLINE OF COVERAGE
 [Policy Number or Group Master Policy and Certificate Number]

[Except for policies or certificates which are guaranteed issue, the following caution statement, or language substantially similar, shall appear as follows in the outline of coverage.]

Caution: The issuance of this long-term care insurance [policy] [certificate] is based upon your responses to the questions on your application. A copy of your [application] [enrollment form] [is enclosed] [was retained by you when you applied]. If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: [insert address]

1. This policy is [an individual policy of insurance] [a group policy] which was issued in the [indicate jurisdiction in which group policy was issued].
2. PURPOSE OF OUTLINE OF COVERAGE. This outline of coverage provides a very brief description of the important features of the policy. You should compare this outline of coverage to outlines of coverage for other policies available to you. This is not an insurance contract, but only a summary of coverage. Only the individual or group policy contains governing contractual provisions. This means that the policy or group policy sets forth in detail the rights and obligations of both you and the insurance company. Therefore, if you purchase this coverage, or any other coverage, it is important that you READ YOUR POLICY (OR CERTIFICATE) CAREFULLY!
3. FEDERAL TAX CONSEQUENCES
 This [POLICY] [CERTIFICATE] is intended to be a federally tax-qualified long-term care insurance contract under Section 7702(B)(b) of the Internal Revenue Code of 1986, as amended.

OR

Federal Tax Implications of this [POLICY] [CERTIFICATE]. This [POLICY] [CERTIFICATE] is not intended to be a federally tax-qualified long-term care insurance contract under Section 7702(B)(b) of the Internal Revenue Code of 1986, as amended. Benefits received under the [POLICY] [CERTIFICATE] may be taxable as income.

4. TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE CONTINUED IN FORCE OR DISCONTINUED
 - (a) [For long-term care health insurance policies or certificates describe one of the following permissible policy renewability provisions:
 - (1) Policies and certificates that are guaranteed renewable shall contain the following statement:] RENEWABILITY: THIS POLICY [CERTIFICATE] IS GUARANTEED RENEWABLE. This means you have the right, subject to the terms of your policy, [certificate] to continue this policy as long as you pay your premiums on time. [Company Name] cannot change any of the terms of your policy on its own, except that, in the future, IT MAY INCREASE THE PREMIUM YOU PAY.
 - (2) [Policies and certificates that are noncancellable shall contain the following statement:] RENEWABILITY: THIS POLICY [CERTIFICATE] IS NONCANCELLABLE. This means that you have the right, subject to the terms of your policy, to continue this policy as long as you pay your premiums on time. [Company Name] cannot change any of the terms of your policy on its own and cannot change the premium you currently pay. However, if your policy contains an inflation protection feature where you choose to increase your benefits, [Company Name] may increase your premium at that time for those additional benefits.
 - (b) [For group coverage, specifically describe continuation/conversion provisions applicable to the certificate and group policy;]
 - (c) [Describe waiver of premium provisions or state that there are not such provisions;]
5. TERMS UNDER WHICH THE COMPANY MAY CHANGE PREMIUMS.
 [In bold type larger than the maximum type required to be used for the other provisions of the outline of coverage, state whether or not the company has a right to change the premium, and if a right exists, describe clearly and concisely each circumstance under which the premium may change.]
6. TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE RETURNED AND PREMIUM REFUNDED.
 - (a) [Provide a brief description of the right to return - "free look" provision of the policy.]
 - (b) [Include a statement that the policy either does or does not contain provisions providing for a refund or partial refund of premium upon the death of an insured or surrender of the policy or certificate. If the policy contains such provisions, include a description of them.]
7. THIS IS NOT MEDICARE SUPPLEMENT COVERAGE. If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide available from the insurance company.
 - (a) [For insurance producers] Neither [insert company name] nor its [agents or insurance producers] represent Medicare, the federal government or any state government.
 - (b) [For direct response] [insert company name] is not representing Medicare, the federal government or any state government.
8. LONG-TERM CARE COVERAGE. Policies of this category are designed to provide coverage for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute-care unit of a hospital, such as in a nursing home, in the community or in the home.
 This policy provides coverage in the form of a fixed dollar indemnity benefit for covered long-term care expenses, subject to policy [limitations] [waiting periods] and [coinsurance] requirements. [Modify this paragraph if the policy is not an indemnity policy.]
9. BENEFITS PROVIDED BY THIS POLICY.
 - (a) [Covered services, related deductible(s), waiting periods, elimination periods and benefit maximums.]
 - (b) [Institutional benefits, by skill level.]

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(c) [Non-institutional benefits, by skill level.]

(d) Eligibility for Payment of Benefits

[Activities of daily living and cognitive impairment shall be used to measure an insured's need for long-term care and shall be defined and described as part of the outline of coverage.]

[Any additional benefit triggers shall be explained in this Section. If these triggers differ for different benefits, explanation of the triggers shall accompany each benefit description. If an attending physician or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too must be specified.]

10. LIMITATIONS AND EXCLUSIONS.

[Describe:

(a) Preexisting conditions;

(b) Non-eligible facilities and providers;

(c) Non-eligible levels of care (e.g., unlicensed providers, care or treatment provided by a family member, etc.);

(d) Exclusions and exceptions;

(e) Limitations.]

[This Section shall provide a brief specific description of any policy provisions which limit, exclude, restrict, reduce, delay, or in any other manner operate to qualify payment of the benefits described in paragraph 6 above.]

THIS POLICY MAY NOT COVER ALL THE EXPENSES ASSOCIATED WITH YOUR LONG-TERM CARE NEEDS.

11. RELATIONSHIP OF COST OF CARE AND BENEFITS. Because the costs of long-term care services will likely increase over time, you should consider whether and how the benefits of this plan may be adjusted. [As applicable, indicate the following:

(a) That the benefit level will not increase over time;

(b) Any automatic benefit adjustment provisions;

(c) Whether the insured will be guaranteed the option to buy additional benefits and the basis upon which benefits will be increased over time if not by a specified amount or percentage;

(d) If there is such a guarantee, include whether additional underwriting or health screening will be required, the frequency and amounts of the upgrade options, and any significant restrictions or limitations;

(e) Describe whether there will be any additional premium charge imposed, and how that is to be calculated.]

12. ALZHEIMER'S DISEASE AND OTHER ORGANIC BRAIN DISORDERS.

[State that the policy provides coverage for insureds clinically diagnosed as having Alzheimer's disease or related degenerative and dementing illnesses. Specifically describe each benefit screen or other policy provision which provides preconditions to the availability of policy benefits for such an insured.]

13. PREMIUM.

(a) State the total annual premium for the policy;

(b) If the premium varies with an applicant's choice among benefit options, indicate the portion of annual premium which corresponds to each benefit option.]

14. ADDITIONAL FEATURES.

(a) Indicate if medical underwriting is used;

(b) Describe other important features.]

15. CONTACT THE STATE SENIOR HEALTH INSURANCE ASSISTANCE PROGRAM IF YOU HAVE GENERAL QUESTIONS REGARDING LONG-TERM CARE INSURANCE. CONTACT THE INSURANCE COMPANY IF YOU HAVE SPECIFIC QUESTIONS REGARDING YOUR LONG-TERM CARE INSURANCE POLICY OR CERTIFICATE.

Historical Note

New Appendix J renumbered from Appendix C and amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

ARTICLE 11. MEDICARE SUPPLEMENT INSURANCE

R20-6-1101. Incorporation by Reference and Modifications

A. The Department incorporates by reference the Model Regulation to Implement the National Association of Insurance Commissioners (NAIC) Medicare Supplement Insurance Minimum Standards Model Act, Fall 2023 (Model Regulation), and no future editions or amendments, which is on file with the Department of Insurance, 100 N. 15th Ave., Suite 261, Phoenix, AZ 85007-2630 and available on its website at: <https://difi.az.gov/insurance-division-rulemaking>. The Model Regulation is also available from the National Association of Insurance Commissioners, Publications Department, 1100 Walnut Street, Suite 1500, Kansas City, MO 64106-2197.

B. The Model Regulation is modified as follows:

1. In addition to the terms defined in the Model Regulation, the following definitions apply:

a. "Agent" means an insurance producer as defined in A.R.S. § 20-281(5).

b. "Commissioner" means the Director of the Arizona Department of Insurance and Financial Institutions.

c. "HMO" and "health maintenance organization" mean a health care services organization as defined in A.R.S. § 20-1051(6).

d. "Regulation" means Article.

2. Section 3(A)(2) reads:

(2) All certificates issued under group Medicare supplement policies, which certificates have been delivered or issued for delivery in this state including association plans.

3. Section 8(A)(7)(c) reads:

c. Each Medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended (for any period that may be provided by federal regulation) at the request of the policyholder if the policyholder is entitled to benefits under Section 226(b) of the Social Security Act and is covered under a group health plan (as defined in Section 1862(b)(1)(A)(v) of the Social Security Act). If suspension occurs and if the policyholder or certificate holder loses coverage under the group health plan, the policy shall be automatically reinstituted (effective as of the date of loss of coverage) if the policyholder provides notice of loss of coverage within 90 days after the date of the loss of the group health plan and pays the premium attributable to the sup-

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plemental policy period, effective as of the date of termination of enrollment in the group health plan.

4. Section 8.1 is revised to insert the citation to A.R.S. § 20-1133 as follows:

The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state on or after June 1, 2010. No policy or certificate may be advertised, solicited, delivered, or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards. No issuer may offer any [1990 Standardized Medicare supplement benefit plan] for sale on or after June 1, 2010. Benefit standards applicable to Medicare supplement policies and certificates issued before June 1, 2010 remain subject to the requirements of A.R.S. § 20-1133.

5. Section 8.1(A)(7)(c) is revised to read as follows:

Each Medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended (for any period that may be provided by federal regulation) at the request of the policyholder if the policyholder is entitled to benefits under Section 226(b) of the Social Security Act and is covered under a group health plan (as defined in Section 1862(b)(1)(A)(v) of the Social Security Act). If suspension occurs and if the policyholder or certificate holder loses coverage under the group health plan, the policy shall be automatically reinstituted (effective as of the date of loss of coverage) if the policyholder provides notice of loss of coverage within 90 days after the date of the loss and pays the premium attributable to the period, effective as of the date of termination of enrollment in the group health plan.

6. Section 9.1 is revised to insert the citation to A.R.S. § 20-1133 as follows:

The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state on or after June 1, 2010. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit plan standards. Benefit plan standards applicable to Medicare supplement policies and certificates issued before June 1, 2010 remain subject to the requirements of A.R.S. § 20-1133.

7. Section 9.2 is revised to insert the citation to A.R.S. § 20-1133 as follows:

The Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) requires the following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state to individuals newly eligible for Medicare on or after January 1, 2020. No policy or certificate that provides coverage of the Medicare Part B deductible may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate to individuals newly eligible for Medicare on or after January 1, 2020. All

policies must comply with the following benefit standards. Benefit plan standards applicable to Medicare supplement policies and certificates issued to individuals eligible for Medicare before January 1, 2020, remain subject to the requirements of A.R.S. § 20-1133.

8. Section 15(G) is revised as follows:

An insurer shall not file or request approval of a rate structure for its Medicare supplement policies or certificates based upon attained-age rating as a structure or methodology.

9. Section 23 is revised as follows:

- A. If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate, the replacing issuer shall waive any time periods applicable to preexisting conditions, waiting periods, elimination periods and probationary periods in the new Medicare supplement policy or certificate to the extent such time was spent under the original policy.
- B. If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate which has been in effect for at least six months, the replacing policy shall not provide any time period applicable to preexisting conditions, waiting periods, elimination periods and probationary periods.

Historical Note

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1101 recodified from R4-14-1101 (Supp. 95-1). Amended effective August 16, 1996 (Supp. 96-3). Amended by final rulemaking at 8 A.A.R. 2454, effective May 13, 2002 (Supp. 02-2). Section repealed; new Section made by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3). Amended by final rulemaking at 15 A.A.R. 996, effective June 2, 2009 (Supp. 09-2). Amended by final rulemaking at 25 A.A.R. 1923, effective September 8, 2019 (Supp. 19-3). Amended by final rulemaking at 30 A.A.R. 479 (March 22, 2024), effective May 6, 2024 (Supp. 24-1).

R20-6-1102. Repealed

Historical Note

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted with changes effective May 28, 1992 (Supp. 92-2). R20-6-1102 recodified from R4-14-1102 (Supp. 95-1). Amended effective August 16, 1996 (Supp. 96-3). Amended by final rulemaking at 5 A.A.R. 618, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 5 A.A.R. 910, effective March 3, 1999 (Supp. 99-1). Amended by final rulemaking at 8 A.A.R. 2454, effective May 13, 2002 (Supp. 02-2). Section repealed by final rulemaking

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at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1102.01 Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 618, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 5 A.A.R. 910, effective March 3, 1999 (Supp. 99-1). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1103. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1103 recodified from R4-14-1103 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 2454, effective May 13, 2002 (Supp. 02-2). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1104. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1104 recodified from R4-14-1104 (Supp. 95-1). Amended effective August 16, 1996 (Supp. 96-3). Amended by final rulemaking at 8 A.A.R. 2454, effective May 13, 2002 (Supp. 02-2). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1105. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1105 recodified from R4-14-1105 (Supp. 95-1). Amended effective August 16, 1996 (Supp. 96-3). Amended effective June 15, 1998 (Supp. 98-2). Amended by final rulemaking at 8 A.A.R. 2454, effective May 13, 2002 (Supp. 02-2). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1106. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1106 recodified from R4-14-1106 (Supp. 95-1). Amended effective June 15, 1998 (Supp. 98-2). Amended by final rulemaking at 5 A.A.R.

910 effective March 3, 1999 (Supp. 99-1). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1107. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted with changes effective May 28, 1992 (Supp. 92-2). R20-6-1107 recodified from R4-14-1107 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1108. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1108 recodified from R4-14-1108 (Supp. 95-1). Amended effective August 16, 1996 (Supp. 96-3). Amended by final rulemaking at 5 A.A.R. 910 effective March 3, 1999 (Supp. 99-1). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1109. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1109 recodified from R4-14-1109 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1110. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1110 recodified from R4-14-1110 (Supp. 95-1). Amended effective August 16, 1996 (Supp. 96-3). Amended effective August 16, 1996 (Supp. 96-3). Amended effective June 15, 1998 (Supp. 98-2). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1111. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1111 recodified from R4-14-

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1111 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 2454, effective May 13, 2002 (Supp. 02-2). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1112. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1112 recodified from R4-14-1112 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1113. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1113 recodified from R4-14-1113 (Supp. 95-1). Amended effective August 16, 1996 (Supp. 96-3). Amended effective June 15, 1998 (Supp. 98-2). Amended by final rulemaking at 5 A.A.R. 910 effective March 3, 1999 (Supp. 99-1). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1114. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1114 recodified from R4-14-1114 (Supp. 95-1). Amended effective August 16, 1996 (Supp. 96-3). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1115. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1115 recodified from R4-14-1115 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1116. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1116 recodified from R4-14-

1116 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1117. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1117 recodified from R4-14-1117 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1118. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1118 recodified from R4-14-1118 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1119. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1119 recodified from R4-14-1119 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1120. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1120 recodified from R4-14-1120 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1121. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 910, effective March 3, 1999 (Supp. 99-1). Amended by final rulemaking at 8 A.A.R. 2454, effective May 13, 2002 (Supp. 02-2). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

Appendix A. Repealed

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Historical Note

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again and correction made to heading of form on last page of Appendix A effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). Appendix A repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

Appendix B. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again and corrections made to Plan C (Medicare (Part B) - Medical Services - Per Calendar Year) and Plan J (Other Benefits) effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). Amended effective August 16, 1996 (Supp. 96-3). Amended effective June 15, 1998 (Supp. 98-2). Amended by final rulemaking at 5 A.A.R. 910, effective March 3, 1999 (Supp. 99-1). Amended by final rulemaking at 8 A.A.R. 2454, effective May 13, 2002 (Supp. 02-2). Appendix B repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

Appendix C. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). Amended effective August 16, 1996 (Supp. 96-3). Appendix C repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

Appendix D. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). Amended effective August 16, 1996 (Supp. 96-3). Appendix D repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

Appendix E. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). Appendix E repealed by final

rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

Appendix F. Repealed**Historical Note**

Appendix F adopted effective August 16, 1996 (Supp. 96-3). Amended effective June 15, 1998 (Supp. 98-2). Amended by final rulemaking at 5 A.A.R. 910, effective March 3, 1999 (Supp. 99-1). Appendix F repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

ARTICLE 12. HIV/AIDS: PROHIBITED AND REQUIRED PRACTICES**R20-6-1201. Definitions**

- A. "AIDS" means Acquired Immune Deficiency Syndrome.
- B. "Applicant" means an applicant for a life or disability insurance policy or coverage under a health care plan, as well as any potential certificate holder or dependent covered under such policy or plan.
- C. "Insurer" means life and disability insurers (including but not limited to health insurers), hospital and medical service corporations, and health care services organizations, including all employees, contractors, and agents thereof.
- D. "Person" means any individual, company, insurer, association, organization, society, reciprocal or inter-insurance exchange, partnership, syndicate, business trust, corporation, or entity.

Historical Note

Adopted effective March 7, 1994 (Supp. 94-1). R20-6-1201 recodified from R4-14-1201 (Supp. 95-1).

R20-6-1202. Applications for Insurance

- A. Insurers shall not use questions on applications for life or disability policies or health care plans that inquire directly or indirectly about:
 - 1. The sexual orientation of an applicant;
 - 2. An applicant's receipt of transfusions of blood or blood products; or
 - 3. Whether or not the applicant has had any HIV-related test, except as provided in subsection (B) of this rule.
- B. Insurers may include specific questions on applications for life or disability insurance policies or health care plans asking if the applicant has ever been diagnosed or treated for AIDS or AIDS-related conditions or tested positive for the presence of HIV antibodies, antigens, or the virus. No adverse underwriting decision shall be made on the basis of any prior positive HIV-related test or tests unless the insurer has verified that the prior test(s) consisted of both a positive screening test such as enzyme-linked immunoassay (ELISA) and a positive supplemental test such as a Western Blot. All such tests used shall be approved and licensed by the Food and Drug Administration and conducted in accordance with the manufacturer's directions for use, including but not limited to the manufacturers' specified interpretation of positivity.

Historical Note

Adopted effective March 7, 1994 (Supp. 94-1). R20-6-1202 recodified from R4-14-1202 (Supp. 95-1).

R20-6-1203. Testing for HIV; Consent Form

- A. An insurer may test for HIV infection in the same way that the insurer tests for other conditions that affect mortality and morbidity. No adverse underwriting decision shall be made on the basis of a positive result to an HIV-related test unless the result

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consists of both a positive screening test such as enzyme-linked immunoassay (ELISA) and a positive supplemental test such as a Western Blot. All such tests used shall be approved and licensed by the Food and Drug Administration and conducted in accordance with the manufacturers' directions for use, including but not limited to the manufacturers' specified interpretation of positivity.

- B. If an applicant is requested to take an HIV-related test in connection with an application for a life or disability insurance policy or a health care plan, the insurer shall reveal the use of such test to the applicant and shall obtain the written consent of the applicant prior to the administration of such test. The insurer shall allow the applicant up to 10 days within which to decide whether or not to sign the consent form, and no adverse underwriting decision may be made on the basis of the applicant's delay during this time period. Insurers need not provide pretest counseling to applicants but shall advise applicants of the availability of counseling in accordance with subsection (C) of this rule.
- C. The written consent form, which shall be approved by the Director in advance of its use, shall contain the following information:
 1. Purpose of the consent form. The form shall contain a clear disclosure that the test to be performed is a test for the presence of HIV antibodies, antigens, or the virus, and that underwriting decisions will be based on the results of such test. The form shall further provide notice of a period of not less than 10 days during which the applicant may decide whether or not to sign the form, along with a disclosure that the applicant's refusal to be tested may be used as a reason to deny coverage.
 2. Information on HIV. The form shall provide clear, concise, and accurate information on how the disease is spread and what behavior places persons at risk of contracting the virus.
 3. Pretest counseling considerations. The written consent form shall contain information advising the applicant that counseling is recommended by many public health organizations and that the applicant may obtain such counseling at the applicant's own expense. The form shall contain current information as provided by the Department regarding the availability in Arizona of free confidential or anonymous counseling through county health departments and through other governmental or government-funded agencies.
 4. Disclosure of test results. The form shall advise the applicant that all test results shall be treated confidentially and that results shall be released only to the applicant and the named insurer or upon the applicant's written consent or as otherwise required or allowed by law, including but not limited to the release of information to the Department of Health Services as provided by law.
 5. Meaning of positive test results. The form shall advise the applicant of the type of test (including but not limited to antibody, antigen, or viral culture) to be used, and that a positive test result indicates that the applicant has been infected with HIV but does not necessarily have AIDS. The form shall explain that a positive test result will adversely affect the application for insurance.
 6. Consent. The consent form shall contain an attestation to be signed by the applicant or, if the applicant lacks legal capacity to consent, a person authorized pursuant to law to consent on behalf of the applicant, that he or she has read and understands the written consent form and volun-

tarily consents to the performance of a test for HIV and to the disclosure of the test results as described in the consent form. The applicant or the applicant's legal representative shall have the right to request and receive a copy of the written consent form. A photocopy of the form shall be as valid as the original.

7. Optional release of information to personal physician. In addition to the release of information to the insurer provided in the consent form, the applicant may, at the applicant's option, consent to the release of information to the applicant's personal physician. The form shall provide for such release to be separately signed and dated by the applicant, or if the applicant lacks legal capacity to consent, by a person authorized pursuant to law to consent on behalf of the applicant.
8. Time period during which release of information is effective. The consent form shall specify the time period during which any and all release provisions of the consent form shall be effective, but in no case shall such time period exceed 180 days from the date the consent form is signed by the applicant or the applicant's legal representative. No HIV-related information shall be released to any person after the expiration of that time period unless the insurer obtains the express written consent, pursuant to R20-6-1204, of the applicant or, if the applicant lacks legal capacity to consent, by a person authorized by law to consent on behalf of the applicant.

Historical Note

Adopted effective March 7, 1994 (Supp. 94-1). R20-6-1203 recodified from R4-14-1203 (Supp. 95-1).

R20-6-1204. Release of Confidential HIV-related Information; Release Form

- A. Except as required by law or authorized pursuant to a written consent to be tested, an insurer shall not disclose confidential HIV-related information to any person unless a written release form is executed by the applicant or, if the applicant lacks legal capacity to consent to such release, by a person authorized by law to consent to the release of information on behalf of the applicant. The applicant or the applicant's legal representative shall be entitled to receive a copy of the release. A photocopy shall be as valid as the original.
- B. Such written release form shall contain the following information:
 1. The name and address of the person to whom the information shall be disclosed;
 2. The specific purpose for which disclosure is to be made; and
 3. The time period during which the written release is to be effective but in no case shall such time period exceed 180 days from the date the release is signed by the applicant or the applicant's legal representative;
 4. The signature of the applicant or of the person authorized by law to consent to such release, and the date the release form was signed.

Historical Note

Adopted effective March 7, 1994 (Supp. 94-1). R20-6-1204 recodified from R4-14-1204 (Supp. 95-1).

R20-6-1205. Benefits; Prohibited Practices

- A. Life and disability insurance policies or health care plans that provide benefits for prescription drugs shall provide benefits for any and all drugs and pharmaceutical forms of treatment for HIV and/or AIDS approved by the Food and Drug Admin-

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istration pursuant to 21 U.S.C. Chapter 9 or licensed by the Food and Drug Administration pursuant to 42 U.S.C. Chapter 6A, including but not limited to Zidovudine, formerly Azidothymidine ("AZT"), Didanosine (ddI) and Zalcitabine (ddC), to the same extent as other prescription drugs and treatments.

- B.** Insurers shall provide benefits for HIV, AIDS, and AIDS-related conditions in the same manner and to the same extent as those benefits provided for all other diseases.

Historical Note

Adopted effective March 7, 1994 (Supp. 94-1). R20-6-1205 recodified from R4-14-1205 (Supp. 95-1).

ARTICLE 13. MENTAL HEALTH PARITY**R20-6-1301. Definitions**

The definitions in A.R.S. § 20-3501 and the following definitions apply to this Article:

"Arizona Mental Health Parity Act" means the statutes found at A.R.S. §§ 20-3501 through 20-3505.

"Coverage unit" has the meaning prescribed at 45 CFR § 146.136(a) "Coverage unit."

"Department of Insurance and Financial Institutions (Department)" has the meaning prescribed at A.R.S. § 20-101.

"CMS MHPAEA tool" means the Microsoft Excel Mental Health Parity tool maintained by the Center for Medicare and Medicaid Services.

"Financial requirements (FR)" has the meaning at 45 CFR § 146.136(a) "Financial requirements."

"Health care insurer" has the meaning prescribed at A.R.S. § 20-3501(2).

"Health plan" has the meaning prescribed at A.R.S. § 20-3501(3).

"Inpatient, in-network benefits" are benefits furnished on an inpatient basis and within a network of contracted providers under a health plan.

"Inpatient, out-of-network benefits" are benefits furnished on an inpatient basis by providers without a contract under a health plan or for a health plan that has no network of providers.

"Large group health plan" is a health plan issued to an employer group that is not a small employer as defined at A.R.S. § 20-2301(A)(20).

"Medical/surgical (Med/Surg) benefits" has the meaning prescribed at 45 CFR § 146.136(a) "Medical/surgical benefits."

"Mental (MH) health benefits" has the meaning prescribed at 45 CFR § 146.136(a) "Mental health benefits."

"MHPAEA" means the Mental Health Parity and Addiction Equity Act prescribed in A.R.S. § 20-3501(4).

"Nonquantitative treatment limitation (NQTL)" is a limitation that restricts the scope or duration of benefits for treatment under a health plan or coverage. Illustrations of NQTLs include: medical management standards limiting or excluding benefits based on medical necessity or appropriateness or based on whether the treatment is experimental or investigative as identified under 45 CFR 146.136(c)(4)(ii)(A); formulary design for prescription drugs as identified under 45 CFR 146.136(c)(4)(ii)(B); network tier design (for health plans with multiple network tiers such as preferred providers and partici-

pating providers) as identified under 45 CFR 146.136(c)(4)(ii)(C); standards for provider admission to participate in a network, including reimbursement rates as identified under 45 CFR 146.136(c)(4)(ii)(D); methods for determining usual, customary, and reasonable charges as identified under 45 CFR 146.136(c)(4)(ii)(E); refusal to pay for higher-cost therapies until it can be shown that a lower-cost therapy is not effective (also known as "fail-first policies" or "step therapy protocols") as identified under 45 CFR 146.136(c)(4)(ii)(F); exclusions based on failure to complete a course of treatment; and restrictions based on geographic location as identified under 45 CFR 146.136(c)(4)(ii)(G), facility type, provider specialty, and other criteria than limit the scope or duration of benefits for services provided under the health plan or coverage as identified under 45 CFR 146.136(c)(4)(ii)(H).

"Outpatient, in-network benefits" are benefits furnished on an outpatient basis and within a network of providers established or recognized under a health plan.

"Outpatient, out-of-network benefits" are benefits furnished on an outpatient basis and outside any network of providers established or recognized under a health plan or under a health plan that has no network of providers.

"Predominant test" means that if a type of FR or QTL applies to substantially all of the Med/Surg benefits in a classification, the predominant level of the FR or QTL is the level that applies to more than 1/2 of the Med/Surg benefits in that classification subject to the FR or QTL. If no single level can be determined, the health plan (or health insurance issuer) may combine levels until the combination of levels applies to more than 1/2 of Med/Surg benefits subject to the FR or QTL in the classification. The least restrictive level within the combination is considered the predominant level of that type of classification. For this purpose, a health plan may combine the most restrictive levels first with each less restrictive level added to the combination until the combination applies to more than 1/2 of the benefits subject to the FR or QTL.

"Quantitative treatment limitation (QTL)" is a limitation on the scope or duration of a benefit that can be expressed numerically that includes day or visit limits such as "50 outpatient visits per year." QTLs include annual, episode, and lifetime day and visit limits such as number of treatments, number of visits, or days of coverage.

"Substance use disorder (SUD) benefits" has the meaning prescribed at 45 CFR § 146.136(a) "Substance use disorder benefits."

"Substantially all test" means that a FR or QTL applies to at least 2/3 of all Med/Surg benefits in a classification of benefits for a coverage unit. (For this purpose, benefits expressed as subject to a zero level of a type of FR are treated as not subject to that type of FR. In addition, benefits expressed as subject to an unlimited QTL are treated as not subject to that type of QTL.) If a type of FR or QTL does not apply to at least 2/3 of all Med/Surg benefits in a classification, then that type of FR or QTL cannot be applied to MH or SUD benefits in that classification.

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Historical Note

New Section made by final rulemaking at 28 A.A.R. 1824 (July 29, 2022), effective September 4, 2022 (Supp. 22-3).

R20-6-1302. Medical Necessity Criteria and NQTL Reporting

- A.** Health care insurers subject to the reporting requirement. A health care insurer that issues health plans in Arizona is required to file the reports required by this Section with the Department.
- B.** Health plans subject to reporting. A health care insurer shall submit a report for all health plans it offers in this state (including grandfathered and non-grandfathered health plans) that meet all of the criteria listed in subsections (B)(1) through (4). If a health care insurer determines that the information to be reported varies by network plan, or varies in the individual, small group, or large group market, the health care insurer must submit a separate report for each variation.
 1. The health plan offers MH and/or SUD benefits in addition to Med/Surg benefits.
 2. The health plan offers MH and/or SUD benefits in at least one of the following classifications:
 - a. Inpatient, in-network;
 - b. Inpatient, out-of-network;
 - c. Outpatient, in-network;
 - d. Outpatient, out-of-network;
 - e. Emergency care; or
 - f. Prescription drugs.
 3. The health plan is offered on a group (large or small) or individual basis.
 4. The health plan has not received and notified the Department of an increased cost exemption pursuant to 45 CFR 146.136(g).
- C.** Health plans exempt from reporting. A health plan that meets the criteria of subsection (B) is exempt from reporting under this Article if it is one of the following types of health plans:
 1. A small group grandfathered health plan;
 2. A small group non-grandfathered health plan subject to the HHS transitional policy; or
 3. A health plan that meets the definition of excepted benefit provided in 45 CFR 146.145(b) or 45 C.F.R. 148.220.
- D.** Required reports. A health care insurer shall file a separate report for each fully insured product network type the health care insurer issues in Arizona. If the information to be reported varies by network or health plan, or varies in the individual, small group or large group market, the health care insurer must file a separate report for each variation.
- E.** Triennial Reports.
 1. Existing health care insurers. Beginning on March 15, 2023 and every third year thereafter, a health care insurer issuing health plans and collecting premium in Arizona as of January 1, 2022 shall file a triennial report with the Department for each health plan subject to reporting.
 2. Entering or re-entering health care insurers. On or before March 15 of the second year an entering or re-entering health care insurer issues health plans and collects premiums in Arizona, the health care insurer shall file an original triennial report with the Department for each health plan subject to reporting. Following the filing of the original triennial report, the health care insurer shall submit subsequent triennial reports on the schedule described in subsection (E)(1).
 3. Due date for triennial reports. Triennial reports are due on or before March 15 of each reporting year.

4. Content of the original triennial report. Health care insurers shall file an original triennial report with the Department under A.R.S. § 20-3502(B) that provides the required information in Exhibit A.
5. Subsequent triennial reports.
 - a. A health care insurer must file an updated triennial report, including the information required in Exhibit A, unless the health care insurer can attest that it has made no changes since the previously filed triennial report.
 - b. As required by A.R.S. § 20-3502(E), a health care insurer shall file the following with the Department for each health plan subject to reporting:
 - i. An updated triennial report, including the information required in Exhibit A; or
 - ii. The last triennial report filed with the Department and a written attestation that the health care insurer has made no changes since it filed the previous triennial report.
- F.** Annual Reports. Pursuant to A.R.S. § 20-3502(E), on or before March 15 of each intervening year between the filing of a triennial report, a health care insurer shall file:
 1. A report that summarizes any changes made to its medical necessity criteria and NQTLs (Exhibit A, Parts I, II, and III);
 2. A written attestation by an officer or director of the health care insurer that the health care insurer is in compliance with MHPAEA; and
 3. If requested by the Department, any additional data required by the Department including Exhibit A, Part IV.
- G.** Additional information. At any time after a health care insurer files a report under this Section, the Department may request additional information, including an updated triennial or annual report, by contacting the health care insurer and making the request in writing. The health care insurer shall provide contact information to the Department when it files any of the reports required by this Section. The Department may set a deadline for a health care insurer to respond to its request and specify the format for the response.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1824 (July 29, 2022), effective September 4, 2022 (Supp. 22-3).

R20-6-1303. FR and QTL Reporting

- A.** Method of reporting. A health care insurer that issues health plans in Arizona and whose policy forms are not exempt from the form filing requirement shall demonstrate its compliance with the FR and QTL parity requirements of MHPAEA through its form and rate filings with the Department.
- B.** Department's authority to require additional data. In addition to the forms filed by a health care insurer, the Department may require a health care insurer to submit additional data relating to its methods for meeting the MHPAEA FR and QTL standards. The Department may utilize the CMS MHPAEA tool and may request samples of a health care insurer's internal testing to demonstrate compliance with the substantially all and predominant tests within each classification of benefits for a health plan.
- C.** Separate consolidated report for large group health plans. The Department may require a health care insurer that issues large group health plans to file a consolidated report that demonstrates compliance with the substantially all and predominant

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tests within each classification of benefits for a sample of large group health plans with similar benefit structures.

- D. Special rule for FRs - Prescription Drug Classification. The multi-tiered prescription drug benefits exception of A.R.S. § 20-3502(D)(1) applies to the FRs for the prescription drug classification. For example, a health plan applies 4 tiers as follows: Tier 1: Generic Drugs for which the health plan pays 90%; Tier 2: Preferred Brand-name Drugs for which the health plan pays 80%; Tier 3: Non-preferred Brand-name Drugs for which the health plan pays 60%; and Tier 4: Specialty Drugs for which the health plan pays 50%. These FRs are applied without regard to whether a drug is prescribed for Med/Surg or MH/SUD benefits. In addition, the process for certifying a particular drug within a tier complies with the rules for NQTLs. Therefore, the FRs applied to prescription drug benefits meet the parity requirements under MHPAEA.
- E. Special rules for FRs and QTLs.
 1. In-network Classifications. The multiple network tiers exception of A.R.S. § 20-3502(D)(2) applies to the FRs and QTLs for the in-network classifications. For example, a health plan has two tiers of in-network providers: Tier 1: Preferred provider; and Tier 2: Participating provider. Placement of a provider into a tier complies with the rules for NQTLs and is determined without regard to whether the provider specializes in the treatment of Med/Surg conditions or MH/SUD disorders. The in-network classifications are divided into two subclassifications: 1. In-network preferred; and 2. In-network participating. The health plan does not impose any FR or QTL on MH/SUD benefits in either subclassification that is more restrictive than the predominant FR or QTL that applies to all Med/Surg benefits in each subclassification. Therefore, the FRs or QTLs applied to the in-network subclassifications that reflect the provider tiers meet the parity requirements under MHPAEA.
 2. Outpatient Classifications. The subclassification permitted for the office visits exception of A.R.S. § 20-3502(D)(3) applies to the FRs and QTLs for the outpatient classifications. For example, a health plan divides the outpatient, in-network classification into two subclassifications: 1. In-network office visits; and 2. All other

outpatient, in-network items and services. The health plan does not impose any FR or QTL on MH/SUD benefits in either subclassification that is more restrictive than the predominant FR or QTL that applies to Med/Surg benefits in each subclassification. Therefore, the FRs or QTLs applied to the outpatient subclassifications for office visits and all other outpatient items and services meet the parity requirements under MHPAEA.

3. The health plan cannot use a subclassification for generalists and specialists. The only subclassifications permitted for the in-network classifications are: 1. Office visits (such as physician visits); and 2. All other outpatient items and services (such as outpatient surgery, facility charges for day treatment centers, laboratory charges, or other medical items).

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1824 (July 29, 2022), effective September 4, 2022 (Supp. 22-3).

R20-6-1304. Additional Information or Data

According to A.R.S. § 20-3502(F), the Department is not prohibited from otherwise requesting information or data that is necessary to verify compliance with MHPAEA and the Arizona Mental Health Parity Act.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1824 (July 29, 2022), effective September 4, 2022 (Supp. 22-3).

R20-6-1305. Confidentiality of Information

According to A.R.S. § 20-3502(G), all documents, reports, or other materials provided to the Department under this Article are confidential and are not subject to disclosure and are subject to the restrictions of A.R.S. § 20-157.01(B).

Historical Note

New Section made by final rulemaking at 28 A.A.R. 1824 (July 29, 2022), effective September 4, 2022 (Supp. 22-3).

Exhibit A. Medical Necessity Criteria and NQTL Reports

Exhibit A

Medical Necessity Criteria and NQTL Reports

Instructions for Exhibit A:

Submit an Exhibit A for each fully insured, major medical health plan subject to reporting under Section R20-6-1302(B). Please submit the information in a word-searchable PDF file which is organized and identified by the numbered sections that appear below.

Part I: Identify Plan and Reporting Year.

Instructions for Part I:

The reporting year is the year, from January 1 through December 31, immediately preceding the submission of this Exhibit A.

| | |
|-----------------------------------------------------------------------------------------------------------------------|--|
| Reporting Year: | |
| Health Care Insurer Name: | |
| Health Care Insurer NAIC Company Code: | |
| Network Name(s): | |
| Service Area: (List all counties in the service area for these networks) | |
| Covered Lives: (List the number of covered lives enrolled in plans in these networks in the reporting year) | |

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| | | |
|-------------------------------------------------|----------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|
| Plan Types: (Check all that apply) | <input type="checkbox"/> Individual ACA-Compliant | <input type="checkbox"/> Small Group ACA-Compliant |
| | <input type="checkbox"/> Individual Transitional, plans include MH/SUD benefits | <input type="checkbox"/> Small Group Transitional, plans include MH/SUD benefits |
| | <input type="checkbox"/> Individual Grandfathered, plans include MH/SUD benefits | <input type="checkbox"/> Large Group Fully Insured, plans include MH/SUD benefits |
| Product Types: (Check all that apply) | <input type="checkbox"/> PPO | <input type="checkbox"/> HMO (HCSO) |
| | <input type="checkbox"/> POS | <input type="checkbox"/> Indemnity |

Part II: Medical necessity criteria.**Instructions for Part II:**

To comply with A.R.S. § 20-3502(B)(1), describe the process that is used to develop or select medical necessity criteria for the plan and reporting year identified in Part I. When the plan describes the process used to develop or select criteria for MH/SUD benefits, then it must also describe the process used to develop or select criteria for Med/Surg benefits.

To comply with A.R.S. § 20-3502(B)(1), report:

- A. Describe the process used to develop or select medical necessity criteria for MH/SUD benefits.
- B. Describe the process used to develop or select medical necessity criteria for Med/Surg benefits.

Part III: Identify all NQTLs.**Instructions for Part III:**

To comply with A.R.S. § 20-3502(B)(2), identify all NQTLs that are applied to MH/SUD benefits and all NQTLs that are applied to Med/Surg benefits for the plan and reporting year identified in Part I. NQTLs shall be identified within each classification of benefits.

- A. Identify and report all NQTLs applied to MH/SUD benefits:
 1. All NQTLs applied to In-Patient, In-Network Classification.
 2. All NQTLs applied to In-Patient, Out-of-Network Classification.
 3. All NQTLs applied to Out-Patient, In-Network Classification.
 4. All NQTLs applied to Out-Patient, Out-of-Network Classification.
 5. All NQTLs applied to Emergency Care.
 6. All NQTLs applied to Prescription Benefits.
- B. Identify and report all NQTLs applied to Med/Surg benefits:
 1. All NQTLs applied to In-Patient, In-Network Classification.
 2. All NQTLs applied to In-Patient, Out-of-Network Classification.
 3. All NQTLs applied to Out-Patient, In-Network Classification.
 4. All NQTLs applied to Out-Patient, Out-of-Network Classification.
 5. All NQTLs applied to Emergency Care.
 6. All NQTLs applied to Prescription Benefits.

Part IV: Demonstrate parity through analysis.**Instructions for Part IV:**

To comply with A.R.S. § 20-3502(B)(3), for each NQTL listed in Part III, demonstrate through analysis that the process, strategy, evidentiary standard, and other factor of applying the NQTL to MH/SUD benefits in a classification of benefits, as written and in operation, is comparable to, and applied not more stringently than, any process, strategy, evidentiary standard or other factor used in applying the NQTL to Med/Surg benefits in the same classification. The report should define each "Other Factor" and include qualitative and quantitative statistical data to support and explain the analysis.

Identify and report on the NQTLs reported in Part III as follows:

- A. Classification - Inpatient, in-network
 1. Process
 - a. Process applying NQTL to MH/SUD benefit.
 - b. Process applying NQTL to Med/Surg benefit.
 - c. Analysis showing that the process of applying the NQTL to MH/SUD benefits, as written, is comparable to and not applied more stringently than to Med/Surg benefits.
 - d. Analysis showing that the process of applying the NQTL to MH/SUD benefits, in operation, is comparable to and not applied more stringently than to Med/Surg benefits.
 2. Strategy
 - a. Strategy applying NQTL to MH/SUD benefit.
 - b. Strategy applying NQTL to Med/Surg benefit.
 - c. Analysis showing that the strategy of applying the NQTL to MH/SUD benefits, as written, is comparable to and not applied more stringently than to Med/Surg benefits.
 - d. Analysis showing that the strategy of applying the NQTL to MH/SUD benefits, in operation, is comparable to and not applied more stringently than to Med/Surg benefits.
 3. Evidentiary Standard
 - a. Evidentiary standard applying NQTL to MH/SUD benefit.
 - b. Evidentiary standard applying NQTL to Med/Surg benefit.
 - c. Analysis showing that the evidentiary standard of applying the NQTL to MH/SUD benefits, as written, is comparable to and not applied more stringently than to Med/Surg benefits.
 - d. Analysis showing that the evidentiary standard of applying the NQTL to MH/SUD benefits, in operation, is comparable to and not applied more stringently than to Med/Surg benefits.

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4. Other Factor
 - a. Other factor applying NQTL to MH/SUD benefit.
 - b. Other factor applying NQTL to Med/Surg benefit.
 - c. Analysis showing that other factors used to apply the NQTL to MH/SUD benefits, as written, are comparable to and not applied more stringently than to Med/Surg benefits.
 - d. Analysis showing that other factors used to apply the NQTL to MH/SUD benefits, in operation, are comparable to and not applied more stringently than to Med/Surg benefits.
- B. Classification - Inpatient, out-of-network
 1. Process
 - a. Process applying NQTL to MH/SUD benefit.
 - b. Process applying NQTL to Med/Surg benefit.
 - c. Analysis showing that the process of applying the NQTL to MH/SUD benefits, as written, is comparable to and not applied more stringently than to Med/Surg benefits.
 - d. Analysis showing that the process of applying the NQTL to MH/SUD benefits, in operation, is comparable to and not applied more stringently than to Med/Surg benefits.
 2. Strategy
 - a. Strategy applying NQTL to MH/SUD benefit.
 - b. Strategy applying NQTL to Med/Surg benefit.
 - c. Analysis showing that the strategy of applying the NQTL to MH/SUD benefits, as written, is comparable to and not applied more stringently than to Med/Surg benefits.
 - d. Analysis showing that the strategy of applying the NQTL to MH/SUD benefits, in operation, is comparable to and not applied more stringently than to Med/Surg benefits.
 3. Evidentiary Standard
 - a. Evidentiary standard applying NQTL to MH/SUD benefit.
 - b. Evidentiary standard applying NQTL to Med/Surg benefit.
 - c. Analysis showing that the evidentiary standard of applying the NQTL to MH/SUD benefits, as written, is comparable to and not applied more stringently than to Med/Surg benefits.
 - d. Analysis showing that the evidentiary standard of applying the NQTL to MH/SUD benefits, in operation, is comparable to and not applied more stringently than to Med/Surg benefits.
 4. Other Factor
 - a. Other factor applying NQTL to MH/SUD benefit.
 - b. Other factor applying NQTL to Med/Surg benefit.
 - c. Analysis showing that other factors used to apply the NQTL to MH/SUD benefits, as written, are comparable to and not applied more stringently than to Med/Surg benefits.
 - d. Analysis showing that other factors used to apply the NQTL to MH/SUD benefits, in operation, are comparable to and not applied more stringently than to Med/Surg benefits.
- C. Classification - Outpatient, in-network
 1. Process
 - a. Process applying NQTL to MH/SUD benefit.
 - b. Process applying NQTL to Med/Surg benefit.
 - c. Analysis showing that the process of applying the NQTL to MH/SUD benefits, as written, is comparable to and not applied more stringently than to Med/Surg benefits.
 - d. Analysis showing that the process of applying the NQTL to MH/SUD benefits, in operation, is comparable to and not applied more stringently than to Med/Surg benefits.
 2. Strategy
 - a. Strategy applying NQTL to MH/SUD benefit.
 - b. Strategy applying NQTL to Med/Surg benefit.
 - c. Analysis showing that the strategy of applying the NQTL to MH/SUD benefits, as written, is comparable to and not applied more stringently than to Med/Surg benefits.
 - d. Analysis showing that the strategy of applying the NQTL to MH/SUD benefits, in operation, is comparable to and not applied more stringently than to Med/Surg benefits.
 3. Evidentiary Standard
 - a. Evidentiary standard applying NQTL to MH/SUD benefit.
 - b. Evidentiary standard applying NQTL to Med/Surg benefit.
 - c. Analysis showing that the evidentiary standard of applying the NQTL to MH/SUD benefits, as written, is comparable to and not applied more stringently than to Med/Surg benefits.
 - d. Analysis showing that the evidentiary standard of applying the NQTL to MH/SUD benefits, in operation, is comparable to and not applied more stringently than to Med/Surg benefits.
 4. Other Factor
 - a. Other factor applying NQTL to MH/SUD benefit.
 - b. Other factor applying NQTL to Med/Surg benefit.
 - c. Analysis showing that other factors used to apply the NQTL to MH/SUD benefits, as written, are comparable to and not applied more stringently than to Med/Surg benefits.

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- d. Analysis showing that other factors used to apply the NQTL to MH/SUD benefits, in operation, are comparable to and not applied more stringently than to Med/Surg benefits.
- D. Classification - Outpatient, out-of-network
 - 1. Process
 - a. Process applying NQTL to MH/SUD benefit.
 - b. Process applying NQTL to Med/Surg benefit.
 - c. Analysis showing that the process of applying the NQTL to MH/SUD benefits, as written, is comparable to and not applied more stringently than to Med/Surg benefits.
 - d. Analysis showing that the process of applying the NQTL to MH/SUD benefits, in operation, is comparable to and not applied more stringently than to Med/Surg benefits.
 - 2. Strategy
 - a. Strategy applying NQTL to MH/SUD benefit.
 - b. Strategy applying NQTL to Med/Surg benefit.
 - c. Analysis showing that the strategy of applying the NQTL to MH/SUD benefits, as written, is comparable to and not applied more stringently than to Med/Surg benefits.
 - d. Analysis showing that the strategy of applying the NQTL to MH/SUD benefits, in operation, is comparable to and not applied more stringently than to Med/Surg benefits.
 - 3. Evidentiary Standard
 - a. Evidentiary standard applying NQTL to MH/SUD benefit.
 - b. Evidentiary standard applying NQTL to Med/Surg benefit.
 - c. Analysis showing that the evidentiary standard of applying the NQTL to MH/SUD benefits, as written, is comparable to and not applied more stringently than to Med/Surg benefits.
 - d. Analysis showing that the evidentiary standard of applying the NQTL to MH/SUD benefits, in operation, is comparable to and not applied more stringently than to Med/Surg benefits.
 - 4. Other Factor
 - a. Other factor applying NQTL to MH/SUD benefit.
 - b. Other factor applying NQTL to Med/Surg benefit.
 - c. Analysis showing that other factors used to apply the NQTL to MH/SUD benefits, as written, are comparable to and not applied more stringently than to Med/Surg benefits.
 - d. Analysis showing that other factors used to apply the NQTL to MH/SUD benefits, in operation, are comparable to and not applied more stringently than to Med/Surg benefits.
- E. Classification - Emergency care
 - 1. Process
 - a. Process applying NQTL to MH/SUD benefit.
 - b. Process applying NQTL to Med/Surg benefit.
 - c. Analysis showing that the process of applying the NQTL to MH/SUD benefits, as written, is comparable to and not applied more stringently than to Med/Surg benefits.
 - d. Analysis showing that the process of applying the NQTL to MH/SUD benefits, in operation, is comparable to and not applied more stringently than to Med/Surg benefits.
 - 2. Strategy
 - a. Strategy applying NQTL to MH/SUD benefit.
 - b. Strategy applying NQTL to Med/Surg benefit.
 - c. Analysis showing that the strategy of applying the NQTL to MH/SUD benefits, as written, is comparable to and not applied more stringently than to Med/Surg benefits.
 - d. Analysis showing that the strategy of applying the NQTL to MH/SUD benefits, in operation, is comparable to and not applied more stringently than to Med/Surg benefits.
 - 3. Evidentiary Standard
 - a. Evidentiary standard applying NQTL to MH/SUD benefit.
 - b. Evidentiary standard applying NQTL to Med/Surg benefit.
 - c. Analysis showing that the evidentiary standard of applying the NQTL to MH/SUD benefits, as written, is comparable to and not applied more stringently than to Med/Surg benefits.
 - d. Analysis showing that the evidentiary standard of applying the NQTL to MH/SUD benefits, in operation, is comparable to and not applied more stringently than to Med/Surg benefits.
 - 4. Other Factor
 - a. Other factor applying NQTL to MH/SUD benefit.
 - b. Other factor applying NQTL to Med/Surg benefit.
 - c. Analysis showing that other factors used to apply the NQTL to MH/SUD benefits, as written, are comparable to and not applied more stringently than to Med/Surg benefits.
 - d. Analysis showing that other factors used to apply the NQTL to MH/SUD benefits, in operation, are comparable to and not applied more stringently than to Med/Surg benefits.
- F. Classification - Prescription benefits
 - 1. Process
 - a. Process applying NQTL to MH/SUD benefit.
 - b. Process applying NQTL to Med/Surg benefit.

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- c. Analysis showing that the process of applying the NQTL to MH/SUD benefits, as written, is comparable to and not applied more stringently than to Med/Surg benefits.
- d. Analysis showing that the process of applying the NQTL to MH/SUD benefits, in operation, is comparable to and not applied more stringently than to Med/Surg benefits.
- 2. Strategy
 - a. Strategy applying NQTL to MH/SUD benefit.
 - b. Strategy applying NQTL to Med/Surg benefit.
 - c. Analysis showing that the strategy of applying the NQTL to MH/SUD benefits, as written, is comparable to and not applied more stringently than to Med/Surg benefits.
 - d. Analysis showing that the strategy of applying the NQTL to MH/SUD benefits, in operation, is comparable to and not applied more stringently than to Med/Surg benefits.
- 3. Evidentiary Standard
 - a. Evidentiary standard applying NQTL to MH/SUD benefit.
 - b. Evidentiary standard applying NQTL to Med/Surg benefit.
 - c. Analysis showing that the evidentiary standard of applying the NQTL to MH/SUD benefits, as written, is comparable to and not applied more stringently than to Med/Surg benefits.
 - d. Analysis showing that the evidentiary standard of applying the NQTL to MH/SUD benefits, in operation, is comparable to and not applied more stringently than to Med/Surg benefits.
- 4. Other Factor
 - a. Other factor applying NQTL to MH/SUD benefit.
 - b. Other factor applying NQTL to Med/Surg benefit.
 - c. Analysis showing that other factors used to apply the NQTL to MH/SUD benefits, as written, are comparable to and not applied more stringently than to Med/Surg benefits.
 - d. Analysis showing that other factors used to apply the NQTL to MH/SUD benefits, in operation, are comparable to and not applied more stringently than to Med/Surg benefits.

Historical Note

New Exhibit A made by final rulemaking at 28 A.A.R. 1824 (July 29, 2022), effective September 4, 2022 (Supp. 22-3).

ARTICLE 14. INSURANCE HOLDING COMPANY**R20-6-1401. Definitions**

- A. "The Act" means the Insurance Holding Company Systems Act, A.R.S. §§ 20-481 through 20-481.32.
- B. "Executive officer" means chief executive officer, chief operating officer, chief financial officer, treasurer, secretary, controller, and any other individual performing functions corresponding to those performed by the foregoing officers under whatever title.
- C. "Ultimate controlling person" means that person which is not controlled by any other person.
- D. Unless the context otherwise requires, other terms found in these regulations and in A.R.S. § 20-481 are used as defined in the Act. Other nomenclature or terminology is according to Title 20, A.R.S. or industry usage if not defined by Title 20, A.R.S.

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). R20-6-1401 recodified from R4-14-1401 (Supp. 95-1).

Amended by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4).

R20-6-1402. Acquisition of Control – Statement Filing

- A. A person required to file a statement pursuant to A.R.S. § 20-481.02 shall furnish the required information on Form A, attached hereto as Appendix A and on Form E, attached hereto as Appendix E, and described in subsections (D) and (E) of this Section.
- B. The applicant shall promptly advise the Director of any changes in the information furnished on Form A arising subsequent to the date upon which the information was furnished but prior to the Director's disposition of the application.
- C. If the person being acquired is deemed to be a "domestic insurer" solely because of the provisions of A.R.S. § 20-481.02(G), the name of the domestic insurer on the cover page

should be indicated as follows: "[ABC Insurance Company), a subsidiary of [XYZ Holding Company]." Where a A.R.S. § 20-481.02(G) insurer is being acquired, references to "the insurer" contained in Form A shall refer to both the domestic subsidiary insurer and the person being acquired.

- D. If a domestic insurer, including any person controlling a domestic insurer, is proposing a merger or acquisition pursuant to A.R.S. § 20-481.02(A), that person shall file a pre-acquisition notification form, Form E, which was developed pursuant to A.R.S. § 20-481.25(C).
- E. Additionally, if a non-domiciliary insurer licensed to do business in this state is proposing a merger or acquisition pursuant to A.R.S. § 20-481.25, that person shall file a pre-acquisition notification form, Form E. No pre-acquisition notification form need be filed if the acquisition is beyond the scope of A.R.S. § 20-481.25 as set forth in A.R.S. § 20-481.25(B).
- F. In addition to the information required by Form E, the Director may wish to require an expert opinion as to the competitive impact of the proposed acquisition.

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). R20-6-1402 recodified from R4-14-1402 (Supp. 95-1).

Amended by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4).

R20-6-1403. Annual Registration of Insurers – Statement Filing

- A. An insurer required to file an annual registration statement pursuant to A.R.S. § 20-481.09 shall furnish the required information on Form B, attached hereto as Appendix B, in accordance with the instructions contained in Appendix G.
- B. Amendments to Form B shall be filed in the Form B format with only those items which are being amended reported. Each such amendment shall include at the top of the cover page "Amendment No. (insert number) to Form B for (insert year)"

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and shall indicate the date of the amendment and not the date of the original filings.

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). R20-6-1403 recodified from R4-14-1403 (Supp. 95-1).

Amended by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4).

R20-6-1404. Summary of Registration – Statement Filing

An insurer required to file an annual registration statement pursuant to A.R.S. § 20-481.09 is also required to furnish information required on Form C, attached hereto as Appendix C.

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). R20-6-1404 recodified from R4-14-1404 (Supp. 95-1).

Amended by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4).

R20-6-1405. Alternative and Consolidated Registrations

A. Any authorized insurer may file a registration statement on behalf of any affiliated insurer or insurers which are required to register under A.R.S. § 20-481.09. A registration statement may include information not required by the Act regarding any insurer in the insurance holding company system even if such insurer is not authorized to do business in this state. In lieu of filing a registration statement on Form B, the authorized insurer may file a copy of the registration statement or similar report which it is required to file in its state of domicile, provided:

1. The statement or report contains substantially similar information required to be furnished on Form B; and
2. The filing insurer is the principal insurance company in the insurance holding company system.

B. The question of whether the filing insurer is the principal insurance company in the insurance holding company system is a question of fact and an insurer filing a registration statement or report in lieu of Form B on behalf of an affiliated insurer, shall set forth a brief statement of facts which will substantiate the filing insurer's claim that it, in fact, is the principal insurer in the insurance holding company system.

C. With the prior approval of the Director, an unauthorized insurer may follow any of the procedures which could be done by an authorized insurer under subsection (A) above.

D. Any insurer may take advantage of the provisions of A.R.S. §§ 20-481.15 or 20-481.16 without obtaining the prior approval of the Director. The Director, however, reserves the right to require individual filings if he or she deems such filings necessary in the interest of clarity, ease of administration or the public good.

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). R20-6-1405 recodified from R4-14-1405 (Supp. 95-1).

Amended by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4).

R20-6-1406. Disclaimers and Termination of Registration

A. A disclaimer of affiliation or a request for termination of registration claiming that a person does not, or will not upon the taking of some proposed action, control another person, hereinafter referred to in this rule as the "subject," shall contain the following information:

1. The number of authorized, issued and outstanding voting securities of the subject;

2. With respect to the person whose control is denied and all affiliates of such person, the number and percentage of shares of the subject's voting securities which are held of record or known to be beneficially owned, and the number of shares concerning which there is a right to acquire, directly or indirectly;
3. All material relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of such person;
4. A statement explaining why the person should not be considered to control the subject.

B. A request for termination of registration shall be deemed to have been granted unless the director, within 30 days after receipt of the request, notifies the registrant otherwise.

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). R20-6-1406 recodified from R4-14-1406 (Supp. 95-1).

Amended by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4).

R20-6-1407. Transactions Subject to Prior Notice – Notice Filing

A. An insurer required to give notice of a proposed transaction pursuant to A.R.S. § 20-481.12 shall furnish the required information on Form D, attached hereto as Appendix D, in accordance with the instructions in Appendix G.

B. Agreements for cost sharing services and management services shall at a minimum and as applicable:

1. Identify the person providing services and the nature of such services;
2. Set forth the methods to allocate costs;
3. Require timely settlement, not less frequently than on a quarterly basis, and compliance with the requirements in the Accounting Practices and Procedures Manual;
4. Prohibit advancement of funds by the insurer to the affiliate except to pay for services defined in the agreement;
5. State that the insurer will maintain oversight for functions provided to the insurer by the affiliate and that the insurer will monitor services annually for quality assurance;
6. Define records and data of the insurer to include all records and data developed or maintained under or related to the agreement that are otherwise the property of the insurer, in whatever form maintained, including, but not limited to, claims and claim files, policyholder lists, application files, litigation files, premium records, rate books, underwriting manuals, personnel records, financial records, or similar records within the possession, custody, or control of the affiliate;
7. Specify that all records and data of the insurer are and remain the property of the insurer, and;
 - a. Are subject to control of the insurer;
 - b. Are identifiable; and
 - c. Are segregated from all other persons' records and data and are readily capable of segregation at no additional cost to the insurer;
8. State that all funds and invested assets of the insurer are the exclusive property of the insurer, held for the benefit of the insurer and are subject to the control of the insurer;
9. Include standards for termination of the agreement with and without cause;
10. Include provisions for indemnification of the insurer in the event of gross negligence or willful misconduct on the part of the affiliate providing the services and for any actions by the affiliate that violate the provisions of the

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agreement required in subsections (B)(11), (B)(12), (B)(13), (B)(14), and (B)(15):

11. Specify that, if the insurer is placed into supervision, conservatorship, or receivership by the Director pursuant to A.R.S. §§ 20-169(3), 20-171(A), 20-172, or the Arizona Receivership Act:
 - a. All of the rights of the insurer under the agreement extend to the receiver or Director to the extent permitted by the law of Arizona;
 - b. All records and data of the insurer shall be identifiable and segregated from all other persons' records and data or readily capable of segregation at no additional cost to the receiver or the Director;
 - c. A complete set of records and data of the insurer will immediately be made available to the receiver or the Director, shall be made available in a usable format and shall be turned over to the receiver or Director immediately upon the receiver or the Director's request, and the cost to transfer data to the receiver or Director shall be fair and reasonable; and
 - d. The affiliated person or persons will make available all employees essential to the operations of the insurer and the services associated therewith for the immediate continued performance of the essential services ordered or directed by the receiver or Director;
12. Specify that the affiliate has no automatic right to terminate the agreement if the insurer is placed into supervision, conservatorship, or receivership pursuant to A.R.S. §§ 20-169(3), 20-171(A), 20-172, or the Arizona Receivership Act;
13. Specify that the affiliate will provide the essential services for a minimum period of time after termination of the agreement, if the insurer is placed into supervision, conservatorship, or receivership pursuant to A.R.S. §§ 20-169(3), 20-171(A), 20-172, or the Arizona Receivership Act, as ordered or directed by the receiver or Director. Performance of the essential services will continue to be provided without regard to pre-receivership unpaid fees, so long as the affiliate continues to receive timely payment for post-receivership services rendered, and unless released by the receiver, Director, or supervising court;
14. Specify that the affiliate will continue to maintain any systems, programs, or other infrastructure notwithstanding supervision, conservatorship or receivership pursuant to A.R.S. §§ 20-169(3), 20-171(A), 20-172, or the Arizona Receivership Act, and will make them available to the receiver or Director as ordered or directed by the receiver or Director for so long as the affiliate continues to receive timely payment for post-receivership services rendered, and unless released by the receiver, Director, or supervising court; and
15. Specify that, in furtherance of the cooperation between the receiver and the affected guaranty association or associations and subject to the receiver's authority over the insurer, if the insurer is placed into supervision, conservatorship, or receivership pursuant to A.R.S. §§ 20-169(3), 20-171(A), 20-172, or the Arizona Receivership Act, and portions of the insurer's policies or contracts are eligible for coverage by one or more guaranty associations, the affiliate's commitments under subsections (B)(11), (B)(12), (B)(13), and (B)(14) will extend to those guaranty association or associations.

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). R20-6-1407 recodified from R4-14-1407 (Supp. 95-1).

Amended by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4). Amended by final rulemaking at 30 A.A.R. 482 (March 22, 2024), effective May 7, 2024 (Supp. 24-1).

R20-6-1408. Enterprise Risk Report; Group Capital Calculation

- A. The ultimate controlling person of an insurer required to file an enterprise risk report pursuant to A.R.S. § 481.10(D) shall furnish the required information on Form F, attached hereto as Appendix F.
- B. The lead state Commissioner has the discretion to exempt the ultimate controlling person from filing the annual group capital calculation if the lead state Commissioner makes a determination based upon the filing that the insurance holding company system meets all of the following criteria:
 1. Has annual direct written and unaffiliated assumed premium, including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program of less than \$1,000,000,000;
 2. Has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories;
 3. Has no banking, depository, or other financial entity that is subject to an identified regulatory capital framework within its holding company structure;
 4. The holding company system attests that there are no material changes in the transactions between insurers and non-insurers in the group that have occurred since the last filing of the annual group capital calculation; and
 5. The non-insurers within the holding company system do not pose a material financial risk to the insurer's ability to honor policyholder obligations.
- C. Where an insurance holding company system has previously filed the annual group capital calculation at least once, the lead state Commissioner has the discretion to accept, in lieu of the group capital calculation, a limited group capital filing if the insurance holding company system has annual direct written and unaffiliated assumed premium, including international direct and assumed premium but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than \$1,000,000,000 and all of the following additional criteria are met:
 1. Has no insurer within its holding company structure that are domiciled outside of the United States or one of its territories;
 2. Does not include a banking, depository, or other financial entity that is subject to an identified regulatory capital framework; and
 3. The holding company system attests that there are no material changes in transactions between insurers and non-insurers in the group that have occurred since the last filing of the report to the lead state Commissioner and the non-insurers within the holding company system do not pose a material financial risk to the insurers' ability to honor policyholder obligations.
- D. For an insurance holding company that has previously met an exemption with respect to the group capital calculation pursuant to subsections (B) or (C), the lead state Commissioner may require, at any time, the ultimate controlling person to file an annual group capital calculation, completed in accordance

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with the NAIC Group Capital Calculation Instructions, if any of the following criteria are met:

1. Any insurer within the insurance holding company system is in a Risk-Based Capital action level event as set forth in A.R.S. § 20-488.02 or a similar standard for a non-U.S. insurer;
 2. Any insurer within the insurance holding company system meets one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in A.R.S. § 20-220.01; or
 3. Any insurer within the insurance holding company system otherwise exhibits qualities of a troubled insurer as determined by the lead state Commissioner based on unique circumstances including, but not limited to, the type and volume of business written, ownership and organizational structure, federal agency requests, and international supervisor requests.
- E. A non-U.S. jurisdiction is considered to “recognize and accept” the group capital calculation if it satisfies the following criteria:
1. With respect to A.R.S. § 20-481.10(D)(2)(a)(iv):
 - a. The non-U.S. jurisdiction recognizes the U.S. state regulatory approach to group supervision and group capital by providing confirmation by a competent regulatory authority in such jurisdiction, that insurers and insurance groups whose lead state is accredited by the NAIC, under the NAIC Accreditation Program, shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the lead state and will not be subject to group supervision, including worldwide group governance, solvency and capital, and reporting, at the level of the worldwide parent undertaking of the insurance or reinsurance group by the non-U.S. jurisdiction; or
 - b. Where no U.S. insurance groups operate in the non-U.S. jurisdiction, the non-U.S. jurisdiction indicates formally in writing to the lead state, with a copy to the International Association of Insurance Supervisors, that the group capital calculation is an acceptable international capital standard. This will serve as documentation otherwise required in subsection (E)(1)(a).
 2. The non-U.S. jurisdiction provides confirmation by a competent regulatory authority in such jurisdiction, that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the lead state Commissioner in accordance with a memorandum of understanding or similar document between the Commissioner and such jurisdiction, including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC. The Commissioner shall determine, in consultation with the NAIC Committee Process, if the requirements of the information sharing agreements are in force.
- F. A list of non-U.S. jurisdictions that “recognize and accept” the group capital calculation will be published through the NAIC Committee Process:
1. A list of jurisdictions that “recognize and accept” the group capital calculation pursuant to A.R.S. § 20-481.10(D)(2)(a)(iv), is published through the NAIC

Committee Process to assist the lead state Commissioner in determining which insurers shall file an annual group capital calculation. The list will clarify those situations in which a jurisdiction is exempted from filing under A.R.S. § 20-481.10(D)(2)(a)(iv). To assist with a determination under A.R.S. § 20-481.10(D)(2)(b), the list will also identify whether a jurisdiction that is exempted under either A.R.S. § 20-481.10(D)(2)(c) or (d) requires a group capital filing for any U.S. based insurance group’s operations in that non-U.S. jurisdiction.

2. For a non-U.S. jurisdiction where no U.S. insurance groups operate, the confirmation provided to meet the requirement of subsection (E)(1)(b) will serve as support for recommendation to be published as a jurisdiction that “recognizes and accepts” the group capital calculation through the NAIC Committee Process.
3. If the lead state Commissioner makes a determination pursuant to A.R.S. § 20-481.10(D)(2)(a)(iv) that differs from the NAIC List, the lead state Commissioner shall provide thoroughly documented justification to the NAIC and other states.
4. Upon determination by the lead state Commissioner that a non-U.S. jurisdiction no longer meets one or more of the requirements to “recognize and accept” the group capital calculation, the lead state Commissioner may provide a recommendation to the NAIC that the non-U.S. jurisdiction be removed from the list of jurisdictions that “recognize and accept” the group capital calculation.

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). R20-6-1408 recodified from R4-14-1408 (Supp. 95-1). R20-6-1408 repealed; new Section R20-6-1408 made by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4). Amended by final rulemaking at 30 A.A.R. 482 (March 22, 2024), effective May 7, 2024 (Supp. 24-1).

R20-6-1409. Extraordinary Dividends and Other Distributions

- A. Requests for approval of extraordinary dividends or any other extraordinary distribution to shareholders shall include the following:
1. The amount of the proposed dividend;
 2. The date established for payment of the dividend;
 3. A statement as to whether the dividend is to be in cash or other property and, if in property, a description thereof, its cost, and its fair market value together with an explanation of the basis for valuation;
 4. A copy of the calculations determining that the proposed dividend is extraordinary. The work paper shall include the following information:
 - a. The amounts, dates and form of payment of all dividends or distributions, including regular dividends but excluding distributions of the insurer’s own securities, paid within the period of 12 consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year;
 - b. Surplus as regards policyholders, total capital and surplus, as of the 31st day of December next preceding;

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- c. If the insurer is a life insurer, the net gain from operations for the 12-month period ending the 31st day of December next preceding;
 - d. If the insurer is not a life insurer, the net income less realized capital gains for the 12-month period ending the 31st day of December next preceding and the two preceding 12-months periods; and
 - e. If the insurer is not a life insurer, the dividends paid to stockholders excluding distributions of the insurer's own securities in the preceding two calendar years.
5. A balance sheet and statement of income for the period intervening from the last annual statement filed with the Director and the end of the month preceding the month in which the request for dividend approval is submitted; and
6. A brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs.
- B.** Subject to A.R.S. § 20-481.19, each registered insurer shall report to the Director all dividends and other distributions to shareholders within five business days following the declaration thereof and at least 10 business days before payment of the dividend or distribution, including the same information required by subsection (A)(4)(a) through (e) of this Section.

Historical Note

New Section made by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4). Amended by final rulemaking at 23 A.A.R. 3311, effective January 16, 2018 (Supp. 17-4). Amended by final rulemaking at 30 A.A.R. 482 (March 22, 2024), effective May 7, 2024 (Supp. 24-1).

R20-6-1410. Adequacy of Surplus

The factors set for in A.R.S. §§ 20-481.01(F) and 20-481.24 are not intended to be an exhaustive list. In determining the adequacy and reasonableness of an insurer's surplus no single factor is necessarily controlling. The Director instead will consider the net effect of all of these factors plus other factors bearing on the financial condition of the insurer. In comparing the surplus maintained by other insurers, the Director will consider the extent to which each of these factors varies from company to company and in determining the quality and liquidity of investments in subsidiaries, the Director will consider the individual subsidiary and may discount or disallow its valuation to the extent that the individual investments so warrant.

Historical Note

New Section made by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4).

Appendix A. Form A - Statement Regarding the Acquisition of Control of or Merger with a Domestic Insurer

STATEMENT REGARDING THE ACQUISITION OF CONTROL OF OR MERGER WITH A DOMESTIC INSURER

[Name of Domestic Insurer]

By

[Name of Acquiring Person (Applicant)]

Filed with the Arizona Department of Insurance and Financial Institutions

Dated: _____, 20____

Name, Title, address and telephone number of Individual to Whom Notices and Correspondence Concerning this Statement Should be Addressed:

ITEM 1. METHOD OF ACQUISITION

[State the name and address of the domestic insurer to which this application relates and a brief description of how control is to be acquired. State the federal identification number and the NAIC number of the domestic insurer.]

ITEM 2. IDENTITY AND BACKGROUND OF THE APPLICANT

- [(a) State the name and address of the applicant seeking to acquire control over the insurer.]
- [(b) If the applicant is not an individual, state the nature of its business operations for the past five years or for such lesser period as such person and any predecessors thereof shall have been in existence. Briefly describe the business intended to be done by the applicant and the applicant's subsidiaries.]
- [(c) Furnish a chart or listing clearly presenting the identities of the inter-relationships among the applicant and all affiliates of the applicant, including NAIC numbers for all insurers. No affiliate need be identified if its total assets are equal to less than one-half of 1% of the total assets of the ultimate controlling person affiliated with the applicant. Indicate in such chart or listing the percentage of voting securities of each such person which is owned or controlled by the applicant or by any other such person. If control of any person is maintained other than by the ownership or

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control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing indicate, the type of organization (e.g. corporation, trust, partnership) and the state or other jurisdiction of domicile. If court proceedings involving a reorganization or liquidation are pending with respect to any such person, indicate which person, and set forth the title of the court, nature of proceedings and the date when commenced.]

ITEM 3. IDENTITY AND BACKGROUND OF INDIVIDUALS ASSOCIATED WITH THE APPLICANT

[On the biographical affidavit, include a third party background check, and state the following with respect to (1) the applicant if they are an individual, or (2) all persons who are directors, executive officers or owners of 10% or more of the voting securities of the applicant if the applicant is not an individual.

- (a) Name and business address;
- (b) Present principal business activity, occupation or employment including position and office held and the name, principal business and address of any corporation or other organization in which such employment is carried on;
- (c) Material occupations, positions, offices or employment during the last five years, giving the starting and ending dates of each and the name, principal business and address of any business corporation or other organization in which each such occupation, position, office or employment was carried on; if any such occupation, position, office or employment required licensing by or registration with any federal, state or municipal governmental agency, indicate such fact, the current status of such licensing or registration, and an explanation of any surrender, revocation, suspension or disciplinary proceedings in connection therewith;
- (d) Whether or not such person has ever been convicted in a criminal proceeding (excluding minor traffic violations) during the last 10 years and, if so, give the date, nature of conviction, name and location of court, and penalty imposed or other disposition of the case;

Such persons may also submit fingerprints and the fingerprint processing fee in accordance with A.R.S. § 20-481.03(B).]

ITEM 4. NATURE, SOURCE AND AMOUNT OF CONSIDERATION

- [(a) Describe the nature, source and amount of funds or other considerations used or to be used in effecting the merger or other acquisition of control. If any part of the same is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding or trading securities, furnish a description of the transaction, the names of the parties thereto, the relationship, if any, between the borrower and the lender, the amounts borrowed or to be borrowed, and copies of all agreements, promissory notes and security arrangements relating thereto.]
- [(b) Explain the criteria used in determining the nature and amount of such consideration.]
- [(c) If the source of the consideration is a loan made in the lender's ordinary course of business and if the applicant wishes the identity of the lender to remain confidential, he must specifically request that the identity be kept confidential.)

ITEM 5. FUTURE PLANS OF INSURER

[Describe any plans or proposals which the applicant may have to declare an extraordinary dividend, to liquidate the insurer, to sell its assets to or merge it with any person or persons or to make any other material change in its business operations or corporate structure or management.]

ITEM 6. VOTING SECURITIES TO BE ACQUIRED

[State the number of shares of the insurer's voting securities which the applicant, its affiliates and any person listed in Item 3 plan to acquire, and the terms of the offer, request, invitation, agreement or acquisition, and a statement as to the method by which the fairness of the proposal was arrived at.]

ITEM 7. OWNERSHIP OF VOTING SECURITIES

[State the amount of each class of any voting security of the insurer which is beneficially owned or concerning which there is a right to acquire beneficial ownership by the applicant, its affiliates or any person listed in Item 3.]

ITEM 8. CONTRACTS, ARRANGEMENTS, OR UNDERSTANDINGS WITH RESPECT TO VOTING SECURITIES OF THE INSURER

[Give a full description of any contracts, arrangements or understandings with respect to any voting security of the insurer in which the applicant, its affiliates or any person listed in Item 3 is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom the contracts, arrangements or understandings have been entered into.]

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ITEM 9. RECENT PURCHASES OF VOTING SECURITIES

[Describe any purchases of any voting securities of the insurer by the applicant, its affiliates or any person listed in Item 3 during the 12 calendar months preceding the filing of this statement. Include in the description the dates of purchase, the names of the purchasers, and the consideration paid or agreed to be paid therefore. State whether any such shares so purchased are hypothecated.]

ITEM 10. RECENT RECOMMENDATIONS TO PURCHASE

[Describe any recommendations to purchase any voting security of the insurer made by the applicant, its affiliates or any person listed in Item 3, or by anyone based upon interviews or at the suggestion of the applicant, its affiliates or any person listed in Item 3 during the 12 calendar months preceding the filing of this statement.]

ITEM 11. AGREEMENTS WITH BROKER-DEALERS

[Describe the terms of any agreement, contract or understanding made with any broker-dealer as to solicitation of voting securities of the insurer for tender and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto.]

ITEM 12. FINANCIAL STATEMENTS AND EXHIBITS

[(a) Financial statements, exhibits, and three-year financial projections of the insurer(s) shall be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.]

[(b) The financial statements shall include the annual financial statements of the persons identified in Item 2(c) for the preceding five fiscal years (or for such lesser period as such applicant and its affiliates and any predecessors thereof shall have been in existence), and similar information covering the period from the end of such person's last fiscal year, if the information is available. The statements may be prepared on either an individual basis, or, unless the Director otherwise requires, on a consolidated basis if consolidated statements are prepared in the usual course of business.

The annual financial statements of the applicant shall be accompanied by the certificate of an independent public accountant to the effect that such statements present fairly the financial position of the applicant and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the applicant is an insurer which is actively engaged in the business of insurance, the financial statements need not be certified, provided they are based on the Annual Statement of the person filed with the insurance department of the person's domiciliary state and are in accordance with the requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of the state.]

[(c) File as exhibits copies of all tender offers for, requests or invitations for, tenders of, exchange offers for, and agreements to acquire or exchange any voting securities of the insurer and (if distributed) of additional soliciting material relating thereto, any proposed employment, consultation, advisory or management contracts concerning the insurer, annual reports to the stockholders of the insurer and the applicant for the last two fiscal years, and any additional documents or papers required by Form A or Appendix G.)

ITEM 13. AGREEMENT REQUIREMENTS FOR ENTERPRISE RISK MANAGEMENT

Applicant agrees to provide, to the best of its knowledge and belief, the information required by Form F within 15 days after the end of the month in which the acquisition of control occurs.

ITEM 14. SIGNATURE AND CERTIFICATION

[Signature and certification required as follows:]

SIGNATURE

Pursuant to the requirements of A.R.S. § 20-481.02 _____ has caused this application to be duly signed on its behalf in the City of _____ and State of _____ on the _____ day of _____, 20____.

(SEAL)

Name of Applicant

BY _____
(Name)

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(Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that they have duly executed the attached application dated _____, 20____, for and on behalf of _____; that they are the _____

(Name of Applicant)

(Title of Officer)

of such company and that they are authorized to execute and file such instrument. Deponent further says that they are familiar with the instrument and the contents thereof, and that the facts therein set forth are true to the best of their knowledge, information and belief.

(Signature)

(Type or print name beneath)

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). Amended by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4). Amended by final rulemaking at 30 A.A.R. 482 (March 22, 2024), effective May 7, 2024 (Supp. 24-1).

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Appendix B. Form B - Insurance Holding Company System Annual Registration Statement
INSURANCE HOLDING COMPANY SYSTEM ANNUAL REGISTRATION STATEMENT

Filed with the Arizona Department of Insurance and Financial Institutions

By

 [Name of Registrant]

On Behalf of Following Insurance Companies

Name Address

Date: _____, 20____

Name, Title, Address and telephone number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

ITEM 1. IDENTITY AND CONTROL OF REGISTRANT

[Furnish the exact name of each insurer registering or being registered (hereinafter called "the Registrant"), the federal identification number and the NAIC number of each, the home office address and principal executive offices of each; the date on which each Registrant became part of the insurance holding company system; and the method(s) by which control of each Registrant was acquired and is maintained.]

ITEM 2. ORGANIZATIONAL CHART

[Furnish a chart or listing clearly presenting the identities of and interrelationships among all affiliated persons within the insurance holding company system. The chart or listing should show the percentage of each class of voting securities of each affiliate which is owned, directly or indirectly, by another affiliate. If control of any person within the system is maintained other than by the ownership or control of voting securities, indicate the basis of control. As to each person specified in the chart or listing, indicate the type of organization (e.g., - corporation, trust, partnership) and the state or other jurisdiction of domicile.]

ITEM 3. THE ULTIMATE CONTROLLING PERSON

[As to the ultimate controlling person in the insurance holding company system furnish the following information:

- (a) Name;
- (b) Home office address;
- (c) Principal executive office address;
- (d) The organizational structure of the person, i.e., corporation, partnership, individual, trust, etc.;
- (e) The principal business of the person;
- (f) The name and address of any person who holds or owns 10% or more of any class of voting security, the class of such security, the number of shares held of record or known to be beneficially owned, and the percentage of class so held or owned; and
- (g) If court proceedings involving a reorganization or liquidation are pending, indicate the title and location of the court, the nature of proceedings and the date when commenced.]

ITEM 4. BIOGRAPHICAL INFORMATION

[If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, furnish the following information for the directors and executive officers of the ultimate controlling person: the individual's name and address, the individual's principal occupation and all offices and positions held during the past five years, and any conviction of

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crimes other than minor traffic violations. If the ultimate controlling person is an individual, furnish the individual's name and address, the individual's principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations.]

ITEM 5. TRANSACTIONS AND AGREEMENTS

[Briefly describe the following agreements in force, and transactions currently outstanding or which have occurred during the last calendar year between the Registrant and its affiliates:

- (a) Loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the Registrant or of the Registrant by its affiliates;
- (b) Purchases, sales or exchanges of assets;
- (c) Transactions not in the ordinary course of business;
- (d) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the Registrant's assets to liability, other than insurance contracts entered into in the ordinary course of the Registrant's business;
- (e) All management agreements, service contracts and all cost-sharing arrangements;
- (f) Reinsurance agreements;
- (g) Dividends and other distributions to shareholders;
- (h) Consolidated tax allocation agreements; and
- (i) Any pledge of the Registrant's stock and/or of the stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system.

No information need be disclosed if such information is not material for purposes of A.R.S. § 20-481.09.

Sales, purchases, exchanges, loans or extensions of credit, investments or guarantees involving one-half of 1% or less of the Registrant's admitted assets as of the 31st day of December next preceding shall not be deemed material.

The description shall be in a manner as to permit the proper evaluation thereof by the Director and shall include at least the following: the nature and purpose of the transaction, the nature and amounts of any payments or transfers of assets between the parties, the identity of all parties to the transaction, and relationship of the affiliated parties to the Registrant.]

ITEM 6. LITIGATION OR ADMINISTRATIVE PROCEEDINGS

[A brief description of any litigation or administrative proceedings of the following types, either then pending or concluded within the preceding fiscal year, to which the ultimate controlling person or any of its directors or executive officers was a party or of which the property of any such person is or was the subject; give the names of the parties and the court or agency in which the litigation or proceeding is or was pending:

- (a) Criminal prosecutions or administrative proceedings by any government agency or authority which may be relevant to the trustworthiness of any party thereto; and
- (b) Proceedings which may have a material effect upon the solvency or capital structure of the ultimate holding company including, but not necessarily limited to, bankruptcy, receivership or other corporate reorganizations.]

ITEM 7.a. STATEMENT REGARDING PLAN OR SERIES OF TRANSACTIONS

[The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions, the purpose of which is to avoid statutory threshold amounts and the review that might otherwise occur.]

ITEM 7.b. STATEMENT REGARDING CORPORATE GOVERNANCE AND INTERNAL CONTROLS

[The insurer shall furnish a statement that the insurer's board of directors oversees corporate governance and internal controls of the insurer and that the insurer's officers or senior management have approved, implemented and maintain and monitor corporate governance and internal control procedures.]

ITEM 8. FINANCIAL STATEMENTS AND EXHIBITS

- [(a) Financial statements and exhibits shall be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.]

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- (b) If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, the financial statements shall include the annual financial statements of the ultimate controlling person in the insurance holding company system as of the end of the person's latest fiscal year.

If at the time of the initial registration, the annual financial statements for the latest fiscal year are not available, annual statements for the previous fiscal year may be filed and similar financial information shall be filed for any subsequent period to the extent such information is available. Such financial statements may be prepared on either an individual basis; or, unless the Director otherwise requires, on a consolidated basis if consolidated statements are prepared in the usual course of business.

Other than with respect to the foregoing, such financial statement shall be filed in a standard form and format adopted by the National Association of Insurance Commissioners, unless an alternative form is accepted by the Director. Documentation and financial statements filed with the Securities and Exchange Commission or audited GAAP financial statements shall be deemed to be an appropriate form and format.

Unless the Director otherwise permits, the annual financial statements shall be accompanied by the certificate of an independent public accountant to the effect that the statements present fairly the financial position of the ultimate controlling person and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the ultimate controlling person is an insurer which is actively engaged in the business of insurance, the annual financial statements need not be certified, provided they are based on the Annual Statement of the insurer's domiciliary State and are in accordance with requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of that state.

Any ultimate controlling person who is an individual may file personal financial statements that are reviewed rather than audited by an independent public accountant. The review shall be conducted in accordance with standards for review of personal financial statements published in the Personal Financial Statements Guide by the American Institute of Certified Public Accountants. Personal financial statements shall be accompanied by the independent public accountant's Standard Review Report stating that the accountant is not aware of any material modifications that should be made to the financial statements in order for the statements to be in conformity with generally accepted accounting principles.

- (c) Exhibits shall include copies of the latest annual reports to shareholders of the ultimate controlling person and proxy material used by the ultimate controlling person; and any additional documents or papers required by Forms B and G.]

ITEM 9. FORM C REQUIRED

[A Form C, Summary of Registration Statement, must be prepared and filed with this Form B.]

ITEM 10. SIGNATURE AND CERTIFICATION

[Signature and certification required as follows:]

SIGNATURE

Pursuant to the requirements of A.R.S. § 20-481.09, Registrant _____ has caused this annual registration statement to be duly signed on its behalf in the City of _____ and State of _____ on the _____ day of _____, 20____.

(SEAL)

Name of Applicant

BY _____
(Name)

(Title)

Attest:

(Signature of Officer)

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(Title)

CERTIFICATION

The undersigned deposes and says that they have duly executed the attached application dated _____, 20____, for and on behalf of _____; that they are the _____
(Name of Applicant) (Title of Officer)
of such company and that they are authorized to execute and file such instrument. Deponent further says that they are familiar with the instrument and the contents thereof, and that the facts therein set forth are true to the best of their knowledge, information and belief.

(Signature)

(Type or print name beneath)

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). Amended by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4). Amended by final rulemaking at 30 A.A.R. 482 (March 22, 2024), effective May 7, 2024 (Supp. 24-1).

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Appendix C. Form C - Summary of Changes to Registration Statement

SUMMARY OF CHANGES TO REGISTRATION STATEMENT

Filed with the Arizona Department of Insurance and Financial Institutions

By

[Name of Registrant]

On Behalf of Following Insurance Companies

Name Address

Dated: _____, 20____

Name, Title, Address and telephone number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

[Furnish a brief description of all items in the current annual registration statement which represent changes from the prior year's annual registration statement. The description shall be in a manner as to permit the proper evaluation thereof by the Director, and shall include specific references to Item numbers in the annual registration statement and to the terms contained therein.

Changes occurring under Item 2 of Form B insofar as changes in the percentage of each class of voting securities held by each affiliate is concerned, need only be included where such changes are ones which result in ownership or holdings of 10% or more of voting securities, loss or transfer of control, or acquisition or loss of partnership interest.

Changes occurring under Item 4 of Form B need only be included where: an individual is, for the first time, made a director or executive officer of the ultimate controlling person; a director or executive officer terminates his or her responsibilities with the ultimate controlling person; or in the event an individual is named president of the ultimate controlling person.

If a transaction disclosed on the prior year's annual registration statement has been changed, the nature of such change shall be included. If a transaction disclosed on the prior year's annual registration statement has been effectuated, furnish the mode of completion and any flow of funds between affiliates resulting from the transaction.

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions whose purpose it is to avoid statutory threshold amounts and the review that might otherwise occur.]

SIGNATURE AND CERTIFICATION

[Signature and certification required as follows:]

Pursuant to the requirements of A.R.S. § 20-481.09, Registrant _____ has caused this annual registration statement to be duly signed on its behalf in the City of _____ and State of _____ on the _____ day of _____, 20____.

(SEAL)

Name of Applicant

BY _____
(Name)

(Title)

Attest:

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(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that they have duly executed the attached annual registration statement dated _____, 20____, for and on behalf of _____; that they are the _____

(Name of Applicant)

(Title of Officer)

of such company and that they are authorized to execute and file such instrument. Deponent further says that they are familiar with the instrument and the contents thereof, and that the facts therein set forth are true to the best of their knowledge, information and belief.

(Signature)

(Type or print name beneath)

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). Amended by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4). Amended by final rulemaking at 30 A.A.R. 482 (March 22, 2024), effective May 7, 2024 (Supp. 24-1).

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Appendix D. Form D - Prior Notice of a Transaction

PRIOR NOTICE OF A TRANSACTION

Filed with the Arizona Department of Insurance and Financial Institutions

By

[Name of Registrant]

On Behalf of Following Insurance Companies

Name Address

| | |
|--|--|
| | |
| | |
| | |
| | |

Dated: _____, 20____

Name, Title, Address and telephone number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

| |
|--|
| |
| |
| |

ITEM 1. IDENTITY OF PARTIES TO TRANSACTION

[Furnish the following information for each of the parties to the transaction:

- (a) Name;
- (b) Home office address;
- (c) Principal executive office address;
- (d) The organizational structure, i.e. corporation, partnership, individual, trust, etc.;
- (e) A description of the nature of the parties' business operations;
- (f) Relationship, if any, of other parties to the transaction to the insurer filing the notice, including any ownership or debtor/creditor interest by any other parties to the transaction in the insurer seeking approval, or by the insurer filing the notice in the affiliated parties;
- (g) Where the transaction is with a non-affiliate, the name(s) of the affiliate(s) which will receive, in whole or in substantial part, the proceeds of the transaction.]

ITEM 2. DESCRIPTION OF THE TRANSACTION

[Furnish the following information for each transaction for which notice is being given:

- (a) A statement as to whether notice is being given under A.R.S. § 20-481.12(B);
- (b) A statement of the nature of the transaction;
- (c) If a notice for amendments or modifications, the reasons for the change and the financial impact on the domestic insurer;
- (d) A statement of how the transaction meets the "fair and reasonable" standard of A.R.S. § 20-481.12(A)(1); and
- (e) The proposed effective date of the transaction.]

ITEM 3. SALES, PURCHASES, EXCHANGES, LOANS, EXTENSIONS OF CREDIT, GUARANTEES OR INVESTMENTS

[Furnish a brief description of the amount and source of funds, securities, property or other consideration for the sale, purchase, exchange, loan, extension of credit, guarantee, or investment, whether any provision exists for purchase by the insurer filing notice, by any party to the transaction, or by any affiliate of the insurer filing notice, a description of the terms of any securities

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being received, if any, and a description of any other agreements relating to the transaction such as contracts or agreements for services, consulting agreements and the like. If the transaction involves other than cash, furnish a description of the consideration, its cost and its fair market value, together with an explanation of the basis for evaluation.

If the transaction involves a loan, extension of credit or a guarantee, furnish a description of the maximum amount which the insurer will be obligated to make available under such loan, extension of credit or guarantee, the date on which the credit or guarantee will terminate, and any provisions for the accrual of or deferral of interest.

If the transaction involves an investment, guarantee or other arrangement, state the time period during which the investment, guarantee or other arrangement will remain in effect, together with any provisions for extensions or renewals of such investments, guarantees or arrangements. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the maximum amount which can at any time be outstanding or for which the insurer can be legally obligated under the loan, extension of credit or guarantee is less than (a) in the case of non-life insurers, the lesser of 3% of the insurer's admitted assets or 25% of surplus as regards policyholders, or (b) in the case of life insurers, 3% of the insurer's admitted assets, each as of the 31st day of December next preceding.]

ITEM 4. LOANS OR EXTENSIONS OF CREDIT TO A NON-AFFILIATE

[If the transaction involves a loan or extension of credit to any person who is not an affiliate, furnish a brief description of the agreement or understanding whereby the proceeds of the proposed transaction, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase the assets of, or to make investments in, any affiliate of the insurer making such loans or extensions of credit, and specify in what manner the proceeds are to be used to loan to, extend credit to, purchase assets of or make investments in any affiliate. Describe the amount and source of funds, securities, property or other consideration for the loan or extension of credit and, if the transaction is one involving consideration other than cash, a description of its cost and its fair market value together with an explanation of the basis for evaluation. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the loan or extension of credit is one which equals less than, in the case of non-life insurers, the lesser of 3% of the insurer's admitted assets or 25% of surplus as regards policyholders or, with respect to life insurers, 3% of the insurer's admitted assets, each as of the 31st day of December next preceding.]

ITEM 5. REINSURANCE

[If the transaction is a reinsurance agreement or modification thereto, as described by A.R.S. § 20-481.12(B)(3)(b), or a reinsurance pooling agreement or modification thereto as described by A.R.S. § 20-481.12(B)(3)(a), furnish a description of the known and/or estimated amount of liability to be ceded and/or assumed in each calendar year, the period of time during which the agreement will be in effect, and a statement whether an agreement or understanding exists between the insurer and non-affiliate to the effect that any portion of the assets constituting the consideration for the agreement will be transferred to one or more of the insurer's affiliates. Furnish a brief description of the consideration involved in the transaction, and a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given for reinsurance agreements or modifications thereto if the reinsurance premium or a change in the insurer's liabilities, or the projected reinsurance premium or change in the insurer's liabilities in any of the next three years, in connection with the reinsurance agreement or modification thereto is less than 5% of the insurer's surplus as regards policyholders, as of the 31st day of December next preceding. Notice shall be given for all reinsurance pooling agreements including modifications thereto.]

ITEM 6. MANAGEMENT AGREEMENTS, SERVICE AGREEMENTS AND COST-SHARING ARRANGEMENTS

[For management and service agreements, furnish:

- (a) A brief description of the managerial responsibilities, or services to be performed;
- (b) A brief description of the agreement, including a statement of its duration, together with brief descriptions of the basis for compensation and the terms under which payment or compensation is to be made.]

[For cost-sharing arrangements, furnish:

- (a) A brief description of the purpose of the agreement;
- (b) A description of the period of time during which the agreement is to be in effect;
- (c) A brief description of each party's expenses or costs covered by the agreement;
- (d) A brief description of the accounting basis to be used in calculating each party's costs under the agreement;]
- (e) A brief statement as to the effect of the transaction upon the insurer's policyholder surplus;

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- (f) A statement regarding the cost allocation methods that specifies whether proposed charges are based on "cost or market." If market based, rationale for using market instead of cost, including justification for the company's determination that amounts are fair and reasonable; and
- (g) A statement regarding compliance with the NAIC Accounting Practices and Procedure Manual regarding expense allocation.]

ITEM 7. SIGNATURE AND CERTIFICATION

[Signature and certification required as follows:]

SIGNATURE

Pursuant to the requirements of A.R.S. § 20-481.09, _____ has caused this application to be duly signed on its behalf in the City of _____ and State of _____ on the _____ day of _____, 20____.

(SEAL)

Name of Applicant

By _____
(Name)

(Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that they have duly executed the attached application dated _____, 20____, for and on behalf of _____; that they are the _____

(Name of Applicant)

(Title of Officer)

of such company and that they are authorized to execute and file such instrument. Deponent further says that they are familiar with the instrument and the contents thereof, and that the facts therein set forth are true to the best of their knowledge, information and belief.

(Signature)

(Type or print name beneath)

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). Amended by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4). Amended by final rulemaking at 30 A.A.R. 482 (March 22, 2024), effective May 7, 2024 (Supp. 24-1).

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Appendix E. Form E - Pre-acquisition Notification Form Regarding the Potential Competitive Impact of a Proposed Merger or Acquisition by a Non-domiciliary Insurer Doing Business in this State or by a Domestic Insurer

**PRE-ACQUISITION NOTIFICATION FORM
REGARDING THE POTENTIAL COMPETITIVE IMPACT
OF A PROPOSED MERGER OR ACQUISITION BY A
NON-DOMICILIARY INSURER DOING BUSINESS IN THIS
STATE OR BY A DOMESTIC INSURER**

Name of Applicant

Name of Other Person Involved in Merger or Acquisition

Filed with the Arizona Department of Insurance and Financial Institutions

Dated:_____, 20_____

Name, title, address and telephone number of person completing this statement:

ITEM 1. NAME AND ADDRESS

[State the name and addresses of the persons who hereby provide notice of their involvement in a pending acquisition or change in corporate control.]

ITEM 2. NAME AND ADDRESSES OF AFFILIATED COMPANIES

[State the names and addresses of the persons affiliated with those listed in Item 1. Describe their affiliations.]

ITEM 3. NATURE AND PURPOSE OF THE PROPOSED MERGER OR ACQUISITION

[State the nature and purpose of the proposed merger or acquisition.]

ITEM 4. NATURE OF BUSINESS

[State the nature of the business performed by each of the persons identified in response to Item 1 and Item 2.]

ITEM 5. MARKET AND MARKET SHARE

[State specifically what market and market share in each relevant insurance market the persons identified in Item 1 and Item 2 currently enjoy in this state. Provide historical market and market share data for each person identified in Item 1 and Item 2 for the past five years and identify the source of such data. Provide a determination as to whether the proposed acquisition or merger, if consummated, would violate the competitive standards of the state as stated in A.R.S. § 20-481.25(D). If the proposed acquisition or merger would violate competitive standards, provide justification of why the acquisition or merger would not substantially lessen competition or create a monopoly in the state.]

For purposes of this question, market means direct written insurance premium in this state for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this state.

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). Appendix E. *Instructions on Forms*, renumbered to Appendix G; new Appendix E. Form E made by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4). Amended by final rulemaking at 30 A.A.R. 482 (March 22, 2024), effective May 7, 2024 (Supp. 24-1).

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Appendix F. Form F - Enterprise Risk Report

ENTERPRISE RISK REPORT

Filed with the Arizona Department of Insurance and Financial Institutions

By

Name of Registrant/Applicant

On Behalf of/Related to Following Insurance Companies

Name Address

Dated: _____, 20 ____

Name, Title, Address and telephone number of Individual to Whom Notices and Correspondence Concerning This Statement Should be Addressed:

ITEM 1. ENTERPRISE RISK

[The Registrant/Applicant, to the best of its knowledge and belief, shall provide information regarding the following areas that could produce enterprise risk as defined in A.R.S. § 20-481(4), provided such information is not disclosed in the Insurance Holding Company System Annual Registration Statement filed on behalf of itself or another insurer for which it is the ultimate controlling person:

Any material developments regarding strategy, internal audit findings, compliance or risk management affecting the insurance holding company system;

Acquisition or disposal of insurance entities and reallocating of existing financial or insurance entities with the insurance holding company system;

Any changes of shareholders of the insurance holding company system exceeding 10% or more of voting securities;

Developments in various investigations, regulatory activities or litigation that may have a significant bearing or impact on the insurance holding company system;

Business plan of the insurance holding company system and summarized strategies for next 12 months;

Identification of material concerns of the insurance holding company system raised by supervisory college, if any, in last year;

Identification of insurance holding company system capital resources and material distribution patterns;

Identification of any negative movement, or discussions with rating agencies which may have caused, or may cause, potential negative movement in the credit ratings and individual insurer financial strength ratings assessment of the insurance holding company system (include both the rating score and outlook);

Information on corporate or parental guarantees throughout the holding company and the expected source of liquidity should such guarantees be called upon; and

Identification of any material activity or development of the insurance holding company system that, in the opinion of senior management, could adversely affect the insurance holding company system.

[The Registrant/Applicant may attach the appropriate form most recently filed with the U.S. Securities and Exchange Commission, provided the Registrant/Applicant includes specific references to those areas listed in Item 1 for which the form provides responsive information. If the Registrant/Applicant is not domiciled in the U.S., it may attach its most recent public audited financial statement filed in its country of domicile, provided the Registrant/Applicant includes specific references to those areas listed in Item 1 for which the financial statement provides responsive information.]

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ITEM 2. OBLIGATION TO REPORT

[If the Registrant/Applicant has not disclosed any information pursuant to Item 1, the Registrant/Applicant shall include a statement affirming that, to the best of its knowledge and belief, it has not identified enterprise risk subject to disclosure pursuant to Item 1.]

Historical Note

Appendix F, Form F made by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4). Amended by final rulemaking at 30 A.A.R. 482 (March 22, 2024), effective May 7, 2024 (Supp. 24-1).

Appendix G. Instructions on Forms A, B, C, D, E and F**INSTRUCTIONS ON FORMS A, B, C, D, E AND F****FORMS - GENERAL REQUIREMENTS**

Forms A, B, C, D, E and F are intended to be guides in the preparation of the statements required by A.R.S. §§ 20-481.02, 20-481.09, 20-481.12 and 20-481.25. They are not intended to be blank forms which are to be filled in. The statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

One original paper statement excluding exhibits, and all other papers and documents shall be filed with the Director. The statement shall be signed in the manner prescribed on the form. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the statement. All paper filings shall be by personal delivery or mail addressed to: Arizona Department of Insurance and Financial Institutions, Insurance Financial Affairs Division.

In addition to the filed paper statement, a copy of the statement, including exhibits, and all other papers and documents filed as a part thereof, shall be filed electronically.

All filed documents shall be easily readable and suitable for review and reproduction. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency normally shall be converted into United States currency.

If an applicant requests a hearing on a consolidated basis under A.R.S. § 20-481.07, in addition to filing the Form A with the Director, the applicant shall file a copy of Form A with the National Association of Insurance Commissioners (NAIC) in electronic form.

FORMS - INCORPORATION BY REFERENCE, SUMMARIES AND OMISSIONS

Information required by any item of Form A, Form B, Form D, Form E or Form F may be incorporated by reference in answer or partial answer to any other item. Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of Form A, Form B, Form D, Form E or Form F provided the document is filed as an exhibit to the statement. Excerpts of documents may be filed as exhibits if the documents are extensive. Documents currently on file with the Director which were filed within three years need not be attached as exhibits. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that such material is to be incorporated by reference in answer to the item. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear or confusing.

Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provisions of the document. In addition to the statement, the summary or outline may incorporate by reference particular parts of any exhibit or document currently on file with the Director which was filed within three years and may be qualified in its entirety by such reference. In any case where two or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, a copy of only one of the documents need be filed with a schedule identifying the omitted documents and setting forth the material details in which the documents differ from the documents, a copy of which is filed.

FORMS - INFORMATION UNKNOWN OR UNAVAILABLE AND EXTENSION OF TIME TO FURNISH

If it is impractical to furnish any required information, document or report at the time it is required to be filed, there shall be filed with the Director as a separate document:

- (1) Identifying the information, document or report in question;
- (2) Stating why the filing thereof at the time required is impractical; and

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- (3) Requesting an extension of time for filing the information, document or report to a specified date. The request for extension shall be deemed granted unless the Director within 60 days after receipt thereof enters an order denying the request.

FORMS - ADDITIONAL INFORMATION AND EXHIBITS

In addition to the information expressly required to be included in Form A, Form B, Form C, Form D, Form E and Form F, the Director may request such further information, if any, as may be necessary to make the information contained therein not misleading. The person filing may also file such exhibits as it may desire in addition to those expressly required by the forms. The exhibits shall be so marked as to indicate clearly the subject matters to which they refer. Changes to Forms A, B, C, D, E or F shall include on the top of the cover page the phrase: "Change No. (insert number) to" and shall indicate the date of the change and not the date of the original filing.

Historical Note

Appendix G. *Instructions on Forms*, renumbered from Appendix E. *Instructions on Forms*, with heading amended to include new Appendix F, by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4). Amended by final rulemaking at 30 A.A.R. 482 (March 22, 2024), effective May 7, 2024 (Supp. 24-1).

ARTICLE 15. RESERVED**ARTICLE 16. CREDIT FOR REINSURANCE**

renumbered to R20-6-A1604 by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-1601. Renumbered**Historical Note**

Adopted effective February 3, 1993 (Supp. 93-1). R20-6-1601 recodified from R4-14-1601 (Supp. 95-1). Amended effective October 9, 1998 (Supp. 98-4). Amended by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4). R20-6-1601 renumbered to R20-6-A1601 by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-1602. Renumbered**Historical Note**

Adopted effective February 3, 1993 (Supp. 93-1). R20-6-1602 recodified from R4-14-1602 (Supp. 95-1). R20-6-1602 renumbered to R20-6-1607; new Section made by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4). R20-6-1602 renumbered to R20-6-A1602 by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-1603. Renumbered**Historical Note**

Adopted effective February 3, 1993 (Supp. 93-1). R20-6-1603 recodified from R4-14-1603 (Supp. 95-1). R20-6-1603 renumbered to R20-6-1608; new Section made by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4). R20-6-1603 renumbered to R20-6-A1603 by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-1604. Renumbered**Historical Note**

Adopted effective February 3, 1993 (Supp. 93-1). R20-6-1604 recodified from R4-14-1604 (Supp. 95-1). Amended effective October 9, 1998 (Supp. 98-4). R20-6-1604 renumbered to R20-6-1609; new Section made by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4). R20-6-1604

R20-6-1605. Renumbered**Historical Note**

Adopted effective February 3, 1993 (Supp. 93-1). R20-6-1605 recodified from R4-14-1605 (Supp. 95-1). R20-6-1605 renumbered to R20-6-1610; new Section made by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4). R20-6-1605 renumbered to R20-6-A1605 by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-1606. Renumbered**Historical Note**

Adopted effective February 3, 1993 (Supp. 93-1). R20-6-1606 recodified from R4-14-1606 (Supp. 95-1). R20-6-1606 renumbered to R20-6-1611; new Section made by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4). R20-6-1606 renumbered to R20-6-A1606 by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-1607. Renumbered**Historical Note**

Adopted effective February 3, 1993 (Supp. 93-1). R20-6-1607 recodified from R4-14-1607 (Supp. 95-1). Section R20-6-1607 renumbered to R20-6-1612; new Section R20-6-1607 renumbered from R20-6-1602 and amended by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4). R20-6-1607 renumbered to R20-6-A1607 by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-1608. Renumbered**Historical Note**

New Section R20-6-1608 renumbered from R20-6-1603 and amended by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4). R20-6-1608 renumbered to R20-6-A1608 by final

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rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-1609. Repealed**Historical Note**

New Section R20-6-1609 renumbered from R20-6-1604 and amended by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4). Repealed by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-1610. Renumbered**Historical Note**

New Section R20-6-1610 renumbered from R20-6-1605 by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4). R20-6-1610 renumbered to R20-6-B1601 by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-1611. Renumbered**Historical Note**

New Section R20-6-1611 renumbered from R20-6-1606 and amended by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4). R20-6-1611 renumbered to R20-6-B1602 by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-1612. Renumbered**Historical Note**

New Section R20-6-1612 renumbered from R20-6-1607 and amended by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4). R20-6-1612 renumbered to R20-6-B1603 by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

PART A. CREDIT FOR REINSURANCE**R20-6-A1601. Credit for Reinsurance – Reinsurer Licensed in Arizona**

Pursuant to A.R.S. § 20-3602(C) the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that was licensed in Arizona as of any date on which statutory financial statement credit for reinsurance is claimed.

Historical Note

New Section R20-6-A1601 renumbered from R20-6-1601 and amended by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-A1602. Credit for Reinsurance – Accredited Reinsurers

A. Pursuant to A.R.S. § 20-3602(D) the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that is accredited as a reinsurer in Arizona as of the date on which statutory financial statement credit for reinsurance is claimed.

B. An accredited reinsurer must:

1. File a properly executed Form AR-1, attached as Exhibit A to this Part, as evidence of its submission to the Director's jurisdiction and to the Director's authority to examine its books and records;
2. File with the Director a certified copy of a certificate of authority or other acceptable evidence that it is licensed

to transact insurance or reinsurance in at least one state, or, in the case of a U.S. branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;

3. File annually with the Director a copy of its annual statement filed with the insurance department of its state of domicile or, in the case of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance, and a copy of its most recent audited financial statement; and
 4. Maintain a surplus as regards policyholders in an amount not less than \$20 million, or obtain the affirmative approval of the Director upon a finding that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers.
- C. If the Director determines that the assuming insurer has failed to meet or maintain any of these qualifications, the Director may upon written notice and opportunity for hearing, suspend or revoke the accreditation. Credit shall not be allowed a domestic ceding insurer under this Section if the assuming insurer's accreditation has been revoked by the Director, or if the reinsurance was ceded while the assuming insurer's accreditation was under suspension by the Director.

Historical Note

New Section R20-6-A1602 renumbered from R20-6-1602 and amended by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022; clerical error under subsection (B)(1) referencing Form AR-1 as an Appendix A corrected to Exhibit A (Supp. 22-1).

R20-6-A1603. Credit for Reinsurance – Reinsurer Domiciled in Another State

A. Pursuant to A.R.S. § 20-3602(E) the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that as of any date on which statutory financial credit for reinsurance is claimed:

1. Is domiciled in (or, in the case of a U.S. branch of an alien assuming insurer, is entered through) a state that employs standards regarding credit for reinsurance substantially similar to those applicable under A.R.S. Title 20, Chapter 30 and this Part;
2. Maintains a surplus as regards policyholders in an amount not less than \$20 million; and
3. Files a properly executed Form AR-1 (Exhibit A) with the Director as evidence of the submission to the Director's authority to examine its books and records.

B. The provisions of this Section relating to surplus as regards policyholders shall not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system. As used in this Section, "substantially similar" standards means credit for reinsurance standards that the Director determines equal or exceed the standards of A.R.S. Title 20, Chapter 30 and this Part.

Historical Note

New Section R20-6-A1603 renumbered from R20-6-1603 and amended by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-A1604. Credit for Reinsurance – Reinsurers Maintaining Trust Funds

A. Pursuant to A.R.S. § 20-3602(F) and (F)(1), the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which, as of any date on which statutory

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financial statement credit for reinsurance is claimed, and thereafter for so long as credit for reinsurance is claimed, maintains a trust fund in an amount prescribed below in a qualified U.S. financial institution as defined in A.R.S. § 20-3601 for the payment of the valid claims of its U.S. domiciled ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the Director substantially the same information as that required to be reported on the National Association of Insurance Commissioners (NAIC) annual statement form by licensed insurers, to enable the Director to determine the sufficiency of the trust fund.

B. The following requirements apply to the following categories of assuming insurer:

1. The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by U.S. domiciled insurers, and in addition, the assuming insurer shall maintain a trustee surplus of not less than \$20 million, except as provided in subsection (B)(2).
2. At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trustee surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of U.S. ceding insurers, policyholders and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trustee surplus may not be reduced to an amount less than 30% of the assuming insurer's liabilities, attributable to reinsurance ceded by U.S. ceding insurers covered by the trust.
3. The trust fund for a group including incorporated and individual unincorporated underwriters:
 - a. Shall consist of:
 - i. For reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after January 1, 1993, funds in trust in an amount not less than the respective underwriters' several liabilities attributable to business ceded by U.S. domiciled ceding insurers to any underwriter of the group;
 - ii. For reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this Part, funds in trust in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States; and
 - iii. In addition to these trusts, the group shall maintain a trustee surplus of which \$100 million shall be held jointly for the benefit of the U.S. domiciled ceding insurers of any member of the group for all the years of account.
 - b. The incorporated members of the group shall not be engaged in any business other than underwriting as a

member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members. The group shall, within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, provide to the Director:

- i. An annual certification by the group's domiciliary regulator of the solvency of each underwriter member of the group; or
 - ii. If a certification is unavailable, a financial statement, prepared by independent public accountants, of each underwriter member of the group.
4. The trust fund for a group of incorporated insurers under common administration, whose members possess aggregate policyholders surplus of \$10 billion (calculated and reported in substantially the same manner as prescribed by the annual statement instructions and Accounting Practices and Procedures Manual of the NAIC) and which has continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation, shall:
 - a. Consist of funds in trust in an amount no less than the assuming insurers' several liabilities attributable to business ceded by U.S. domiciled ceding insurers to any members of the group pursuant to reinsurance contracts issued in the name of such group;
 - b. Maintain a joint trustee surplus of which \$100 million shall be held jointly for the benefit of U.S. domiciled ceding insurers of any member of the group; and
 - c. File a properly executed Form AR-1 (Exhibit A) as evidence of the submission to the Director's authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination.
 - d. Within 90 days after the statements are due to be filed with the group's domiciliary regulator, the group shall file with the Director an annual certification of each underwriter member's solvency by the member's domiciliary regulators, and financial statements, prepared by independent public accountants, of each underwriter member of the group.
- C.** Credit for reinsurance shall not be granted unless the form of the trust and any amendments to the trust have been approved by either the commissioner of the state where the trust is domiciled or the commissioner of another state who, pursuant to the terms of the trust instrument, has accepted responsibility for regulatory oversight of the trust. The form of the trust and any trust amendments also shall be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled.
1. The trust instrument shall provide that:
 - a. Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied 30 days after entry of the final order of any court of competent jurisdiction in the United States;
 - b. Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's U.S. ceding insurers, their assigns and successors in interest;
 - c. The trust shall be subject to examination as determined by the commissioner;

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- d. The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust; and
 - e. No later than February 28 of each year the trustee of the trust shall report to the commissioner in writing setting forth the balance in the trust and listing the trust's investments at the preceding year-end, and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the following December 31.
2. Notwithstanding any other provisions in the trust instrument;
- a. If the trust fund is inadequate because it contains an amount less than the amount required by this Section or if the granter of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight over the trust or other designated receiver all of the assets of the trust fund.
 - b. The assets shall be distributed by and claims shall be filed with and valued by the commissioner with regulatory oversight over the trust in accordance with the laws of the state in which the trust is domiciled applicable to the liquidation of domestic insurance companies.
 - c. If the commissioner with regulatory oversight over the trust determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the U.S. beneficiaries of the trust, the commissioner with regulatory oversight over the trust shall return the assets, or any part thereof, to the trustee for distribution in accordance with the trust agreement.
 - d. The granter shall waive any right otherwise available to it under U.S. law that is inconsistent with this provision.
- D.** For purposes of this Section, the term "liabilities" shall mean the assuming insurer's gross liabilities attributable to reinsurance ceded by U.S. domiciled insurers excluding liabilities that are otherwise secured by acceptable means, and, shall include:
- 1. For business ceded by domestic insurers authorized to write accident and health, and property and casualty insurance:
 - a. Losses and allocated loss expenses paid by the ceding insurer, recoverable from the assuming insurer;
 - b. Reserves for losses reported and outstanding;
 - c. Reserves for losses incurred but not reported;
 - d. Reserves for allocated loss expenses; and
 - e. Unearned premiums.
 - 2. For business ceded by domestic insurers authorized to write life, health and annuity insurance:
 - a. Aggregate reserves for life policies and contracts net of policy loans and net due, and deferred premiums;
 - b. Aggregate reserves for accident and health policies;
 - c. Deposit funds and other liabilities without life or disability contingencies; and
 - d. Liabilities for policy and contract claims.
- E.** Assets deposited in trusts established pursuant to A.R.S. § 20-3602 and this Section shall be valued according to their current fair market value and shall consist only of cash in U.S. dollars, certificates of deposit issued by a U.S. financial institution as defined in A.R.S. § 20-3601, clean, irrevocable, unconditional, and "evergreen" letters of credit issued or confirmed by a qualified U.S. financial institution as defined in A.R.S. § 20-3601, and investments of the type specified in this subsection, but investments in or issued by an entity controlling, controlled by or under common control with either the grantor or beneficiary of the trust shall not exceed 5% of total investments. No more than 20% of the total of the investments in the trust may be foreign investments authorized under subsections (E)(1)(e), (E)(3), (E)(6)(b), or (E)(7), and no more than 10% of the total of the investments in the trust may be securities denominated in foreign currencies. For purposes of applying the preceding sentence, a depository receipt denominated in U.S. dollars and representing rights conferred by a foreign security shall be classified as a foreign investment denominated in a foreign currency. The assets of a trust established to satisfy the requirements of A.R.S. § 20-3602 shall be invested only as follows:
- 1. Government obligations that are not in default as to principal or interest that are valid and legally authorized and that are issued, assumed, or guaranteed by:
 - a. The United States or by any agency or instrumentality of the United States;
 - b. A state of the United States;
 - c. A territory, possession, or other governmental unit of the United States;
 - d. An agency or instrumentality of a governmental unit referred to in subsections (E)(1)(b) and (E)(1)(c) if the obligations shall be by law (statutory or otherwise) payable, as to both principal and interest, from taxes levied or by law required to be levied or from adequate special revenues pledged or otherwise appropriated or by law required to be provided for making these payments, but shall not be obligations eligible for investment under this subsection (E)(1)(d) if payable solely out of special assessments on properties benefited by local improvements; or
 - e. The government of any other country that is a member of the Organization for Economic Cooperation and Development and whose government obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC;
 - 2. Obligations that are issued in the United States, or that are dollar denominated and issued in a non-U.S. market, by a solvent U.S. institution (other than an insurance company) or that are assumed or guaranteed by a solvent U.S. institution (other than an insurance company) and that are not in default as to principal or interest if the obligations:
 - a. Are rated A or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC, or if not so rated, are similar in structure and other material respects to other obligations of the same institution that are so rated;
 - b. Are insured by at least one authorized insurer (other than the investing insurer or a parent, subsidiary or affiliate of the investing insurer) licensed to insure

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- obligations in Arizona and, after considering the insurance, are rated AAA (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC; or
- c. Have been designated as Class One or Class Two by the Securities Valuation Office of the NAIC;
3. Obligations issued, assumed or guaranteed by a solvent non-U.S. institution chartered in a country that is a member of the Organization for Economic Cooperation and Development or obligations of U.S. corporations issued in a non-U.S. currency, provided that in either case the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC;
4. An investment made pursuant to the provisions of subsections (E)(1), (E)(2), or (E)(3) shall be subject to the following additional limitations;
- a. An investment in or loan upon the obligations of an institution other than an institution that issues mortgage-related securities shall not exceed 5% of the assets of the trust;
- b. An investment in any one mortgage-related security shall not exceed 5% of the assets of the trust;
- c. The aggregate total investment in mortgage-related securities shall not exceed 25% of the assets of the trust; and
- d. Preferred or guaranteed shares issued or guaranteed by a solvent U.S. institution are permissible investments if all of the institution's obligations are eligible as investments under subsections (E)(2)(a) and (E)(2)(c), but shall not exceed 2% of the assets of the trust.
5. As used in this Section:
- a. "Mortgage-related security" means an obligation that is rated AA or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC and that either:
- i. Represents ownership of one or more promissory notes or certificates of interest or participation in the notes (including any rights designed to assure servicing of, or the receipt or timeliness of receipt by the holders of the notes, certificates, or participation of amounts payable under, the notes, certificates or participation), that: (1) Are directly secured by a first lien on a single parcel of real estate, including stock allocated to a dwelling unit in a residential cooperative housing corporation, upon which is located a dwelling or mixed residential and commercial structure, or on a residential manufactured home as defined in 42 U.S.C.A. 5402(6), whether the manufactured home is considered real or personal property under the laws of the state in which it is located; and (2) Were originated by a savings and loan association, savings bank, commercial bank, credit union, insurance company, or similar institution that is supervised and examined by a federal or state housing authority, or by a mortgagee approved by the Secretary of Housing and Urban Development pursuant to 12 U.S.C.A. 1709 and 1715-b, or, where the notes involve a lien on the manufactured home, by an institution or by a financial institution approved for insurance by the Secretary of Housing and Urban Development pursuant to 12 U.S.C.A. 1703; or
- ii. Is secured by one or more promissory notes or certificates of deposit or participations in the notes (with or without recourse to the insurer of the notes) and, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, or notes meeting the requirements of subsection (E)(5)(a)(i);
- b. "Promissory note," when used in connection with a manufactured home, shall also include a loan, advance, or credit sale as evidenced by a retail installment sales contract or other instrument.
6. Equity interests.
- a. Investments in common shares or partnership interests of a solvent U.S. institution are permissible if:
- i. Its obligations and preferred shares, if any, are eligible as investments under this Section; and
- ii. The equity interests of the institution (except an insurance company) are registered on a national securities exchange as provided in the Securities Exchange Act of 1934, 15 U.S.C. 78a - 78kk or otherwise registered pursuant to that Act, and if otherwise registered, price quotations for them are furnished through a nationwide automated quotations system approved by the Financial Industry Regulatory Authority, or successor organization. A trust shall not invest in equity interests under this Section an amount exceeding 1% of the assets of the trust even though the equity interests are not so registered and are not issued by an insurance company;
- b. Investments in common shares of a solvent institution organized under the laws of a country that is a member of the Organization for Economic Cooperation and Development, if:
- i. All its obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC; and
- ii. The equity interests of the institution are registered on a securities exchange regulated by the government of a country that is a member of the Organization for Economic Cooperation and Development;
- c. An investment in or loan upon any one institution's outstanding equity interests shall not exceed 1% of the assets of the trust. The cost of an investment in equity interests made pursuant to this subsection (E)(6), when added to the aggregate cost of other investments in equity interests then held pursuant to this subsection (E)(6), shall not exceed 10% of the assets in the trust;
7. Obligations issued, assumed or guaranteed by a multinational development bank, provided the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC.
8. Investment companies.
- a. Securities of an investment company registered pursuant to the Investment Company Act of 1940, 15

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U.S.C. 80a, are permissible investments if the investment company:

- i. Invests at least 90% of its assets in the types of securities that qualify as an investment under subsection (E)(1), (E)(2), or (E)(3) or invests in securities that are determined by the Director to be substantively similar to the types of securities set forth in subsection (E)(1), (E)(2), or (E)(3); or
- ii. Invests at least 90% of its assets in the types of equity interests that qualify as an investment under subsection (E)(6)(a);
- b. Investments made by a trust in investment companies under this subsection (E)(8) shall not exceed the following limitations:
 - i. An investment in an investment company qualifying under subsection (E)(8)(a)(i) shall not exceed 10% of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall not exceed 25% of the assets in the trust, and
 - ii. Investments in an investment company qualifying under subsection (E)(8)(a)(ii) shall not exceed 5% of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall be included when calculating the permissible aggregate value of equity interests pursuant to subsection (E)(6)(a).

9. Letters of Credit.

- a. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the Director) to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.
- b. The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct, or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence and/or willful misconduct.

- F. A specific security provided to a ceding insurer by an assuming insurer pursuant to Section R20-6-A1607 shall be applied, until exhausted, to the payment of liabilities of the assuming insurer to the ceding insurer holding the specific security prior to, and as a condition precedent for, presentation of a claim by the ceding insurer for payment by a trustee of a trust established by the assuming insurer pursuant to this Section.

Historical Note

New Section R20-6-A1604 renumbered from R20-6-1604 and amended by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022; the redundant phrase "of this Section" was removed when followed by a subsection reference (Supp. 22-1).

R20-6-A1605. Credit for Reinsurance – Certified Reinsurers

- A. Pursuant to A.R.S. §§ 20-3602(G), the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in Arizona at all times for which statutory financial statement credit for reinsurance is claimed under this Section. The credit allowed shall

be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the Director. The security shall be in a form consistent with the provisions of A.R.S. §§ 20-3602(G), and 20-3603 and R20-6-A1608 or R20-6-A1609(A). The amount of security required in order for full credit to be allowed shall correspond with the following requirements:

1. Ratings Security Required
 - a. Secure-1 0%
 - b. Secure-2 10%
 - c. Secure-3 20%
 - d. Secure-4 50%
 - e. Secure-5 75%
 - f. Vulnerable-6 100%
2. Affiliated reinsurance transactions shall receive the same opportunity for reduced security requirements as all other reinsurance transactions.
3. The Director shall require the certified reinsurer to post 100%, for the benefit of the ceding insurer or its estate, security upon the entry of an order of rehabilitation, liquidation, or conservation against the ceding insurer.
4. In order to facilitate the prompt payment of claims, a certified reinsurer shall not be required to post security for catastrophe recoverables for a period of one year from the date of the first instance of a liability reserve entry by the ceding company as a result of a loss from a catastrophic occurrence as recognized by the Director. The one year deferral period is contingent upon the certified reinsurer continuing to pay claims in a timely manner. Reinsurance recoverables for only the following lines of business as reported on the NAIC annual financial statement related specifically to the catastrophic occurrence will be included in the deferral:
 - a. Line 1: Fire
 - b. Line 2: Allied Lines
 - c. Line 3: Farmowners multiple peril
 - d. Line 4: Homeowners multiple peril
 - e. Line 5: Commercial multiple peril
 - f. Line 9: Inland Marine
 - g. Line 12: Earthquake
 - h. Line 21: Auto physical damage
5. Credit for reinsurance under this Section shall apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer. Any reinsurance contract entered into prior to the effective date of the certification of the assuming insurer that is subsequently amended after the effective date of the certification of the assuming insurer, or a new reinsurance contract covering any risk for which collateral was provided previously, shall only be subject to this Section with respect to losses incurred and reserves reported from and after the effective date of the amendment or new contract.
6. Nothing in this Section shall prohibit the parties to a reinsurance agreement from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under this Section.

B. Certification Procedure.

1. The Director shall post notice on the insurance department's website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The Director may not take final action on the application until at

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least 30 days after posting the notice required by this subsection (B)(1).

2. The Director shall issue written notice to an assuming insurer that has made application and been approved as a certified reinsurer. Included in such notice shall be the rating assigned the certified reinsurer in accordance with subsection (A). The Director shall publish a list of all certified reinsurers and their ratings.
3. In order to be eligible for certification, the assuming insurer shall meet the following requirements:
 - a. The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a Qualified Jurisdiction, as determined by the Director pursuant to subsection (C).
 - b. The assuming insurer must maintain capital and surplus, or its equivalent, of no less than \$250 million calculated in accordance with subsection (B)(4)(h). This requirement may also be satisfied by an association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) of at least \$250 million and a central fund containing a balance of at least \$250 million.
 - c. The assuming insurer must maintain financial strength ratings from two or more rating agencies deemed acceptable by the Director. These ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. These financial strength ratings will be one factor used by the Director in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies include the following:
 - i. Standard & Poor's;
 - ii. Moody's Investors Service;
 - iii. Fitch Ratings;
 - iv. A.M. Best Company; or
 - v. Any other Nationally Recognized Statistical Rating Organization.
 - d. The certified reinsurer must comply with any other requirements reasonably imposed by the Director.
4. Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. Factors that may be considered as part of the evaluation process include, but are not limited to, the following:
 - a. The certified reinsurer's financial strength rating from an acceptable rating agency. The maximum rating that a certified reinsurer may be assigned will correspond to its financial strength rating as outlined in the Table 1. The Director shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or maintain at least two financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification as outlined in Table 1.
 - b. The business practices of the certified reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations;
- c. For certified reinsurers domiciled in the U.S., a review of the most recent applicable NAIC Annual Statement Blank, either Schedule F (for property/casualty reinsurers) or Schedule S (for life and health reinsurers);
- d. For certified reinsurers not domiciled in the U.S., a review annually of Form CR-F (instructions attached as Exhibit C) for property/casualty reinsurers or Form CR-S (instructions attached as Exhibit D) for life and health reinsurers;
- e. The reputation of the certified reinsurer for prompt payment of claims under reinsurance agreements, based on an analysis of ceding insurers' Schedule F reporting of overdue reinsurance recoverables, including the proportion of obligations that are more than 90 days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership;
- f. Regulatory actions against the certified reinsurer;
- g. The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in subsection (B)(4)(h);
- h. For certified reinsurers not domiciled in the U.S., audited financial statements, regulatory filings, and actuarial opinion (as filed with the non-U.S. jurisdiction supervisor, with a translation into English). Upon the initial application for certification, the Director will consider audited financial statements for the last two years filed with its non-U.S. jurisdiction supervisor;
- i. The liquidation priority of obligations to a ceding insurer in the certified reinsurer's domiciliary jurisdiction in the context of an insolvency proceeding;
- j. A certified reinsurer's participation in any solvent scheme of arrangement, or similar procedure, which involves U.S. ceding insurers. The Director shall receive prior notice from a certified reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement; and
- k. Any other information deemed relevant by the Director.

5. Based on the analysis conducted under subsection (B)(4)(e) of a certified reinsurer's reputation for prompt payment of claims, the Director may make appropriate adjustments in the security the certified reinsurer is required to post to protect its liabilities to U.S. ceding insurers, provided that the Director shall, at a minimum, increase the security the certified reinsurer is required to post by one rating level under subsection (B)(4)(a) if the Director finds that:
 - a. More than 15% of the certified reinsurer's ceding insurance clients have overdue reinsurance recoverables on paid losses of 90 days or more which are not in dispute and which exceed \$100 thousand for each cedent; or
 - b. The aggregate amount of reinsurance recoverables on paid losses which are not in dispute that are overdue by 90 days or more exceeds \$50 million.

6. The assuming insurer must submit a properly executed Form CR-1 (attached as Exhibit B) as evidence of its submission to the jurisdiction of Arizona, appointment of the

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Director as an agent for service of process in Arizona, and agreement to provide security for 100% of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers if it resists enforcement of a final U.S. judgment. The Director shall not certify any assuming insurer that is domiciled in a jurisdiction that the Director has determined does not adequately and promptly enforce final U.S. judgments or arbitration awards.

7. The certified reinsurer must agree to meet applicable information filing requirements as determined by the Director, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers which are not otherwise public information subject to disclosure shall be exempted from disclosure under A.R.S. § 20-158 and shall be withheld from public disclosure. The applicable information filing requirements are, as follows:
 - a. Notification within ten days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license or any change in rating by an approved rating agency, including a statement describing such changes and the reasons therefore;
 - b. Annually, Form CR-F or CR-S, as applicable;
 - c. Annually, the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in subsection (B)(7)(d);
 - d. Annually, the most recent audited financial statements, regulatory filings, and actuarial opinion (as filed with the certified reinsurer's supervisor, with a translation into English). Upon the initial certification, audited financial statements for the last two years filed with the certified reinsurer's supervisor;
 - e. At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers;
 - f. A certification from the certified reinsurer's domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level; and
 - g. Any other information that the Director may reasonably require.
8. Change in Rating or Revocation of Certification.
 - a. In the case of a downgrade by a rating agency or other disqualifying circumstance, the Director shall upon written notice assign a new rating to the certified reinsurer in accordance with the requirements of subsection (B)(4)(a).
 - b. The Director shall have the authority to suspend, revoke, or otherwise modify a certified reinsurer's certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this Section, or if other financial or operating results of the certified reinsurer, or documented significant delays in payment by the certified reinsurer, lead the Director to reconsider the certified reinsurer's ability or willingness to meet its contractual obligations.
 - c. If the rating of a certified reinsurer is upgraded by the Director, the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis, but the Director shall require the certified reinsurer to post security under the previ-

ously applicable security requirements as to all contracts in force on or before the effective date of the upgraded rating. If the rating of a certified reinsurer is downgraded by the Director, the Director shall require the certified reinsurer to meet the security requirements applicable to its new rating for all business it has assumed as a certified reinsurer.

- d. Upon revocation of the certification of a certified reinsurer by the Director, the assuming insurer shall be required to post security in accordance with R20-6-A1607 in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with R20-6-A1604, the Director may allow additional credit equal to the ceding insurer's pro rata share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer's rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of three months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the Director to be at high risk of uncollectibility.

C. Qualified Jurisdictions.

1. If, upon conducting an evaluation under this Section with respect to the reinsurance supervisory system of any non-U.S. assuming insurer, the Director determines that the jurisdiction qualifies to be recognized as a qualified jurisdiction, the Director shall publish notice and evidence of such recognition in an appropriate manner. The Director may establish a procedure to withdraw recognition of those jurisdictions that are no longer qualified.
2. In order to determine whether the domiciliary jurisdiction of a non-U.S. assuming insurer is eligible to be recognized as a qualified jurisdiction, the Director shall evaluate the reinsurance supervisory system of the non-U.S. jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the non-U.S. jurisdiction to reinsurers licensed and domiciled in the U.S. The Director shall determine the appropriate approach for evaluating the qualifications of such jurisdictions, and create and publish a list of jurisdictions whose reinsurers may be approved by the Director as eligible for certification. A qualified jurisdiction must agree to share information and cooperate with the Director with respect to all certified reinsurers domiciled within that jurisdiction. Additional factors to be considered in determining whether to recognize a qualified jurisdiction, in the discretion of the Director, include but are not limited to the following:
 - a. The framework under which the assuming insurer is regulated.
 - b. The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance.
 - c. The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction.
 - d. The form and substance of financial reports required to be filed or made publicly available by reinsurers in the domiciliary jurisdiction and the accounting principles used.

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- e. The domiciliary regulator's willingness to cooperate with U.S. regulators in general and the Director in particular.
- f. The history of performance by assuming insurers in the domiciliary jurisdiction.
- g. Any documented evidence of substantial problems with the enforcement of final U.S. judgments in the domiciliary jurisdiction. A jurisdiction will not be considered to be a qualified jurisdiction if the Director has determined that it does not adequately and promptly enforce final U.S. judgments or arbitration awards.
- h. Any relevant international standards or guidance with respect to mutual recognition of reinsurance supervision adopted by the International Association of Insurance Supervisors or successor organization.
- i. Any other matters deemed relevant by the Director.
- 3. A list of qualified jurisdictions shall be published through the NAIC Committee Process. The Director shall consider this list in determining qualified jurisdictions. If the Director approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the Director shall provide thoroughly documented justification with respect to the criteria provided under subsections (C)(2)(a) through (C)(2)(i).
- 4. U.S. jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.
- D. Recognition of Certification Issued by an NAIC Accredited Jurisdiction.
 - 1. If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the Director has the discretion to defer to that jurisdiction's certification, and to defer to the rating assigned by that jurisdiction, if the assuming insurer submits a properly executed Form CR-1 (Exhibit B) and such additional information as the Director requires. The assuming insurer shall be considered to be a certified reinsurer in Arizona.
- 2. Any change in the certified reinsurer's status or rating in the other jurisdiction shall apply automatically in Arizona as of the date it takes effect in the other jurisdiction. The certified reinsurer shall notify the Director of any change in its status or rating within ten days after receiving notice of the change.
- 3. The Director may withdraw recognition of the other jurisdiction's rating at any time and assign a new rating in accordance with subsection (B)(8).
- 4. The Director may withdraw recognition of the other jurisdiction's certification at any time with written notice to the certified reinsurer. Unless the Director suspends or revokes the certified reinsurer's certification in accordance with subsection (B)(8), the certified reinsurer's certification shall remain in good standing in this State for a period of three months, which shall be extended if additional time is necessary to consider the assuming insurer's application for certification in Arizona.
- E. Mandatory Funding Clause. In addition to the clauses required under R20-6-A1609(B), reinsurance contracts entered into or renewed under this Section shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this Section for reinsurance ceded to the certified reinsurer.
- F. The Director shall comply with all reporting and notification requirements that may be established by the NAIC with respect to certified reinsurers and qualified jurisdictions.

Historical Note

New Section R20-6-A1605 renumbered from R20-6-1605 and amended by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022; the redundant phrase "of this Section" and word "below" were removed when by followed a subsection reference (Supp. 22-1).

Table 1. Financial Strength Ratings

| Ratings | Best | S&P | Moody's | Fitch |
|----------------|------------------------------|-------------------------------------------|---------------------------------------|---------------------------------------------|
| Secure – 1 | A++ | AAA | Aaa | AAA |
| Secure – 2 | A+ | AA+, AA, AA- | Aa1, Aa2, Aa3 | AA+, AA, AA- |
| Secure – 3 | A | A+, A | A1, A2 | A+, A |
| Secure – 4 | A- | A- | A3 | A- |
| Secure – 5 | B++, B+ | BBB+, BBB, BBB- | Baa1, Baa2, Baa3 | BBB+, BBB, BBB- |
| Vulnerable – 6 | B, B-C++, C+, C, C-, D, E, F | BB+, BB, BB-, B+, B, B-, CCC, CC, C, D, R | Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C | BB+, BB, BB-, B+, B, B-, CCC+, CC, CCC-, DD |

Historical Note

Table 1 renumbered from R20-6-1605 by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-A1606. Credit for Reinsurance - Reciprocal Jurisdictions; Credit for Reinsurance Required by Law

- A. Credit for reinsurance to a reciprocal jurisdiction assuming insurer. Pursuant to A.R.S. § 20-3602(H), (I), (J), (K), (L), and (R), the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by, and has its head office or is domiciled in, a reciprocal jurisdiction, and which meets the other requirements of this Part.
- B. A "reciprocal jurisdiction" is a jurisdiction, as designated by the Director pursuant to subsection (D) that meets one of the following:
 - 1. A non-U.S. jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and the European Union, is a member state of the European Union. For purposes of this subsection, a "covered agreement" is an agreement entered into pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. §§ 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a

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- ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance;
2. A U.S. jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program; or
 3. A qualified jurisdiction, as determined by the Director pursuant to A.R.S. § 20-3602(G)(3) and Section R20-6-A1605(C), which is not otherwise described in subsections (B)(1) or (B)(2) and which the Director determines meets all of the following additional requirements:
 - a. Provides that an insurer who has its head office or is domiciled in such qualified jurisdiction shall receive credit for reinsurance ceded to a U.S.-domiciled assuming insurer in the same manner as credit for reinsurance is received for reinsurance assumed by insurers domiciled in such qualified jurisdiction;
 - b. Does not require a U.S.-domiciled assuming insurer to establish or maintain a local presence as a condition for entering into a reinsurance agreement with any ceding insurer subject to regulation by the non-U.S. jurisdiction or as a condition to allow the ceding insurer to recognize credit for such reinsurance;
 - c. Recognizes the U.S. state regulatory approach to group supervision and group capital, by providing written confirmation by a competent regulatory authority, in such qualified jurisdiction, that insurers and insurance groups who are domiciled or maintain their headquarters in this state or another jurisdiction accredited by the NAIC shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the Director or the commissioner of the domiciliary state and will not be subject to group supervision at the level of the worldwide parent undertaking of the insurance or reinsurance group by the qualified jurisdiction; and
 - d. Provides written confirmation by a competent regulatory authority in such qualified jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the Director in accordance with a memorandum of understanding or similar document between the Director and such qualified jurisdiction, including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC.
- C. Credit shall be allowed when the reinsurance is ceded from an insurer domiciled in this state to a reciprocal jurisdiction assuming insurer meeting each of these conditions:
1. The assuming insurer must be licensed to transact insurance by, and have its head office or be domiciled in, a reciprocal jurisdiction;
 2. The assuming insurer must have and maintain on an ongoing basis minimum capital and surplus, or its equivalent, calculated on at least an annual basis as of the preceding December 31 or at the annual date otherwise statutorily reported to the reciprocal jurisdiction, and confirmed as set forth in subsection (C)(7) according to the methodology of its domiciliary jurisdiction, in the following amounts:
 - a. No less than \$250 million; or
 - b. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters:
 - i. Minimum capital and surplus equivalents (net of liabilities) or own funds of the equivalent of at least \$250 million; and
 - ii. A central fund containing a balance of the equivalent of at least \$250 million.
 3. The assuming insurer must have and maintain on an ongoing basis a minimum solvency or capital ratio, as applicable, as follows:
 - a. If the assuming insurer has its head office or is domiciled in a reciprocal jurisdiction as defined in subsection (B)(1), the ratio specified in the applicable covered agreement;
 - b. If the assuming insurer is domiciled in a reciprocal jurisdiction as defined in subsection (B)(2), a risk-based capital (RBC) ratio of 300% of the authorized control level, calculated in accordance with the formula developed by the NAIC; or
 - c. If the assuming insurer is domiciled in a reciprocal jurisdiction as defined in subsection (B), after consultation with the reciprocal jurisdiction and considering any recommendations published through the NAIC Committee Process, such solvency or capital ratio as the Director determines to be an effective measure of solvency.
 4. The assuming insurer must agree to and provide adequate assurance, in the form of a properly executed Form RJ-1 (Exhibit E), of its agreement to the following:
 - a. The assuming insurer must agree to provide prompt written notice and explanation to the Director if it falls below the minimum requirements set forth in subsections (C)(2) or (C)(3), or if any regulatory action is taken against it for serious noncompliance with applicable law;
 - b. The assuming insurer must consent in writing to the jurisdiction of the courts of this state and to the appointment of the Director as agent for service of process.
 - i. The Director may also require that such consent be provided and included in each reinsurance agreement under the Director's jurisdiction.
 - ii. Nothing in this provision shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws;
 - c. The assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer, that have been declared enforceable in the territory where the judgment was obtained;
 - d. Each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to 100% of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding

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- insurer or by its legal successor on behalf of its estate, if applicable;
- e. The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement, which involved this state's ceding insurers, and agrees to notify the ceding insurer and the Director and to provide 100% security to the ceding insurer consistent with the terms of the scheme, should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of A.R.S. §§ 20-3602(G) and 20-3603, R20-6-A1608, or R20-6-A1609(A). For purposes of this Section, the term "solvent scheme of arrangement" means a foreign or alien statutory or regulatory compromise procedure subject to requisite majority creditor approval and judicial sanction in the assuming insurer's home jurisdiction either to finally commute liabilities of duly noticed class members or creditors of a solvent debtor, or to reorganize or restructure the debts and obligations of a solvent debtor on a final basis, and which may be subject to judicial recognition and enforcement of the arrangement by a governing authority outside the ceding insurer's home jurisdiction; and
 - f. The assuming insurer must agree in writing to meet the applicable information filing requirements as set forth in subsection (C)(5).
5. The assuming insurer or its legal successor must provide, if requested by the Director, on behalf of itself and any legal predecessors, the following documentation to the Director:
 - a. For the two years preceding entry into the reinsurance agreement and on an annual basis thereafter, the assuming insurer's annual audited financial statements, in accordance with the applicable law of the jurisdiction of its head office or domiciliary jurisdiction, as applicable, including the external audit report;
 - b. For the two years preceding entry into the reinsurance agreement, the solvency and financial condition report or actuarial opinion, if filed with the assuming insurer's supervisor;
 - c. Prior to entry into the reinsurance agreement and not more than semi-annually thereafter, an updated list of all disputed and overdue reinsurance claims outstanding for 90 days or more, regarding reinsurance assumed from ceding insurers domiciled in the United States; and
 - d. Prior to entry into the reinsurance agreement and not more than semi-annually thereafter, information regarding the assuming insurer's assumed reinsurance by ceding insurer, ceded reinsurance by the assuming insurer, and reinsurance recoverable on paid and unpaid losses by the assuming insurer to allow for the evaluation of the criteria set forth in subsection (C)(6).
 6. The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements. The lack of prompt payment will be evidenced if any of the following criteria is met:
 - a. More than 15% of the reinsurance recoverables from the assuming insurer are overdue and in dispute as reported by the Director;
 - b. More than 15% of the assuming insurer's ceding insurers or reinsurers have overdue reinsurance recoverable on paid losses of 90 days or more which are not in dispute and which exceed for each ceding insurer \$100 thousand, or as otherwise specified in a covered agreement; or
 - c. The aggregate amount of reinsurance recoverable on paid losses which are not in dispute, but are overdue by 90 days or more, exceeds \$50 million, or as otherwise specified in a covered agreement.
 7. The assuming insurer's supervisory authority must confirm to the Director on an annual basis that the assuming insurer complies with the requirements set forth in subsections (C)(2) and (C)(3).
 8. Nothing in this provision precludes an assuming insurer from providing the Director with information on a voluntary basis.
- D. The Director shall timely create and publish a list of reciprocal jurisdictions.
 1. A list of reciprocal jurisdictions is published through the NAIC committee process. The Director's list shall include any reciprocal jurisdiction as defined under subsections (B)(1) and (B)(2), and shall consider any other reciprocal jurisdiction included on the NAIC list. The Director may approve a jurisdiction that does not appear on the NAIC list of reciprocal jurisdictions as provided by applicable law, regulation, or in accordance with criteria published through the NAIC committee process.
 2. The Director may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets one or more of the requirements of a reciprocal jurisdiction, as provided by applicable law, regulation, or in accordance with a process published through the NAIC committee process, except that the Director shall not remove from the list a reciprocal jurisdiction as defined under subsections (B)(1) and (B)(2). Upon removal of a reciprocal jurisdiction from this list, credit for reinsurance ceded to an assuming insurer domiciled in that jurisdiction shall be allowed, if otherwise allowed pursuant to A.R.S. Title 20, Chapter 30 and this Part.
 - E. The Director shall timely create and publish a list of reciprocal jurisdiction assuming insurers that have satisfied the conditions set forth in this Section and to which cessions shall be granted credit in accordance with this subsection.
 1. If an NAIC accredited jurisdiction has determined that the conditions set forth in subsection (C) have been met, the Director has the discretion to defer to that jurisdiction's determination, and add such assuming insurer to the list of assuming insurers to which cessions shall be granted credit in accordance with this subsection. The Director may accept financial documentation filed with another NAIC accredited jurisdiction or with the NAIC in satisfaction of the requirement of subsection (C).
 2. When requesting that the Director defer to another NAIC accredited jurisdiction's determination, an assuming insurer must submit a properly executed Form RJ-1 (Appendix E) and additional information as the Director may require. A state that has received such a request will notify other states through the NAIC committee process and provide relevant information with respect to the determination of eligibility.
 - F. If the Director determines that a reciprocal jurisdiction assuming insurer no longer meets one or more of the requirements

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under this Section, the Director may revoke or suspend the eligibility of the reciprocal jurisdiction assuming insurer for recognition under this Section.

1. While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended, or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured in accordance with R20-6-A1607.
 2. If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the Director and consistent with the provisions of R20-6-A1607.
- G.** Before denying statement credit or imposing a requirement to post security with respect to subsection (F) or adopting any similar requirement that will have substantially the same regulatory impact as security, the Director shall:
1. Communicate with the ceding insurer, the assuming insurer, and the assuming insurer's supervisory authority that the assuming insurer no longer satisfies one of the conditions listed in subsection (C);
 2. Provide the assuming insurer with 30 days from the initial communication to submit a plan to remedy the defect, and 90 days from the initial communication to remedy the defect, except in exceptional circumstances in which a shorter period is necessary for policyholder and other consumer protection;
 3. After the expiration of 90 days or less, as set out in subsection (G)(2), if the Director determines that no or insufficient action was taken by the assuming insurer, the Director may impose any of the requirements as set out in this subsection (G); and
 4. Provide a written explanation to the assuming insurer of any of the requirements set out in this subsection (G).
- H.** If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring the reciprocal jurisdiction assuming insurer to post security for all outstanding liabilities.
- I.** Credit for reinsurance required by law. Pursuant to A.R.S. § 20-3602(M), the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of A.R.S. §§ 20-3602(C) through (G) but only as to the insurance of risks located in jurisdictions where the reinsurance is required by the applicable law or regulation of that jurisdiction. As used in this Section, "jurisdiction" means state, district, or territory of the United States and any lawful national government.

Historical Note

New Section R20-6-A1606 renumbered from R20-6-1606 and amended by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022; the redundant phrase "of this Section" and word "above" were removed when followed by a subsection reference (Supp. 22-1).

R20-6-A1607. Asset or Reduction from Liability for Reinsurance Ceded to an Unauthorized Assuming Insurer not Meeting the Requirements of R20-6-A1601 through R20-6-A1606

- A.** Pursuant to A.R.S. § 20-3603, the Director shall allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of A.R.S. § 20-3602 in an amount not exceeding the liabilities carried by the ceding insurer. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations under the reinsurance contract. The security shall be held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer or, in the case of a trust, held in a qualified United States financial institution as defined in A.R.S. § 20-3601. This security may be in the form of any of the following:
1. Cash;
 2. Securities listed by the Securities Valuation Office of the NAIC, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office, and qualifying as admitted assets;
 3. Clean, irrevocable, unconditional, and "evergreen" letters of credit issued or confirmed by a qualified United States institution, as defined in A.R.S. § 20-3601, effective no later than December 31 of the year for which filing is being made, and in the possession of, or in trust for, the ceding insurer on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs; or
 4. Any other form of security acceptable to the Director.
- B.** An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to this Section shall be allowed only when the requirements of R20-6-A1609(B) and the applicable portions of R20-6-A1608 or R20-6-A1609(A) have been satisfied.

Historical Note

New Section R20-6-A1606 renumbered from R20-6-1606 and amended by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022; the redundant word "Section" was removed before a Chapter Section number (Supp. 22-1).

R20-6-A1608. Trust Agreements Qualified under R20-6-A1607; Letters of Credit Qualified under R20-6-A1607

- A.** Trust agreements - definitions. As used in subsections (B) through (G):
1. "Beneficiary" includes any successor by operation of law of the named beneficiary, including without limitation any liquidator, rehabilitator, receiver, or conservator.
 2. "Grantor" means the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the unlicensed, unaccredited assuming insurer.
 3. "Obligations," as used in subsection (B)(11), means:
 - a. Reinsured losses and allocated loss expenses paid by the ceding company but not recovered from the assuming insurer;

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- b. Reserves for reinsured losses reported and outstanding;
- c. Reserves for reinsured losses incurred but not reported; and
- d. Reserves for allocated reinsured loss expenses and unearned premiums.

B. Trust agreements - required conditions.

1. The trust agreement shall be entered into between the beneficiary, the grantor, and a trustee which shall be a qualified United States financial institution as defined in A.R.S. § 20-3601.
2. The trust agreement shall create a trust account into which assets shall be deposited.
3. All assets in the trust account shall be held by the trustee at the trustee's office in the United States.
4. The trust agreement shall provide that:
 - a. The beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee;
 - b. No other statement or document is required to be presented in order to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets;
 - c. It is not subject to any conditions or qualifications outside of the trust agreement; and
 - d. It shall not contain references to any other agreements or documents except as provided for in subsections (B)(11) and (B)(12).
5. The trust agreement shall be established for the sole benefit of the beneficiary.
6. The trust agreement shall require the trustee to:
 - a. Receive assets and hold all assets in a safe place;
 - b. Determine that all assets are in such form that the beneficiary, or the trustee upon direction by the beneficiary, may whenever necessary negotiate any such assets, without consent or signature from the grantor or any other person or entity;
 - c. Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter;
 - d. Notify the grantor and the beneficiary within ten days, of any deposits to or withdrawals from the trust account;
 - e. Upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title, and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary; and
 - f. Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of but with notice to the beneficiary, upon call or maturity of any trust asset, withdraw such asset upon condition that the proceeds are paid into the trust account.
7. The trust agreement shall provide that at least 30 days, but not more than 45 days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary.
8. The trust agreement shall be made subject to and governed by the laws of the state in which the trust is domiciled.
9. The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying commission to, or reimbursing the expenses of, the trustee. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the Director), to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.
10. The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct, or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence and/or willful misconduct.
11. Notwithstanding other provisions of subsections (A) through (G), when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities, and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:
 - a. To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;
 - b. To make payment to the assuming insurer of any amounts held in the trust account that exceed 102% of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement; or
 - c. Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution as defined in A.R.S. § 20-3601 apart from its general assets, in trust for such uses and purposes specified in subsections (11)(a) and (11)(b) as may remain executory after such withdrawal and for any period after the termination date.
12. Notwithstanding other provisions of subsections (A) through (G), when a trust agreement is established to meet the requirements of R20-6-A1607 in conjunction with a reinsurance agreement covering life, annuities, or accident and health risks, where it is customary to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of

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the ceding insurer or the assuming insurer, only for the following purposes:

- a. To pay or reimburse the ceding insurer for:
 - i. The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of the policies; and
 - ii. The assuming insurer's share under the specific reinsurance agreement of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurer, under the terms and provision of the policies reinsured under the reinsurance agreement.
- b. To pay to the assuming insurer amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer, or
- c. Where the ceding insurer has received notification of termination of the trust and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer, and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified U.S. financial institution apart from its general assets, in trust for the uses and purposes specified in subsections (12)(a) and (12)(b) as may remain executory after withdrawal and for any period after the termination date.

13. Either the reinsurance agreement or the trust agreement must stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash in United States dollars, certificates of deposit issued by a United States bank and payable in United States dollars, and investments permitted by the Insurance Code, or any combination of the above, provided investments in or issued by an entity controlling, controlled by, or under common control with either the grantor or the beneficiary of the trust shall not exceed 5% of total investments. The agreement may further specify the types of investments to be deposited. If the reinsurance agreement covers life, annuities, or accident and health risks, then the provisions required by this subsection must be included in the reinsurance agreement.

C. Trust agreements - permitted conditions.

1. The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not less than 90 days after the beneficiary and grantor receive the notice and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than 90 days after the trustee and the beneficiary receive the notice, provided that no such resignation or removal shall be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee.

2. The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any interest or dividends shall be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name.
3. The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions that the trustee determines are at least equal in current fair market value to the assets withdrawn and that are consistent with the restrictions in subsection (D)(1)(b).
4. The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets.
5. The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor.

D. Trust agreements - additional conditions applicable to reinsurance agreements:

1. A reinsurance agreement may contain provisions that:
 - a. Require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of the ceding insurer, and specifying what the agreement is to cover;
 - b. Require the assuming insurer, prior to depositing assets with the trustee, to execute assignments or endorsements in blank, or to transfer legal title to the trustee of all shares, obligations, or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may whenever necessary negotiate these assets without consent or signature from the assuming insurer or any other entity;
 - c. Require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent; and
 - d. Stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver, or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for the following purposes:
 - i. To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured

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- under the reinsurance agreement because of cancellations of such policies; and
- ii. To pay or reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement; and
 - iii. To pay or reimburse the ceding insurer for any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding reinsurer; or
 - iv. To make payment to the assuming insurer of amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.
2. The reinsurance agreement also may contain provisions that:
 - a. Give the assuming insurer the right to seek approval from the ceding insurer, which shall not be unreasonably or arbitrarily withheld, to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, provided:
 - i. The assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a current fair market value equal to the market value of the assets withdrawn so as to maintain at all times the deposit in the required amount, or
 - ii. After withdrawal and transfer, the current fair market value of the trust account is no less than 102% of the required amount.
 - b. Provide for the return of any amount withdrawn in excess of the actual amounts required for subsection (D)(1)(d), and for interest payments at a rate not in excess of the prime rate of interest on such amounts;
 - c. Permit the award by any arbitration panel or court of competent jurisdiction of:
 - i. Interest at a rate different from that provided in subsection (D)(2)(b);
 - ii. Court or arbitration costs;
 - iii. Attorney's fees; and
 - iv. Any other reasonable expenses.
- E. Trust agreements - financial reporting. A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with the Director in compliance with the provisions of this Part when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but such reduction shall be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure.
 - F. Trust agreements - existing agreements. Notwithstanding the effective date of this Part, any trust agreement or underlying reinsurance agreement in existence and approved by the Director prior to the effective date of this Part will continue to be acceptable until December 31, 2016, at which time the agreements will have to fully comply with subsections (A) through (G) for the trust agreement to be acceptable.
 - G. Trust agreements - failure to identify beneficiary. The failure of any trust agreement to specifically identify the beneficiary as defined in subsection (A)(1) shall not be construed to affect any actions or rights that the Director may take or possess pursuant to the provisions of the laws of Arizona.
 - H. Letters of credit. The letter of credit must be clean, irrevocable, unconditional, and issued or confirmed by a qualified United States financial institution as defined A.R.S. § 20-3601. The letter of credit shall contain an issue date and expiration date and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit also shall indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents or entities, except as provided in subsection (N)(1). As used in this Section, "beneficiary" includes any successor by operation of law of the named beneficiary, including without limitation any liquidator, rehabilitator, receiver, or conservator. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator, or liquidator).
 - I. Letters of credit - heading. The heading of the letter of credit may include a boxed section containing the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section shall be clearly marked to indicate that such information is for internal identification purposes only.
 - J. Letters of credit - required statements and clauses.
 1. A letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto.
 2. The letter of credit shall state whether it is subject to and governed by the laws of Arizona or the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce Publication 600 (UCP 600) or International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98). All drafts of letters of credit drawn according to UCP 600 or ISP98 shall be presentable at an office in the United States of a qualified United States financial institution.
 3. The letter of credit shall contain an "evergreen clause" in compliance with subsection (K).
 - K. Letters of credit - term of the letter of credit. The term of the letter of credit shall be for at least one year and shall contain an "evergreen clause" that prevents the expiration of the letter of credit without due notice from the issuer. The "evergreen clause" shall provide for no less than 30 days' notice prior to expiration date or nonrenewal.
 - L. Letters of credit made subject to UCP 600 or ISP98. If the letter of credit is made subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce Publication 600 (UCP 600) or International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98), then the letter of credit shall specifically address and provide for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article 36 of UCP 600 occur.
 - M. Letters of credit - additional requirements. If the letter of credit is issued by a financial institution authorized to issue letters of credit, other than a qualified United States financial institution

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as described in subsection (H), then the following additional requirements shall be met:

1. The issuing financial institution shall formally designate the confirming qualified United States financial institution as its agent for the receipt and payment of the drafts; and
 2. The “evergreen clause” shall provide for 30 days’ notice prior to expiration date or nonrenewal.
- N. Letters of credit - reinsurance agreement provisions.
1. The reinsurance agreement in conjunction with which the letter of credit is obtained may contain provisions that:
 - a. Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover;
 - b. Stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the agreement, and shall be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons:
 - i. To pay or reimburse the ceding insurer for the assuming insurer’s share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurers, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies;
 - ii. To pay or reimburse the ceding insurer for the assuming insurer’s share, under the specific reinsurance agreement, of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurers, under the terms and provisions of the policies reinsured under the reinsurance agreement; and
 - iii. To pay or reimburse the ceding insurer for any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer;
 - iv. Where the letter of credit will expire without renewal or be reduced or replaced by a letter of credit for a reduced amount and where the assuming insurer’s entire obligations under the reinsurance agreement remain unliquidated and undischarged ten days prior to the termination date, to withdraw amounts equal to the assuming insurer’s share of the liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer and exceed the amount of any reduced or replacement letter of credit, and deposit those amounts in a separate account in the name of the ceding insurer in a qualified U.S. financial institution apart from its general assets, in trust for such uses and purposes specified in subsections (N)(1)(b)(i), (N)(1)(b)(ii), and (N)(1)(b)(iii) as may remain after withdrawal and for any period after the termination date.
 - c. All of the provisions of subsections (N)(1)(a) and (N)(1)(b) shall be applied without diminution

because of insolvency on the part of the ceding insurer or assuming insurer.

2. Nothing contained in subsection (N)(1) shall preclude the ceding insurer and assuming insurer from providing for:
 - a. An interest payment, at a rate not in excess of the prime rate of interest on the amounts held pursuant to subsection (N)(1)(b); or
 - b. The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or any amounts that are subsequently determined not to be due.

Historical Note

New Section R20-6-A1608 renumbered from R20-6-1608 and amended by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022; the redundant phrase “of this Section” was removed when followed by a subsection reference, and the word “Section” was removed before a Chapter Section number (Supp. 22-1).

R20-6-A1609. Other Security; Reinsurance Contract; Contracts Affected

- A. Other Security. A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control.
- B. Reinsurance Contract. Credit will not be granted, nor an asset or reduction from liability allowed, to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of R20-6-A1601 through R20-6-A1605 or R20-6-A1607 of this Article or otherwise in compliance with A.R.S. § 20-3602 after the adoption of this Part unless the reinsurance agreement:
 1. Includes a proper insolvency clause, which stipulates that reinsurance is payable directly to the liquidator or successor without diminution regardless of the status of the ceding company, pursuant to A.R.S. § 20-261(C);
 2. Includes a provision pursuant to A.R.S. § 20-3602 whereby the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of an alternative dispute-resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give the court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decision of the court or panel; and
 3. Includes a proper reinsurance intermediary clause, if applicable, which stipulates that the credit risk for the intermediary is carried by the assuming insurer.
- C. Contracts affected. All new and renewal reinsurance transactions entered into after the effective date of this Part shall conform to the requirements of A.R.S. Title 20, Chapter 30 and this Part if credit is to be given to the ceding insurer for such reinsurance.

Historical Note

New Section R20-6-A1609 renumbered from R20-6-1609 and amended by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022; the redundant word “Section” was removed before a Chapter Section number (Supp. 22-1).

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - INSURANCE DIVISION

Exhibit A. Form AR-1, Certificate of Assuming Insurer

FORM AR-1, CERTIFICATE OF ASSUMING INSURER

I, _____, _____,
(name of officer) (title of officer)

of _____, the assuming insurer
(name of assuming insurer)

under a reinsurance agreement with one or more insurers domiciled in

_____, hereby certify that
(name of state)

_____, (“Assuming Insurer”):
(name of assuming insurer)

1. Submits to the jurisdiction of any court of competent jurisdiction in

(ceding insurer’s state of domicile)

for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer’s rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement.

2. Designates the Director of the Arizona Department of Insurance and Financial Institutions (“Director”) as its lawful attorney upon whom may be served any lawful process in any action, suit or legal proceeding arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.

3. Submits to the authority of the Director to examine its books and records and agrees to bear the expense of any such examination.

4. Submits with this form a current list of insurers domiciled in _____ reinsured by Assuming Insurer and
(ceding insurer’s state of domicile)

undertakes to submit additions to or deletions from the list to the Director at least once per calendar quarter.

Dated: _____
(name of assuming insurer)

BY: _____
(name of officer)

(title of officer)

Historical Note

Adopted effective February 3, 1993 (Supp. 93-1). Exhibit A amended by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4). Exhibit A amended by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

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Exhibit B. Form CR-1, Certificate of Certified Reinsurer**FORM CR-1, CERTIFICATE OF CERTIFIED REINSURER**

I, _____, _____
 (name of officer) (title of officer)
 of _____, the assuming insurer under
 (name of assuming insurer)

a reinsurance agreement with one or more insurers domiciled in _____
 (name of state)

in order to be considered for approval in this state, hereby certify that

 (name of assuming insurer) ("Assuming Insurer");

1. Submits to the jurisdiction of any court of competent jurisdiction in _____ for the adjudication of any issue arising out of the (ceding insurer's state of domicile) reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement.
2. Designates the Insurance Commissioner of _____ (ceding insurer's state of domicile) as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.
3. Agrees to provide security in an amount equal to 100% of liabilities attributable to U.S. ceding insurers if it resists enforcement of a final U.S. judgment or properly enforceable arbitration award.
4. Agrees to provide notification within 10 days of any regulatory actions taken against it, any change in the provisions of its domiciliary license or any change in its rating by an approved rating agency, including a statement describing such changes and the reasons therefore.
5. Agrees to annually file information comparable to relevant provisions of the NAIC financial statement for use by insurance markets in accordance with this Article.
6. Agrees to annually file the report of the independent auditor on the financial statements of the insurance enterprise.
7. Agrees to annually file audited financial statements, regulatory filings, and actuarial opinion in accordance with this Article.
8. Agrees to annually file an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers.
9. Is in good standing as an insurer or reinsurer with the supervisor of its domiciliary jurisdiction.

Dated: _____

 (name of assuming insurer)

BY: _____
 (name of officer)

 (title of officer)

Historical Note

Adopted effective February 3, 1993 (Supp. 93-1). Exhibit B repealed; new Exhibit B made by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4).

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Exhibit C. Form CR-F Instructions**Form CR-F Instructions****Part 1 - Assumed Reinsurance as of December 31, Current Year (000 Omitted)**

Create a spreadsheet with the following columns (total each column 5 through 15):

1. ID Number/Company Code
2. This column is intentionally left blank
3. Name of Reinsured
4. Domiciliary Jurisdiction
5. Assumed Premium
6. Reinsurance on Paid Losses and Loss Adjustment Expenses
7. Reinsurance on Known Case Losses and LAE
8. Cols. 6 + 7
9. Contingent Commissions Payable
10. Assumed Premium Receivable
11. Unearned Premium
12. Funds Held By or Deposited With Reinsured Companies
13. Letters of Credit Posted
14. Amount of Assets Pledged or Compensating Balances to Secure Letters of Credit
15. Amount of Assets Pledged or Collateral Held in Trust

Each row shall list each insurer for which reinsurance is assumed for the calendar year.

Part 2 - Ceded Reinsurance as of December 31, Current Year (000 Omitted)

Create a spreadsheet with the following columns (total each column 6 through 19):

1. ID Number/Company Code
2. This column is intentionally left blank
3. Name of Reinsurer
4. Domiciliary Jurisdiction
5. Reinsurance Contracts Ceding 75% or More of Direct Premiums Written
6. Reinsurance Premiums Ceded
7. Reinsurance Recoverable on Paid Losses
8. Reinsurance Recoverable on Paid LAE
9. Reinsurance Recoverable on Known Case Loss Reserves
10. Reinsurance Recoverable on Known Case LAE Reserves
11. Reinsurance Recoverable on IBNR Loss Reserves
12. Reinsurance Recoverable on IBNR LAE Reserves
13. Reinsurance Recoverable on Unearned Premiums
14. Reinsurance Recoverable on Contingent Commissions
15. Cols. 7 through 14 Totals
16. Reinsurance Payable Ceded Balances Payable
17. Reinsurance Payable Other Amounts Due to Reinsurers
18. Net Amount Recoverable From Reinsurers, Cols. 15 – [16 + 17]
19. Funds Held by Company Under Reinsurance Treaties

Each row shall list each insurer to whom reinsurance was ceded for the calendar year.

Historical Note

Exhibit C made by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4).

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Exhibit D. Form CR-S Instructions**Form CR-S Instructions**

Part 1 – Section 1. Reinsurance Assumed Life Insurance, Annuities, Deposit Funds and Other Liabilities Without Life or Disability Contingencies, and Related Benefits Listed by Reinsured Company as of December 31, Current Year

Create a spreadsheet with the following columns (total each column 7 through 12):

1. ID Number/Company Code
2. This column is intentionally left blank
3. Effective Date
4. Name of Reinsured
5. Location
6. Type of Reinsurance Assumed
7. Amount of In Force at End of Year
8. Reserve
9. Premiums
10. Reinsurance Payable on Paid and Unpaid Losses
11. Modified Coinsurance Reserve
12. Funds Withheld Under Coinsurance

Each row shall list each insurer for which reinsurance was assumed (life insurance, annuities, deposit funds and other liabilities without life or disability contingencies, and related benefits) for the calendar year.

Part 1 – Section 2. Reinsurance Assumed Accident and Health Insurance Listed by Reinsured Company as of December 31, Current Year

Please create a spreadsheet with the following columns (total columns 7 through 12):

1. ID Number/Company Code
2. This column is intentionally left blank
3. Effective Date
4. Name of Reinsured
5. Domiciliary Jurisdiction
6. Type of Reinsurance Assumed
7. Premiums
8. Unearned Premiums
9. Reserve Liability Other Than For Unearned Premiums
10. Reinsurance Payable on Paid and Unpaid Losses
11. Modified Coinsurance Reserve
12. Funds Withheld Under Coinsurance

Each row shall list each insurer for which reinsurance was assumed (accident and health insurance) for the calendar year.

Part 2. Reinsurance Recoverable on Paid and Unpaid Losses Listed by Reinsuring Company as of December 31, Current Year

Create a spreadsheet with the following columns (total each column 6 and 7):

1. ID Number/Company Code
2. This column is intentionally left blank
3. Effective Date
4. Name of Company
5. Location
6. Paid Losses
7. Unpaid Losses

Each row shall list each insurer for which reinsurance on paid and unpaid losses is recoverable.

Part 3 – Section 1. Reinsurance Ceded Life Insurance, Annuities, Deposit Funds and Other Liabilities Without Life or Disability Contingencies, and Related Benefits Listed by Reinsuring Company as of December 31, Current Year

Create a spreadsheet with the following columns (total each column 7 through 14):

1. ID Number/Company Code
2. This column is intentionally left blank
3. Effective Date
4. Name of Company
5. Location

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6. Type of Reinsurance Ceded
7. Amount in Force at End of Year
8. Reserve Credit Taken Current Year
9. Reserve Credit Taken Prior Year
10. Premiums
11. Outstanding Surplus Relief Current Year
12. Outstanding Surplus Relief Prior Year
13. Modified Coinsurance Reserve
14. Funds Withheld Under Coinsurance

Each row shall list each insurer for which reinsurance was ceded (life insurance, annuities, deposit funds and other liabilities without life or disability contingencies and related benefits).

Part 3 – Section 2. Reinsurance Ceded Accident and Health Insurance Listed by Reinsuring Company as of December 31, Current Year
Create a spreadsheet with the following columns (total each column 7 through 13):

1. ID Number/Company Code
2. This column is intentionally left blank
3. Effective Date
4. Name of Company
5. Location
6. Type
7. Premiums
8. Unearned Premiums (Estimated)
9. Reserve Credit Taken other than for Unearned Premiums
10. Outstanding Surplus Relief Current Year
11. Outstanding Surplus Relief Prior Year
12. Modified Coinsurance Reserve
13. Funds Withheld Under Coinsurance

Each row shall list each insurer for which reinsurance was ceded (accident and health insurance).

Historical Note

Exhibit D made by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4).

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**FORM RJ-1,
CERTIFICATE OF REINSURER DOMICILED IN RECIPROCAL JURISDICTION**

in order to be considered for approval in this state, hereby certify that

Dated: _____

(name of assuming insurer)

BY: _____
(name of officer)

(title of officer)

Exhibit E made by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

A. Applicability. Part B of this Article shall apply to reinsurance treaties that cede liabilities pertaining to Covered Policies, as

that term is defined in subsection (C), issued by any life insurance insurer domiciled in this state. Parts A and B of this Article shall both apply to such reinsurance treaties provided, that in the event of a direct conflict between the provisions of Part B and Part A, the provisions of Part B shall apply but only to the extent of the conflict.

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B. Exemptions. Part B of this Article does not apply to the following situations:

1. Reinsurance of:
 - a. Policies that satisfy the criteria for exemption set forth in A.R.S. § 20-510 and which are issued before the later of:
 - i. The effective date of this Part B; and
 - ii. The date on which the ceding insurer begins to apply the provisions of VM-20 to establish the ceded policies' statutory reserves, but in no event later than January 1, 2020;
 - b. Portions of policies that satisfy the criteria for exemption set forth in A.R.S. § 20-510 and which are issued before the later of:
 - i. The effective date of this Part B; and
 - ii. The date on which the ceding insurer begins to apply the provisions of VM-20 to establish the ceded policies' statutory reserves, but in no event later than January 1, 2020;
 - c. Any universal life policy that meets all of the following requirements:
 - i. Secondary guarantee period, if any, if five years or less;
 - ii. Specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the Director's Standard Ordinary (CSO) valuation tables and valuation interest rate applicable to the issue year of the policy; and
 - iii. The initial surrender charge is not less than 100% of the first year annualized specified premium for the secondary guarantee period;
 - d. Credit life insurance;
 - i. Any variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts; or
 - ii. Any group life insurance certificate unless the certificate provides for a stated and implied schedule of maximum gross premiums required in order to continue coverage in force for a period in excess of one year.
2. Reinsurance ceded to an assuming insurer that meets the applicable requirements of A.R.S. § 20-3602(F); or
3. Reinsurance ceded to an assuming insurer that meets the applicable requirements of A.R.S. §§ 20-3602(C), (D), or (E), and that, in addition:
 - a. Prepares statutory financial statements in compliance with the NAIC Accounting Practices and Procedures Manual, without any departures from NAIC statutory accounting practices and procedures pertaining to the admissibility or valuation of assets or liabilities that increase the assuming insurer's reported surplus and are material enough that they need to be disclosed in the financial statement of the assuming insurer pursuant to the Statement of Statutory Accounting Principles No. 1 ("SSAP 1"); and
 - b. Is not a Company Action Level Event, Regulatory Action Level Event, Authorized Control Level Event, or Mandatory Control Level Event as those terms are defined in A.R.S. § 20-488 when its Risk-Based Capital ("RBC") is calculated in accordance with the life risk-based capital report including overview and instructions for companies, as the same

may be amended by the NAIC from time to time, without deviation; or

4. Reinsurance ceded to an assuming insurer that meets the applicable requirements of A.R.S. §§ 20-3602(C), (D), or (E), and that, in addition:
 - a. Is not an affiliate, as that term is defined in A.R.S. § 20-481, of:
 - i. The insurer ceding the business to the assuming insurer; or
 - ii. Any insurer that directly or indirectly ceded the business to that ceding insurer;
 - b. Prepares statutory financial statements in compliance with the NAIC Accounting Practices and Procedures Manual;
 - c. Is both:
 - i. Licensed or accredited in at least ten states including its state of domicile; and
 - ii. Not licensed in any state as a captive, special purpose vehicle, special purpose financial captive, special purpose life reinsurance company, limited purpose subsidiary, or any other similar licensing regime; and
 - d. Is not, or would not be, below 500% of the Authorized Control Level RBC as that term is defined in A.R.S. § 20-488 when its RBC is calculated in accordance with the life risk-based capital report including overview and instructions for companies, as the same may be amended by the NAIC from time to time, without deviation, and without recognition of any departures from NAIC statutory accounting practices and procedures pertaining to the admission or valuation of assets or liabilities that increase the assuming insurer's reported surplus; or
5. Reinsurance ceded to an assuming insurer that meets the requirements of A.R.S. § 20-3604(D)(2); or
6. Reinsurance not otherwise exempt under subsections (B)(1) through (B)(5) if the Director, after consulting with the NAIC Financial Analysis Working Group (FAWG) or other group of regulators designated by the NAIC, as applicable, determines under all the facts and circumstances that all of the following apply:
 - a. The risks are clearly outside of the intent and purpose of this Part B;
 - b. The risks are included within the scope of this regulation only as a technicality; and
 - c. The application of this Part B to those risks is not necessary to provide appropriate protection to policyholders. The Director shall publicly disclose any decision made pursuant to this subsection (B)(6) to exempt a reinsurance treaty from this Part B, as well as the general basis for the decision including a summary of the treaty.

C. Part B Definitions:

1. "Actuarial Method" means the methodology used to determine the Required Level of Primary Security, as described in R20-6-B1602.
2. "Covered Policies" means policies, other than Grandfathered Policies and policies that are not exempt under subsection (B), of the following policy types:
 - a. Life insurance policies with guaranteed nonlevel gross premiums and/or guaranteed nonlevel benefits, except for flexible premium universal life insurance policies; or

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- b. Flexible premium universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period.
- 3. "Grandfathered Policies" means Covered Policies that were:
 - a. Issued prior to January 1, 2015; and
 - b. Ceded, as of December 31, 2014, as part of a reinsurance treaty that would not have met one of the exemptions set forth in subsection (B).
- 4. "Non-Covered Policies" means any policy that does not meet the definition of Covered Policies, including Grandfathered Policies.
- 5. "Other Security" means any security acceptable to the Director other than security meeting the definition of Primary Security.
- 6. "Primary Security" means the following forms of security:
 - a. Cash meeting the requirements of A.R.S. § 20-3603(B)(1);
 - b. Securities listed by the Securities Valuation Office meeting the requirements of A.R.S. § 20-3603(B)(2), but excluding any synthetic letter of credit, contingent note, credit-linked note, or other similar security that operates in a manner similar to a letter of credit excluding any securities issued by the ceding insurer or any of its affiliates; and
 - c. For security held in connection with funds-withheld and modified coinsurance reinsurance treaties:
 - i. Commercial loans in good standing of CM3 quality and higher;
 - ii. Policy loans; and
 - iii. Derivatives acquired in the normal course and used to support and hedge liabilities pertaining to the actual risks in the policies ceded pursuant to the reinsurance treaty.
- 7. "Required Level of Primary Security" means the dollar amount determined by applying the Actuarial Method to the risks ceded with respect to Covered Policies, but not more than the total reserve ceded.
- 8. "Valuation Manual" means the Valuation Manual adopted by the NAIC as described in A.R.S. § 20-510, with all amendments adopted by the NAIC that are effective for the financial statement date on which credit for reinsurance is claimed.
- 9. "VM-20" means "Requirements for Principle-Based Reserves for Life Products" including all relevant definitions from the Valuation Manual.
- D. Severability. If any provision of this Part B is held invalid, the remainder shall not be affected.
- E. Prohibition against avoidance. No insurer that has Covered Policies to which this Part B applies, as set forth in subsection (A), shall take any action or series of actions or enter into any transaction or arrangement or series of transactions or arrangements if the purpose of the action, transaction, or arrangement or series is to avoid the requirements of this Part B or to circumvent its purpose and intent.

Historical Note

New Section R20-6-B1601 renumbered from R20-6-1610 and repealed; new Section R20-6-B1601 made by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022; the redundant phrase "of this Section" was removed when followed by a subsection refer-

ence, and the word "Section" was removed before a Chapter Section number (Supp. 22-1).

R20-6-B1602. The Actuarial Method

- A. Actuarial Method. The Actuarial Method to establish the Required Level of Primary Security for each reinsurance treaty subject to this Part B shall be VM-20, applied on a treaty-by-treaty basis, including all relevant definitions, from the Valuation Manual then in effect, applied as follows:
 - 1. For Covered Policies described in R20-6-B1601(C)(2)(a), the Actuarial Method is the greater of the Deterministic Reserve or the Net Premium Reserve (NPR) regardless of whether the criteria for exemption testing can be met. However, if the Covered Policies do not meet the requirements of the Stochastic Reserve exclusion test in the Valuation Manual, then the Actuarial Method is the greatest of the Deterministic Reserve, the Stochastic Reserve, or the NPR. In addition, if such Covered Policies are reinsured in a reinsurance treaty that also contains Covered Policies described in R20-6-B1601(C)(2)(b), the ceding insurer may elect to instead use subsection (A)(2) as the Actuarial Method for the entire reinsurance agreement. Whether subsection (A)(1) or (A)(2) is used, the Actuarial Method must comply with any requirements or restrictions that the Valuation Manual imposes when aggregating these policy types for purposes of principle-based reserve calculations.
 - 2. For Covered Policies described in R20-6-B1601(C)(2)(b), the Actuarial Method is the greatest of the Deterministic Reserve, the Stochastic Reserve, or the NPR regardless of whether the criteria for exemption testing can be met.
 - 3. Except as provided in subsection (A)(4), the Actuarial Method is to be applied on a gross basis to all risks with respect to the Covered Policies as originally issued or assumed by the ceding insurer.
 - 4. If the reinsurance treaty cedes less than 100% of the risk with respect to the Covered Policies, then the Required Level of Primary Security may be reduced as follows:
 - a. If a reinsurance treaty cedes only a quota share of some of all of the risks pertaining to the Covered Policies, the Required Level of Primary Security, as well as any adjustment under subsection (A)(4)(c), may be reduced to a pro rata portion in accordance with the percentage of the risk ceded;
 - b. If the reinsurance treaty in a non-exempt arrangement cedes only the risks pertaining to a secondary guarantee, the Required Level of Primary Security may be reduced by an amount determined by applying the Actuarial Method on a gross basis to all risks, other than risks related to the secondary guarantee, pertaining to the Covered Policies, except that for Covered Policies for which the ceding insurer did not elect to apply the provisions of VM-20 to establish statutory reserves, the Required Level of Primary Security may be reduced by the statutory reserve retained by the ceding insurer on those Covered Policies, where the retained reserve of those Covered Policies should be reflective of any reduction pursuant to the cessation of mortality risk on a yearly renewable term basis in an exempt arrangement;
 - c. If a portion of the covered policy risk is ceded to another reinsurer on a yearly renewable term basis in an exempt arrangement, the Required Level of Pri-

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mary Security may be reduced by the amount resulting by applying the Actuarial Method including the reinsurance section of VM-20 to the portion of the covered policy risks ceded in the exempt arrangement, except that for Covered Policies issued prior to January 1, 2017, this adjustment is not to exceed $[cx / (2 * \text{number of reinsurance premiums per year})]$ where cx is calculated using the same mortality table used in calculating the Net Premium Reserve; and

- d. For any other treaty ceding a portion of risk to a different reinsurer, including but not limited to stop loss, excess of loss, and other non-proportional reinsurance treaties, there will be no reduction in the Required Level of Primary Security. It is possible for any combination of subsections (A)(4)(a), (A)(4)(b), (A)(4)(c), and (A)(4)(d) to apply. Such adjustments to the Required Level of Primary Security will be done in the sequence that accurately reflects the portion of the risk ceded via the treaty. The ceding insurer should document the rationale and steps taken to accomplish the adjustments to the Required Level of Primary Security due to the cession of less than 100% of the risk. The adjustments for other reinsurance will be made only with respect to reinsurance treaties entered into directly by the ceding insurer. The ceding insurer will make no adjustment as a result of a retrocession treaty entered into by the assuming insurers.

5. In no event will the Required Level of Primary Security resulting from application of the Actuarial Method exceed the amount of statutory reserves ceded.

6. If the ceding insurer cedes risk with respect to Covered Policies, including any riders, in more than one reinsurance treaty subject to this Part B, in no event will the aggregate Required Level of Primary Security for those reinsurance treaties be less than the Required Level of Primary Security calculated using the Actuarial Method as if all risks ceded in those treaties were ceded in a single treaty subject to this Part B.

7. If a reinsurance treaty subject to this Part B cedes risk on both Covered and Non-Covered Policies, credit for the ceded reserves shall be determined as follows:

- a. The Actuarial Method shall be used to determine the Required Level of Primary Security for the Covered Policies, and R20-6-B1603 shall be used to determine the reinsurance credit for the covered policy reserves; and
- b. Credit for the non-covered policy reserves shall be granted only to the extent that security, in addition to the security held to satisfy the requirements of subsection (A)(7)(a), is held by or on behalf of the ceding insurer in accordance with A.R.S. §§ 20-3602 and 20-3603. Any Primary Security used to meet the requirements of this subsection (A)(7)(b) may not be used to satisfy the Required Level of Primary Security for the Covered Policies.

- B. Valuation used for Purposes of Calculations. For the purposes of both calculating the Required Level of Primary Security pursuant to the Actuarial Method and determining the amount of Primary Security and Other Security, as applicable, held by or on behalf of the ceding insurer, the following shall apply:

1. For assets, including any such assets held in trust, that would be admitted under the NAIC Accounting Practices and Procedures Manual if they were held by the ceding

insurer, the valuations are to be determined according to statutory accounting procedures as if such assets were held in the ceding insurer's general account and without taking into consideration the effect of any prescribed or permitted practices; and

2. For all other assets, the valuations are to be those that were assigned to the assets for the purpose of determining the amount of reserve credit taken. In addition, the asset spread tables and asset default cost tables required by VM-20 shall be included in the Actuarial Method if adopted by the NAIC's Life Actuarial (A) Task Force no later than the December 31st on or immediately preceding the valuation date for which the Required Level of Primary Security is being calculated. The tables of asset spreads and asset default costs shall be incorporated into the Actuarial Method in the manner specified in VM-20.

Historical Note

New Section R20-6-B1602 renumbered from R20-6-1611 and repealed; new Section R20-6-B1602 made by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022; the redundant phrase "of this Section" and word "below" were removed when followed by a subsection reference, and the word "Section" was removed before a Chapter Section number (Supp. 22-1).

R20-6-B1603. Requirements Applicable to Covered Policies to Obtain Credit for Reinsurance; Opportunity for Remediation

- A. Requirements. Subject to the exemptions described in R20-6-B1601(B) and the provisions of subsection (B), credit for reinsurance shall be allowed with respect to ceded liabilities pertaining to Covered Policies pursuant to A.R.S. §§ 20-3602 or 20-3603 if, and only if, in addition to all other requirements imposed by law or regulation, the following requirements are met on a treaty-by-treaty basis:

1. The ceding insurer's statutory policy reserves with respect to the Covered Policies are established in full and in accordance with the applicable requirements of A.R.S. § 20-510 and related regulations and actuarial guidelines, and credit claimed for any reinsurance treaty subject to this regulation does not exceed the proportionate share of those reserves ceded under the contract; and
2. The ceding insurer determines the Required Level of Primary Security with respect to each reinsurance treaty subject to this Part B and provides support for its calculation as determined to be acceptable to the Director; and
3. Funds consisting of Primary Security, in an amount at least equal to the Required Level of Primary Security, are held by or on behalf of the ceding insurer, as security under the reinsurance treaty within the meaning of A.R.S. § 20-3603, on a funds withheld, trust, or modified coinsurance basis; and
4. Funds consisting of Other Security, in an amount at least equal to any portion of the statutory reserves as to which Primary Security is not held pursuant to subsection (A)(3), are held by or on behalf of the ceding insurer as security under the reinsurance treaty within the meaning of A.R.S. § 20-3603; and
5. Any trust used to satisfy the requirements of this Section shall comply with all of the conditions and qualifications of R20-6-A1608(A) through (G), except that:
 - a. Funds consisting of Primary Security or Other Security held in trust, shall for the purposes identified in R20-6-B1602(B), be valued according to the valua-

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tion rules set forth in R20-6-B1602(B), as applicable; and

- b. There are no affiliate investment limitations with respect to any security held in the trust if such security is not needed to satisfy the requirements of subsection (A)(3); and
- c. The reinsurance treaty must prohibit withdrawals or substitutions of trust assets that would leave the fair market value of the Primary Security within the trust (when aggregated with Primary Security outside the trust that is held by or on behalf of the ceding insurer in the manner required by subsection (A)(3) 102% of the level required by subsection (A)(3) at the time of the withdrawal or substitution; and
- d. The determination of reserve credit under R20-6-A1608(E) shall be determined according to the valuation rules set forth in R20-6-B1602(B), as applicable; and

6. The reinsurance treaty has been approved by the Director.

B. Requirements at inception date and on an on-going basis; remediation:

1. The requirements of subsection (A) must be satisfied as of the date that risks under Covered Policies are ceded (if such date is on or after the effective date of this Part B) and on an ongoing basis thereafter. Under no circumstances shall a ceding insurer take or consent to any action or series of actions that would result in a deficiency under subsections (A)(3) or (A)(4) with respect to any reinsurance treaty under which Covered Policies have been ceded, and in the event that a ceding insurer becomes aware at any time that such a deficiency exists, it shall use its best efforts to arrange for the deficiency to be eliminated as expeditiously as possible.
2. Prior to the due date of each quarterly or annual statement, each life insurance company that has ceded reinsurance within the scope of subsection R20-6-B1601(A) shall perform an analysis, on a treaty-by-treaty basis, to determine, as to each reinsurance treaty under which Covered Policies have been ceded, whether as of the end of the immediately preceding calendar quarter (the valuation date) the requirements of subsections (A)(3) and (A)(4) were satisfied. The ceding insurer shall establish a liability equal to the excess of the credit for reinsurance taken over the amount of Primary Security actually held pursuant to subsection (A)(3), unless either:
 - a. The requirements of subsections (A)(3) and (A)(4) were fully satisfied as of the valuation date as to the reinsurance treaty; or
 - b. Any deficiency has been eliminated before the due date of the quarterly or annual statement to which the valuation date relates through the addition of Primary Security and/or Other Security, as the case may be, in such amount and in such form as would have caused the requirements of subsections (A)(3) and (A)(4) to be fully satisfied as of the valuation date.
3. Nothing in subsection (B)(2) shall be construed to allow a ceding company to maintain any deficiency under subsection (A)(3) or (A)(4) for any period of time longer than is reasonably necessary to eliminate it.

Historical Note

New Section R20-6-B1603 renumbered from R20-6-1612 and repealed; new Section R20-6-B1603 made by final rulemaking at 28 A.A.R. 493 (March 4, 2022),

effective April 9, 2022; the redundant phrase “of this Section” and word “below” were removed when followed by a subsection reference, and the word “Section” was removed before a Chapter Section number (Supp. 22-1).

ARTICLE 17. EXAMINATIONS

R20-6-1701. Definitions

- A. “Company” means any person engaging in or proposing or attempting to engage in any transaction or kind of insurance or surety business and any person or group of persons who may otherwise be subject to the administrative, regulatory or taxing authority of the Director.
- B. “Examination” shall be defined for purposes of this Article to mean any examination relating to the financial condition of a company.
- C. “Examiner” means any individual or firm having been authorized by the Director to conduct an examination under this Article.

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). R20-6-1701 recodified from R4-14-1701 (Supp. 95-1).

R20-6-1702. Authority, Scope, and Scheduling of Examinations

- A. The Director shall examine an insurer under A.R.S. § 20-156(A) at least once every five years.
- B. Instead of the examination under subsection (A), the Director may accept the most recent examination report prepared by the National Association of Insurance Commissioners insurance regulatory authority of another state on any foreign or alien insurer if:
 1. The insurance regulatory authority was accredited under the National Association of Insurance Commissioners’ Financial Regulation Standards and Accreditation Program at the time of the examination,
 2. A National Association of Insurance Commissioners accredited insurance regulatory authority supervised the examination, or
 3. At least one examiner employed or contracted by a National Association of Insurance Commissioners accredited insurance regulatory authority:
 - a. Participated in and reviewed the examination work papers and report, and
 - b. Signed an affidavit stating that the examination was performed in a manner consistent with the standards and procedures required by the National Association of Insurance Commissioners accredited insurance regulatory authority.

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). Amended effective October 27, 1993 (Supp. 93-4). R20-6-1702 recodified from R4-14-1702 (Supp. 95-1). Amended by final rulemaking at 11 A.A.R. 2975, effective September 10, 2005 (Supp. 05-3).

R20-6-1703. Conduct of Examinations

- A. Upon determining that an examination should be conducted, the Director or the Director’s designee shall issue an examination warrant appointing one or more examiners to perform the examination and instructing them as to the scope of the examination.
- B. Nothing contained in this Article shall be construed to limit the Director’s authority to terminate or suspend any examination in order to pursue other legal or regulatory action pursuant to

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the insurance laws of this state or to pursue such action concurrent with the examination.

- C. The Director may disclose the content of an examination report, preliminary examination report or results, or any matter relating thereto, to the insurance department of any other state or country or to law enforcement officials of this or any other state or agency of the federal government at any time. Prior to making such disclosure, the Director may require such other department or office to agree in writing to hold as confidential the examination report, preliminary examination report or results or any matter relating thereto until such time as the examination report, preliminary examination report or results or matter relating thereto are made public by the Director.

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). R20-6-1703 recodified from R4-14-1703 (Supp. 95-1).

R20-6-1704. Examination Reports

- A. All examination reports shall be comprised of only facts appearing upon the books, records, or other documents of the company, its agents or other persons examined, or as ascertained from the testimony of its officers or agents or other persons examined concerning its affairs, and such conclusions and recommendations as the examiners find warranted from the facts.
- B. No later than 60 days following completion of the examination, the examiner in charge shall submit to the Department a verified written report of examination under oath. Upon receipt of the verified report, the Department shall transmit the report to the company examined, together with a notice which shall afford the company examined a reasonable opportunity of not less than 10 days nor more than 30 days to make a written submission or rebuttal with respect to any matters contained in the examination report.
- C. Within 30 days after the end of the period allowed for the receipt of written submissions or rebuttals, the Director shall fully consider and review the report, together with any written submissions or rebuttals and any relevant portions of the examiner's workpapers and shall:
1. File the examination report as submitted or with modification or corrections. If the examination report reveals that the company is operating in violation of any law, regulation or prior order of the Director, the Director may order the company to take any action necessary and appropriate to cure such violation; or
 2. Reject the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation or information, and resubmission pursuant to subsection (B).

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). R20-6-1704 recodified from R4-14-1704 (Supp. 95-1).

ARTICLE 18. PREPAID DENTAL PLAN ORGANIZATIONS**R20-6-1801. Definitions**

In this Article the following definitions apply:

"Appointment" means a first-available, initial, non-emergent, diagnostic visit to a dentist.

"Board certified" means a dentist who is recognized by the appropriate specialty board of the Commission on Accreditation of Dental Education of the American Dental Association.

"Board eligible" means a dentist who successfully completes an approved training program in a specialty field recognized by the American Dental Association.

"BODEX" means the Arizona State Board of Dental Examiners.

"Chief executive officer" means the person who has the authority and responsibility for the operation of an Organization according to applicable legal requirements and policies approved by the governing authority.

"Dental hygienist" means a person who is licensed to practice dental hygiene under A.R.S. § 32-1281 et seq.

"Dentist" means a person who is licensed to practice dentistry under A.R.S. § 32-1201 et seq.

"Department" means the Arizona Department of Insurance and Financial Institutions.

"Diagnostic service" means a dental service intended to identify a dental abnormality, and includes a radiograph and a clinical exam.

"Director" has the meaning prescribed at A.R.S. § 20-102.

"Emergency dental service" means a dental service intended to evaluate and stabilize a dental condition of recent onset, control bleeding, and relieve pain, and includes the provision of local anesthesia, and elimination of acute infection, but does not mean a medication that is prescribed by the dentist.

"General dentist" means a dentist whose practice is not limited to a specific area and who is not board certified.

"Governing authority" means the persons, including a board of trustees or board of directors, who have the ultimate authority and responsibility for the direction of a prepaid dental plan Organization.

"Organization" means a prepaid dental plan organization as defined in A.R.S. § 20-1001.

"Patient" means a person who is being attended by a dentist or dental hygienist to receive an examination, diagnosis, or dental treatment, or a combination of an examination, diagnosis, and dental treatment.

"Preventive service" means dental care intended to maintain dental health and prevent dental disease, including any combination of oral hygiene education, routine prophylaxis, and application of fluorides.

"Prophylaxis" means cleaning the teeth of a patient with healthy tissue using mild abrasives and dental instruments to remove plaque, calculus, and stains above the gum line.

"Provider directory" means an Organization's published listing of all contracted network dentists.

"Radiograph" means a picture produced on a sensitive surface by a form of radiation other than light, including x-ray.

"Restorative service" means the use of a metal or composite filling or crown.

"Specialist" means a dentist whose practice is limited to one of the nine specialty categories recognized by the American Dental Association: endodontics, oral and maxillofacial surgery, oral and maxillofacial radiology, orthodontics and dentofacial orthopedics, pediatric dentistry, periodontics, prosthodontics, oral pathology, or dental public health.

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“Treatment plan” means a statement of the services to be performed to eliminate or alleviate a patient’s symptoms or disease, based on a dentist’s assessment of the patient’s dental history, the clinical examination, and the dentist’s diagnosis.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 463, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 28 A.A.R. 654 (March 25, 2022), effective May 7, 2022 (Supp. 22-1).

R20-6-1802. Application for Certificate of Authority

- A.** A person who wishes to operate as prepaid dental plan organization in Arizona shall file an application for certificate of authority under A.R.S. § 20-1003 for the Director’s review and approval under A.R.S. § 20-1004. The application shall contain all the information required in A.R.S. § 20-1003 and this Section.
- B.** An authorized insurer shall issue the fidelity bond required under A.R.S. § 20-1004(A)(4).
- C.** An Organization shall not commence operation of, or service under, a prepaid dental plan without approval of the Director under A.R.S. § 20-1004.
- D.** An application is deemed filed with the Director when the Director receives it.
- E.** An applicant not domiciled in this state shall file a power of attorney as required by A.R.S. § 20-1003(A)(11) on a Department-prescribed form, with the application.
- F.** At the time it submits its application for certificate of authority, an Organization shall submit a written program of compliance with supporting documents that specify how the Organization will comply with the provisions of this Article. The written program of compliance shall contain the following:
 - 1. The responsibilities of and qualifications for the following positions:
 - a. The Organization’s chief executive officer, and
 - b. The Organization’s dental director;
 - 2. A plan for provision of basic dental services required under subsection R20-6-1806(A) and a copy of the schedule of benefits required under subsection R28-6-1806(B);
 - 3. A description of the system for delivery of services under Section R20-6-1807;
 - 4. A description of the geographic area designated under Section R20-6-1808;
 - 5. A plan for compliance with contract requirements under Section R20-6-1809 and a copy of a contract with a general dentist and a specialist;
 - 6. A plan for compliance with records requirements under Section R20-6-1810; and
 - 7. The Organization’s quality improvement plan under Section R20-6-1811.
- G.** An application shall include the following information:
 - 1. The proposed number of members, and
 - 2. A copy of a letter from each network dentist that documents the dentist’s intent to contract with the Organization to provide services to patients under the Organization’s prepaid dental plan.
- H.** The Director may require that an applicant for a certificate of authority under A.R.S. § 20-1003(A)(14) submit information that discloses biographical, employment and business financial history, criminal activity, fingerprints, or any information that relates to the ability to operate a prepaid dental plan for principals, principal officers, controlling persons, and insur-

ance producers of the applicant, if necessary for the protection of residents of this State.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 463, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 28 A.A.R. 654 (March 25, 2022), effective May 7, 2022 (Supp. 22-1).

R20-6-1803. Chief Executive Officer

- A.** The governing authority shall appoint a chief executive officer (CEO). The CEO shall have:
 - 1. The education and experience to manage the Organization, and
 - 2. Responsibility for the geographic area in Arizona that the Organization serves, including:
 - a. Implementing the policies of the governing authority, and
 - b. Maintaining adequate personnel to ensure compliance with applicable Arizona statutes and rules.
- B.** The governing authority shall notify the Department within ten days after the effective date of a change in the appointment of the CEO.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 463, effective January 10, 2002 (Supp. 02-1).

R20-6-1804. Dental Director

- A.** The governing authority or CEO shall appoint as the Organization’s dental director a dentist licensed to practice dentistry in any state or territory of the United States or the District of Columbia.
- B.** The dental director shall perform at least the following functions for the Organization’s geographic area in Arizona:
 - 1. Participate on the Organization’s quality improvement committee required under Section R20-6-1811;
 - 2. Oversee the Organization’s program and processes for:
 - a. Maintaining and improving clinical quality of care, including continuity of care;
 - b. Provider relations;
 - c. Facility and dental record reviews; and
 - d. Provider credentialing and recredentialing;
 - 3. Be knowledgeable about and participate in decisions regarding the Organization’s operations;
 - 4. Comply with A.R.S. § 20-2510(B) and (C) when directly denying, on the basis of medical necessity, a health care provider’s request for prior authorization; and
 - 5. Timely respond to matters within the Organization’s Arizona geographic area that require personal onsite attention or ensure that a designee who meets the requirements specified in subsection (D) timely responds to those matters.
- C.** Matters that require personal onsite attention include:
 - 1. Urgent patient care issues that require examination of dental records or X-rays;
 - 2. Prompt personal discussion with a provider of urgent concerns relating to credentialing, disciplinary problems, access to care, or quality of care.
- D.** Any designee acting under subsection (B)(5) shall:
 - 1. Be a dentist licensed to practice dentistry in any state or territory of the United States or the District of Columbia;
 - 2. Have expedient access to the dental director, the CEO, and other organization management personnel as necessary to resolve any matter requiring personal onsite attention; and

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3. Have the education, experience, and Organizational knowledge required to address the matter requiring personal onsite attention.
- E. The Organization shall notify the Department in writing within ten days after the effective date of a change in the appointment of the dental director or any designee.
- F. The requirements for a designee under subsections (B)(5), (D), and (E) shall not apply to an Organization with fewer than 2,000 members in Arizona.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 463, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 28 A.A.R. 654 (March 25, 2022), effective May 7, 2022 (Supp. 22-1).

R20-6-1805. Required Reporting

- A. On or before March 1 of each year, an Organization shall submit the following information to the Department for the previous calendar year:
 1. Member satisfaction survey results and supporting data;
 2. A spreadsheet that lists the name, address, and telephone number of each provider and whether the provider: is accepting new members, is a general dentist or specialist, and has graduated from a specialty graduate program accredited by the American Dental Association;
 3. A list of all contracted network general dentists and specialists that have been added or deleted since the previous annual report;
 4. The total number of members and the number of members assigned to each general dentist's office;
 5. The average member wait time measured in weeks for an appointment for each network dentistry office; and
 6. A website link to its current provider directory.
- B. If a network dental office that is open to new members has an appointment wait time of longer than nine weeks for three consecutive calendar quarters, the Organization shall report to the Director who may require the Organization to close the office to new members until the wait time is less than nine weeks.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 463, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 28 A.A.R. 654 (March 25, 2022), effective May 7, 2022 (Supp. 22-1).

R20-6-1806. Basic Dental Services

- A. A prepaid dental plan shall provide the basic dental services listed below:
 1. Emergency dental services on a 24-hour-per-day basis,
 2. Diagnostic services,
 3. Preventive services, and
 4. Restorative services.
- B. An Organization shall publish and make available to its members and purchasers a schedule of benefits that includes the dental plan's basic dental services and other available dental services and any associated copays.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 463, effective January 10, 2002 (Supp. 02-1).

R20-6-1807. System for Delivery of Services

- A. An Organization shall have a system for delivery of services that includes:

1. An adequate network of general dentists. To determine network adequacy, the Department shall consider the following:
 - a. Geographic distribution of network general dentists' offices,
 - b. The number of dental offices accepting new members,
 - c. The percentage of all network members who are able to schedule an appointment within nine weeks,
 - d. The availability of trained clinical support staff in the Arizona geographic area,
 - e. The ratio of population growth to the increase or decrease in the number of dentists in the Arizona geographic area, and
 - f. Current availability for appointments in all general dentist practices in Arizona; and
2. Provision for using specialists for dental services that cannot be provided by the Organization's network of contracted specialists, if the services are covered benefits.
- B. If more than 15% of the network offices that are open to new members have an appointment wait time of longer than nine weeks, the Organization shall submit a plan to the Department under which the Organization will, within 90 days, reduce the wait time to less than nine weeks. If the Organization does not reduce the wait time to less than nine weeks within the 90 day period the Organization shall refer the members who are waiting for an appointment to another network general dentist or a non-network general dentist who can schedule the member for an appointment in less than nine weeks. The member may choose to continue dental care under the prepaid dental plan with the referred dentist for the remainder of the member's enrollment period. The Organization shall provide the non-network services to the referred member at a cost that is no greater than if the services are provided by the member's assigned network dentist.
- C. An Organization shall pay for emergency dental services provided to a member by a dentist licensed in the jurisdiction where the services are provided, subject to plan limitations disclosed in the dental care plan, including emergency dental services that occur:
 1. Within the geographic area served by the member's designated provider but the provider is unavailable, or
 2. Occurs outside of the member's designated geographic service area.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 463, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 28 A.A.R. 654 (March 25, 2022), effective May 7, 2022 (Supp. 22-1).

R20-6-1808. Geographic Areas

- A. An Organization shall designate the geographic areas in Arizona in which the Organization intends to provide dental services that are reasonably convenient to the prospective members. The Organization shall provide a description of the geographic areas and locations of all facilities in which dental care will be provided under the prepaid dental plan. This information shall accompany or be included in any advertisements or sales materials provided to prospective employer groups and prospective members.
- B. An Organization shall define its geographic areas by local government jurisdictions, such as cities or counties.

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Historical Note

New Section made by final rulemaking at 8 A.A.R. 463, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 28 A.A.R. 654 (March 25, 2022), effective May 7, 2022 (Supp. 22-1).

R20-6-1809. Contract Requirements

- A. An Organization shall have a written contract with each provider that documents the requirements for providing services under the prepaid dental plan and the terms of the agreements between the parties. The Organization shall ensure that the provider complies with all contract requirements.
- B. In addition to the requirements in subsection (A), an Organization shall ensure that its contract with a provider includes the following provisions:
 1. That the Organization has authority to review the provider's records,
 2. That the provider is responsible to implement and maintain a process to inform assigned members of the need to schedule periodic preventive dental services based on the member's oral health status, and
 3. That the provider is responsible to complete any procedure undertaken upon a member if the contract is terminated or expires.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 463, effective January 10, 2002 (Supp. 02-1).

R20-6-1810. Records

- A. Dental records are the property of the provider and shall not be removed from the provider's possession, except:
 1. With the patient's permission, including for routing records to a dental or medical practitioner for consultation or evaluation; or
 2. When subpoenaed by a court or BODEX.
- B. An Organization shall maintain at its principal office a copy of each issued or delivered advertising matter or sales material, letter of solicitation, evidence of coverage, provider directory, certificate, agreement, or contract. The Organization shall note the date each advertising matter or sales material is filed with the Department and the date of distribution to any person. The advertising matter or sales material shall be maintained for at least three years.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 463, effective January 10, 2002 (Supp. 02-1).

R20-6-1811. Quality Improvement

- A. An Organization shall have a governing authority.
- B. The governing authority shall appoint a quality improvement committee that consists of the chief executive officer or designee, the dental director, the person who manages the Organization's quality improvement process, and at least one dental health professional. The committee may also include network allied health professionals and members of the plan.
- C. The quality improvement committee shall:
 1. Meet at least quarterly,
 2. Review and evaluate dental services delivered under the Organization's plan, and
 3. Establish procedures for recordkeeping and distribution of committee reports.
- D. An Organization shall maintain a written quality improvement plan that contains procedures for each of the following:
 1. Ensuring that a dentist licensed in any state or territory of the United States or District of Columbia reviews and

evaluates dental care and services provided by each contracted general dentist at least once every three years;

2. Allocation of the Organization's resources to analyze a problem or any identified deficiency;
3. Implementing a corrective action plan and methods for monitoring improvement;
4. Notifying a member in writing of the member's responsibility to cooperate with those providing dental care services and of the member's rights to:
 - a. Voice concerns about the Organization or care provided;
 - b. Be provided with information about the Organization, its services, providers, and member rights and responsibilities;
 - c. Participate in decisions about the member's dental care; and
 - d. Be treated with respect and have the right to privacy recognized;
5. Monitoring and improving membership satisfaction;
6. Maintaining an accurate provider directory that meets at least the following requirements:
 - a. Lists only credentialed providers who are currently scheduling members for diagnosis and treatment; and
 - b. Clearly designates providers who are not accepting new members;
7. Review by the dental director of the following for initial credentialing of network providers:
 - a. Query to the National Practitioner Data Bank;
 - b. Query to BODEX;
 - c. Valid United States Drug Enforcement Administration certificate, if applicable;
 - d. Evidence of current malpractice insurance; and
 - e. Documentation that each specialist has graduated from an accredited specialty graduate program as required by the Council on Dental Education and Licensure, American Dental Association; and
8. Recredentialing, at least every three years, that updates information obtained in subsections (D)(7)(b) through (d), for the dental director's review.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 463, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 28 A.A.R. 654 (March 25, 2022), effective May 7, 2022 (Supp. 22-1).

R20-6-1812. Confidentiality of Records

An Organization shall not disclose information obtained pertaining to the diagnosis, treatment, or health of a member to any person except:

1. To the extent necessary to carry out this Article;
2. Upon the express written consent of the member, applicant, provider, or Organization, as appropriate; or
3. Under statute or court order for the production or discovery of evidence or as part of a civil or criminal investigation.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 463, effective January 10, 2002 (Supp. 02-1).

R20-6-1813. Assignment of Members

- A. Within 30 days of enrollment, an Organization shall assign a member to the provider the member chooses. The Organiza-

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tion, however, shall choose and assign a provider to a member within 30 days of any of the following:

1. Receipt of a member enrollment form that does not designate a provider, or receipt of a member enrollment form that designates a provider who is unavailable;
 2. The date of the notice that the member's assigned provider intends to cease providing services; or
 3. The date the member's assigned provider becomes unavailable, for any reason.
- B.** An Organization shall give each member the option of selecting a network provider other than the provider assigned by the Organization under subsection (A).
- C.** An Organization shall maintain a continuous assignment process in compliance with subsections (A) and (B), allowing no more than 4% of members to be unassigned at any time.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 463, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 28 A.A.R. 654 (March 25, 2022), effective May 7, 2022 (Supp. 22-1).

ARTICLE 19. HEALTH CARE SERVICES ORGANIZATIONS OVERSIGHT**R20-6-1901. Applicability**

- A.** This Article applies to:
1. All proposed and existing health care services organizations (HCSOs), and
 2. Each product offered by an HCSO under the HCSO's certificate of authority.
- B.** The Department shall not issue a certificate of authority to an HCSO unless the HCSO meets the requirements of this Article.
- C.** The Department shall not require an existing HCSO to re-file information already on file with the Department, but the HCSO shall modify its operations and procedures as may be necessary to comply with this Article and file with the Department all additional information necessary to make statements complete and current.
- D.** This Article applies to inpatient emergency care, but does not apply to emergency services.
- E.** This Article applies only to covered services.

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 2769, effective July 1, 2001 (Supp. 01-2). Amended by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1902. Definitions

In this Article, the following definitions apply:

"Access" or "accessibility" means the extent to which an enrollee can obtain timely covered services from a contracted provider at the appropriate level of care, and appropriate location.

"Adult" means an enrollee in the age group the HCSO has designated for an adult.

"Adult PCP" means a primary care provider practicing in any specialty the HCSO designates as adult primary care.

"Ancillary provider" means a provider of laboratory, radiology, pharmacy or rehabilitative services, physical therapy, occupational therapy, or speech therapy, home health services, dialysis, and durable medical equipment or medical supplies

dispensed by order or prescription of a provider with the appropriate prescribing authority.

"Available" or "availability" means the extent to which the plan has contracted providers of the appropriate type and numbers at geographic locations to afford members access to timely covered services.

"Chief executive officer" or "CEO" means the person who has the authority and responsibility for the operation of the health care services organization according to applicable legal requirements and policies approved by the governing authority.

"Child" means an enrollee in the age group the HCSO has designated for children.

"Contracted" means a provider has a current written agreement or an employment arrangement with an HCSO to provide covered services to an enrollee, or a current written agreement or an employment arrangement with a contracted provider to provide covered services to an enrollee.

"Covered" or "covered services" means the health care services described as covered benefits in the HCSO's evidence of coverage.

"Day" means calendar day unless specified otherwise.

"Department" means the Department of Insurance.

"Effective process" means written policies and procedures that:

Outline the steps that the HCSO implements and consistently follows internally,

The HCSO subjects to internal quality improvement, and

The HCSO communicates to providers when established or changed.

"Emergency services" has the meaning in A.R.S. § 20-2801(3).

"Enrollee" means an individual who is enrolled in a health plan operated by an HCSO.

"Facility" means an institution that is licensed or authorized to furnish health care services in this state, including general hospitals, special hospitals, residential treatment centers, residential rehabilitation centers, skilled nursing facilities, urgent care centers, and ambulatory surgical treatment centers.

"Governing authority" means a person or body such as a board of trustees or board of directors in whom the ultimate authority and responsibility for the direction of the HCSO is vested.

"HCSO" means a health care services organization.

"Health care services" has the meaning in A.R.S. § 20-1051(6).

"High profile" means one of no fewer than four specialties designated by the HCSO, and does not include obstetrics-gynecology. An HCSO may designate a specialty as high profile on the basis of high volume or other basis the HCSO reasonably determines is directly related to providing covered services to a member.

"Hospital" means a facility that provides inpatient care, medical services, and continuous nursing services for the diagnosis and treatment of patients.

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“Inpatient care” means the covered services that an enrollee who is admitted to a hospital receives for at least 24 consecutive hours.

“Inpatient emergency care” means covered services that would be emergency services if provided in a licensed hospital emergency facility.

“License” means documented authorization issued by the appropriate state of Arizona agency to operate a facility in Arizona, or to practice a health care profession in Arizona.

“Medically necessary” has the meaning set forth in the HCSO’s evidence of coverage.

“Network” means the group of providers contracted with an HCSO to provide covered services to an enrollee covered under the HCSO’s health benefit plan.

“Network exception” means an enrollee receives covered services from a non-contracted provider either:

Because there is no contracted provider accessible or available that can provide the enrollee timely covered services, or

For any reason the HCSO determines it is in the enrollee’s best interests to receive care from a non-contracted provider.

“Non-contracted” means a provider that does not have a contract with an HCSO to provide services to an enrollee.

“Normal business hours” means 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding state or national holidays.

“Outpatient care” means covered services that an enrollee who is not an inpatient receives.

“Pediatric primary care provider” means a physician or practitioner practicing in any specialty the HCSO designates as pediatric primary care.

“Physician” means a licensed doctor of allopathic, chiropractic, optometric, osteopathic, or podiatric medicine.

“Practitioner” means any individual other than a physician who is licensed to furnish health care services, including behavioral health care services, in this state.

“Preventive care” means health maintenance care the HCSO provides or arranges to prevent illness and to improve the general health of an enrollee, including:

Immunizations,

Health education,

Health evaluation and follow-up,

Early disease detection,

Screening tests appropriate for a person’s age and gender, and

Periodic health care examinations.

“Primary care” means any specialty the HCSO designates as primary care.

“Primary care physician” or “PCP” means a physician or practitioner practicing in a specialty the HCSO designates as primary care.

“Provider” means any physician, practitioner, ancillary provider, or facility.

“Quality improvement” means an HCSO’s system for assessing and improving the level of performance of key process and outcomes.

“Routine care” means covered primary care for an enrollee’s non-urgent, symptomatic condition.

“Rural” means a zip code area with fewer than 1,000 persons per square mile as calculated annually by a population data gathering service designated by the Director.

“Service area” means any geographic area designated by any HCSO and approved by the Director under A.R.S. § 20-1053(A)(11).

“Specialty care provider” or “SCP” means a physician or practitioner who has education, training, or qualifications in a specialty, other than primary care, beyond the education or qualifications required for the license.

“Specialty” or “specialty care” means a specific area of medicine practiced by a physician or practitioner who has education, training, or qualifications in that specific area of medicine in addition to the education or qualifications required for the physician’s or practitioner’s license.

“Special hospital” means a hospital that is licensed to provide hospital services within a specific area of medicine, or limits patient admission according to age, gender, type of disease, or medical condition.

“Suburban area” means any zip code area with 1,000-3,000 persons per square mile, as calculated annually by a population data gathering service designated by the Director.

“Telemedicine” means diagnostic, consultation, and treatment services that occur in the physical presence of an enrollee on a real-time basis through interactive audio, video, or data communication.

“Timely” means services are provided at the time when medically necessary.

“Travel expenses” has the meaning set forth in writing by an HCSO.

“Urban area” means a zip code with more than 3,000 persons per square mile as calculated annually by a population data gathering service designated by the Director.

“Urgent care” means unscheduled services for an enrollee’s condition that requires medical attention not amenable to scheduling in order to avoid a serious risk of harm.

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 2769, effective July 1, 2001 (Supp. 01-2). Amended by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1903. Documentation

The CEO shall ensure that the HCSO’s policies, procedures, plans, class specifications, orders, reports, minutes of meetings, contracts, agreements, records, and duty schedules are in writing, compiled and indexed in one or more manuals, and readily available for inspection by the Director.

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 2769, effective July 1, 2001 (Supp. 01-2). Amended by

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final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1904. Health Care Plan

- A. An HCSO shall submit a statement to the Department that describes the proposed health care plan.
- B. The HCSO shall have an organized system for the delivery of health care services contained in subsection (D) that includes the following:
 - 1. Contracted providers that provide services under the plan;
 - 2. An effective process to promote a continuing relationship between an enrollee and the same PCP; and
 - 3. An effective process for referrals that ensures continuity of care to an enrollee.
- C. The HCSO shall list:
 - 1. The proposed or actual enrollment;
 - 2. The number and names of contracted, employed, or HCSO-owned providers that will serve the enrollees and the board eligibility or certification of each physician, if applicable; and
 - 3. The plan for providing covered services to enrollees as required under this Article.
- D. The HCSO's health care plan shall provide within the geographic area served the following basic health care services covered by the monthly charges in the evidence of coverage:
 - 1. Emergency care that includes emergency services and inpatient emergency care;
 - 2. Inpatient care;
 - 3. Specialty care, primary care, or ancillary care that includes diagnostic and therapeutic services;
 - 4. Outpatient care;
 - 5. Preventive care; and
 - 6. Emergency ambulance services under A.R.S. § 20-2801(2), and other ambulance services when approved by a plan physician.
- E. The HCSO shall provide appropriate coverage for out-of-area emergency care to an enrollee traveling outside the area served by the HCSO.

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 2769, effective July 1, 2001 (Supp. 01-2). R20-6-1904 repealed; new Section R20-6-1904 renumbered and amended from R20-6-1906 by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1905. Geographic Area

- A. An applicant shall describe the proposed geographic area in at least one of the following ways:
 - 1. Legal description,
 - 2. Local governmental jurisdiction such as city or county,
 - 3. Census tracts,
 - 4. Street boundaries, or
 - 5. Area within a specified radius of a specified intersection or a specified primary care center.
- B. An applicant shall submit a map that shows the boundaries for the proposed geographic area.
- C. An applicant shall submit a description of the proposed network including the data required under R20-6-1913(A)(2) and (A)(3).
- D. All advertising matter and sales material provided a prospective enrollee shall include a description of the geographic area in terms readily understandable by the general public.

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 2769, effective July 1, 2001 (Supp. 01-2). R20-6-1905 repealed; new Section R20-6-1905 renumbered and amended from R20-6-1907 by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1906. Chief Executive Officer

- A. The governing authority shall appoint a CEO who has appropriate education and experience to manage the HCSO. The governing authority shall define the authority and duties of the CEO in writing. The CEO is the appointed representative of the governing authority and is the executive officer of the HCSO.
- B. The CEO shall have at least the following duties and responsibilities:
 - 1. Manage the HCSO;
 - 2. Establish and implement policies, procedures, and effective processes of the HCSO;
 - 3. Act as liaison between the governing authority and the providers of healthcare and other services to the HCSO; and
 - 4. Establish a written plan of authority that will be in place in the CEO's absence.
- C. When there is a change of CEO, the governing authority shall notify Department within 10 days after the effective date of change.
- D. The HCSO shall ensure that all HCSO employees and contracted providers are knowledgeable about and qualified to perform the duties assigned to them through employment or by contract.
- E. The HCSO shall designate a central place of business within the major geographic area served at which the CEO shall be based and from which the HCSO shall direct administrative activities.

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 2769, effective July 1, 2001 (Supp. 01-2). Section R20-6-1906 renumbered to R20-6-1904; new Section R20-6-1906 renumbered and amended from R20-6-1908 by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1907. Medical Director

- A. The HCSO shall designate a physician as medical director.
- B. The medical director shall be responsible for planning and implementing the method for the continuing review and evaluation of health care provided by the HCSO and the continuing education of its providers of health care services. The medical director may also serve as the CEO if the medical director has appropriate education and experience to manage the HCSO.
- C. The medical director responsibilities include:
 - 1. Supervising medical staff;
 - 2. Performance planning and evaluating medical staff;
 - 3. Coordinating medical staff activities; and
 - 4. Developing medical care policies.

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 2769, effective July 1, 2001 (Supp. 01-2). Section R20-6-1907 renumbered to R20-6-1905; new Section R20-6-1907 renumbered and amended from R20-6-1909 by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1908. Quality Assurance

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- A. The HCSO shall provide an effective process for a continuing review and evaluation of the covered services it provides to enrollees to ensure that:
 1. Treatment and level of covered services are appropriate and adequate and
 2. The quality of covered services is acceptable to the HCSO.
- B. The HCSO shall have a quality assurance committee that includes at least the CEO or designee, the medical director, and representative network providers. The quality assurance committee shall:
 1. Arrange for physicians or practitioners to review and evaluate covered services provided by others physicians or practitioners within the respective disciplines.
 2. Adopt administrative procedures covering frequency of meetings, recordkeeping, committee reports, and disseminating the reports.
- C. The HCSO's effective process in subsection (A) shall include the following:
 1. Standards for health care;
 2. Monitoring of care;
 3. Analysis of any deficiency;
 4. Correcting a deficiency including submitting a schedule for correcting the deficiency, requiring continuing education for the provider, if appropriate, and follow-up and periodic reassessment of the deficiency.

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 2769, effective July 1, 2001 (Supp. 01-2). Section R20-6-1908 renumbered to R20-6-1906; new Section R20-6-1908 renumbered and amended from R20-6-1911, by final rulemaking at 11 A.A.R. 4861, effective December 31, 2006 (Supp. 05-4).

R20-6-1909. Evaluation of Network

Each HCSO shall have an effective process to evaluate the adequacy of its network to provide an enrollee with timely covered services.

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 2769, effective July 1, 2001 (Supp. 01-2). Former R20-6-1909 renumbered to R20-6-1907; new Section R20-6-1909 made by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1910. Process for Referral, Prior Authorization, Pre-certification, or Network Exception

- A. An HCSO shall have an effective process for assisting an enrollee to obtain timely covered services when the enrollee or enrollee's referring provider cannot find a contracted provider who is timely accessible or available.
- B. An HCSO shall have an effective process during normal business hours for handling referrals, prior authorizations, pre-certifications, or network exceptions necessary for timely routine care. This process may include the HCSO's procedure for standing referrals required in A.R.S. § 20-1057.01.
- C. Each HCSO shall have an effective process to handle referrals or network exceptions necessary for timely urgent care seven days a week.
- D. An HCSO that requires prior authorization or precertification for urgent care shall have an effective process to handle requests for prior authorization or precertification 24 hours a day, seven days a week.

- E. An HCSO shall have an effective process for handling network exceptions that ensures the HCSO reimburses an enrollee for any out-of-network cost the enrollee incurs that the enrollee would not have incurred if the enrollee had received the services in-network.

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 2769, effective July 1, 2001 (Supp. 01-2). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1911. HCSO Communication with Providers

An HCSO shall have an effective process for communicating with contracted providers regarding the following:

1. The providers in the network,
2. Contractual or administrative changes relating to enrollee access or provider availability, and
3. Procedures for handling claims and grievances submitted by providers.

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 2769, effective July 1, 2001 (Supp. 01-2). Former R20-6-1911 renumbered to R20-6-1908; new R20-6-1911 made by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1912. Network Directories

- A. An HCSO shall publish a provider network directory as follows:
 1. An HCSO shall list the name, address, telephone number, specialty, and hospital affiliation for all in-area contracted physicians or practitioners.
 2. An HCSO may list ancillary providers by corporate or group name and is not required to list individual physicians or practitioners.
 3. An HCSO is not required to list physicians or practitioners in the following areas of specialties or areas of practice:
 - a. Emergency medicine;
 - b. Anesthesiology, except anesthesiologists who provide pain management services;
 - c. Hospital-based pathology;
 - d. Hospital-based radiology; and
 - e. Hospitalists.
 4. An HCSO that lists any of the physicians or practitioners in subsections R20-6-1912(A)(3)(a) through (A)(3)(e) may list by corporate or group name and is not required to list individual physicians or practitioners.
 5. An HCSO that uses hospitalists is not required to list the hospital affiliations of PCPs who do not admit or attend hospitalized members.
 6. An HCSO shall publish a provider network directory that lists all its contracted facilities and contains:
 - a. The name, address, and telephone number of each facility;
 - b. For each hospital at which the HCSO uses hospitalists, if any, a statement that the HCSO uses hospitalists at that hospital;
 - c. For an HCSO that uses hospitalists and does not list them in the directory, information on how an enrollee can find out what hospitalists or group of hospitalists it uses at each hospital;
- B. The network directory shall conspicuously state in the directory the following:

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1. Changes occur in the network after the directory is published and some providers listed in the directory may no longer be contracted,
 2. Enrollee coverage may depend on the contract status of the provider,
 3. Where the enrollee can obtain more recent directory information,
 4. The effective date of the network directory, and
 5. The method for an enrollee or prospective enrollee to find out which PCPs are accepting new enrollees from the HCSO.
- C. Each HCSO shall make its network directory available on paper to enrollees or prospective enrollees requesting it. The HCSO shall:
1. Publish the paper directory at least once a year;
 2. Update or supplement the information in the paper directory at least every six months;
 3. Explain in the paper directory how an enrollee or prospective enrollee can use or get assistance using the HCSO's online or telephone directories, if any; and
 4. Have discretion to list physicians' or practitioners' hospital affiliations in its paper directory.
- D. Each HCSO that has an online network directory shall:
1. Update the online directory at least monthly;
 2. Make the online directory easy to use and user friendly; and
 3. Explain, in the online directory, how an enrollee or prospective enrollee can obtain a paper directory.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1913. Demographic Information Reports

- A. An HCSO shall report the following data to the Department:
1. For each enrollee, report annually:
 - a. Street address,
 - b. Zip code,
 - c. Gender, and
 - d. Year of birth.
 2. For all contracted providers, report semiannually:
 - a. Provider name,
 - b. Street address or addresses at which the provider provides covered services,
 - c. Zip code, and
 - d. Arizona license number,
 3. For all contracted physicians or practitioners, report semiannually:
 - a. Specialty, and
 - b. Medical or other applicable degree or information that designates the type of physician or practitioner.
- B. The HCSO shall report the information in subsection (A) to the Department by the following deadlines:
1. For information in subsection (A)(1) as of December 31 of each calendar year, by February 15 of the next calendar year.
 2. For information in subsection (A)(2) as of June 30, by August 15 of the same calendar year.
 3. For information in subsection (A)(2) as of December 31, by February 15 of the next calendar year.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1914. Access

An HCSO shall provide to or arrange for its enrollees services or appointments for services as follows:

1. For preventive care services from a contracted PCP, an appointment date within 60 days of the enrollee's request, or sooner if necessary, for the enrollee to be immunized on schedule.
2. For routine-care services from a contracted PCP, an appointment date within 15 days of the enrollee's request to the PCP or sooner if medically necessary.
3. For specialty care services from a contracted SCP, an appointment date within 60 days of the enrollee's request or sooner if medically necessary.
4. In-area urgent care services from a contracted provider seven days per week.
5. Timely non-emergency inpatient care services from a contracted facility.
6. Timely services from a contracted physician or practitioner in a contracted facility including inpatient emergency care.
7. Services from a contracted ancillary provider during normal business hours, or sooner if medically necessary.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6 1915. Alternative Access

- A. As an alternative to providing access to covered services from a physician, an HCSO may provide access to covered services from an appropriately licensed practitioner.
- B. As an alternative to providing access to covered services at a hospital under R20-6-1914, an HCSO may provide access to covered services at another appropriately licensed facility.
- C. As an alternative to providing access to covered services from a physician or practitioner who sees an enrollee in person under R20-6-1914, an HCSO may provide access to necessary covered services through:
1. Telephone calls and messages,
 2. Electronic mail,
 3. Communication with the physician's or practitioner's staff,
 4. Coverage by another physician or practitioner, or
 5. Telemedicine,
- D. An HCSO that panels enrollees to PCPs may panel enrollees to appropriately licensed practitioners.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1916. Availability Ratios

- A. An HCSO shall maintain a ratio of contracted adult PCPs to adults that is adequate to provide those adults with covered services. An HCSO with a Medicare Advantage (MA) plan may have one ratio that applies to both its insured and MA populations, or a separate ratio for each.
- B. An HCSO shall maintain a ratio of contracted pediatric PCPs to children that is adequate to provide those children enrollees with covered services.
- C. An HCSO shall maintain a ratio of contracted high profile SCPs to enrollees that is adequate to provide those enrollees with covered services that include services at contracted facilities. An HCSO with a MA plan may have one ratio that applies to both its insured and MA populations, or a separate ratio for each.

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Historical Note

New Section made by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1917. Geographic Availability in an Urban Area

An HCSO shall provide each enrollee living in an urban area of the HCSO's service area the following:

1. Primary care services from a contracted PCP located within 10 miles or 30 minutes of the enrollee's home;
2. High profile specialty care services from a contracted SCP located within 15 miles or 45 minutes of the enrollee's home; and
3. Inpatient care in a contracted general hospital, or contracted special hospital, within 25 miles or 75 minutes of the enrollee's home.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1918. Geographic Availability in a Suburban Area

Each HCSO shall provide each enrollee member living in a suburban area within the HCSO's service area the following:

1. Primary care from a contracted PCP located within 15 miles or 45 minutes of the enrollee's home;
2. High profile specialty care services from a contracted SPC within 20 miles or 60 minutes of the enrollee's home; and
3. Inpatient care in a contracted hospital, or a contracted special hospital within 30 miles or 90 minutes of the enrollee's home.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1919. Geographic Availability in a Rural Area

An HCSO shall provide each enrollee living in a rural area with primary care services from a contracted physician or practitioner within 30 miles or 90 minutes of the enrollee's home.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1920. Travel Requirements

- A. An HCSO may require an enrollee to travel a greater distance in-area to obtain covered services from a contracted provider than the enrollee would have to travel to obtain equivalent services from a non-contracted provider, except where a network exception is medically necessary. Nothing in this Section creates an exception to R20-6-1918 through R20-6-1920.
- B. If the HCSO prior-authorizes services that require an enrollee to travel outside the HCSO service area because the services are not available in the area, the HCSO shall reimburse the enrollee for travel expenses. Except as provided under R20-6-1904(E)(6), an HCSO is not required to reimburse an enrollee for travel expenses the enrollee incurs to obtain covered services in-area.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1921. Enforcement Consideration

In determining the appropriate enforcement action or penalties for failure to comply with these rules, the Department shall consider any documentation the HCSO provides regarding:

1. Whether seasonal shifts in demand affect access and availability of covered services;
2. Whether the HCSO's demographic information has changed significantly since the HCSO's most recent report;
3. Whether an enrollee has refused to accept covered services the HCSO has offered in the time-frames or locations required of the HCSO by this Article;
4. Whether an enrollee has requested and obtained covered services from a contracted provider whose location, or appointment availability, or capacity result in the HCSO's non-compliance; and
5. Whether market factors indicate that on a short-term basis, compliance is not possible. Market factors include shortage of providers, enrollee or provider location, and provider practice or contracting patterns.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

ARTICLE 20. CAPTIVE INSURERS**R20-6-2001. Reserved****R20-6-2002. Fees; Examination Costs**

- A. A corporation applying for a license to do business as a captive insurer shall pay a nonrefundable fee of \$1,000.00 to the Department for issuance of the license under A.R.S. § 20-1098.01(J). A captive insurer that is a protected cell captive insurer, as defined in A.R.S. § 20-1098, also shall pay to the Department a nonrefundable fee of \$1,000 for each participant contract application that establishes a protected cell under A.R.S. § 20-1098.05(B)(9). The fee is payable in full at the time the applicant submits the application for license to the Department under A.R.S. § 20-1098.01.
- B. A captive insurer shall pay a nonrefundable annual renewal fee of \$5,500.00 to the Department at the time of filing its annual report under A.R.S. § 20-1098.07. Under A.R.S. § 20-1098.01(J), a captive insurer that is a protected cell captive insurer also shall pay to the Department a nonrefundable annual renewal fee of \$2,500.00 for each protected cell at the time of filing its annual report under A.R.S. § 20-1098.07.
- C. A captive insurer shall pay a nonrefundable fee of \$200.00 to the Department at the time of filing for issuance of an amended certificate of authority.
- D. In addition to the fees prescribed in subsections (A), (B), and (C), an applicant for a captive insurer license or a licensed captive insurer shall pay the costs of any examination the Director conducts, under A.R.S. § 20-1098.08.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2478, effective July 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 2977, effective September 13, 2005 (Supp. 05-3). Subsection (A) corrected at request of the Department, Office File No. M11-252, filed July 20, 2011 (Supp. 11-3). Section amended by final rulemaking at 29 A.A.R. 3621 (November 24, 2023), effective January 7, 2024 (Supp. 23-4). Effective date corrected (Supp. 23-4, Ver. 2).

ARTICLE 21. CUSTOMER INFORMATION SECURITY PROGRAM

Article 21, consisting of R20-6-2101 through R20-6-2104, made by final rulemaking at 10 A.A.R. 2260, effective July 13, 2004

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(Supp. 04-2).

R20-6-2101. Definitions

The following definitions apply in this Article:

1. "Consumer" means an individual, or the individual's legal representative, who seeks to obtain, obtains, or has obtained an insurance product or service from a licensee that is to be used primarily for personal, family, or household purposes, and about whom the licensee has nonpublic personal information. Consumer can include a prospective applicant, policyholder, certificateholder, insured, or claimant.
2. "Customer" means a consumer who has a continuing relationship with a licensee under which the licensee provides one or more insurance products or services to the consumer that are used primarily for personal, family, or household purposes.
3. "Customer information" means nonpublic personal information and privileged information about a customer whether in paper, electronic, or other form, that is maintained by or on behalf of an insurance institution, insurance producer, or insurance support organization.
4. "Customer information systems" means the electronic, or physical methods used to access, collect, store, use, transmit, protect, or dispose of customer information.
5. "Insurance institution" has the meaning prescribed in A.R.S. § 20-2102(10).
6. "Insurance producer" means a person required to be licensed under A.R.S. Title 20, Chapter 2, Article 3 to sell, solicit, or negotiate insurance and includes a managing general agent as defined in A.R.S. § 20-311.
7. "Insurance support organization" has the meaning prescribed in A.R.S. § 20-2102(13).
8. "Licensee" means an insurance institution, insurance producer, or insurance support organization, but does not include a purchasing group or an unauthorized insurer in regard to the excess line business conducted under Title 20, Chapter 2, Article 5.
9. "Personal information" has the meaning prescribed in A.R.S. § 20-2102(19).
10. "Privileged information" has the meaning prescribed in A.R.S. § 20-2102(22).
11. "Service provider" means a person that maintains, processes, or otherwise is permitted access to customer information through its provision of services directly to a licensee.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2260, effective July 13, 2004 (Supp. 04-2).

R20-6-2102. Customer Information Security Program

A licensee shall implement a comprehensive written customer information security program that includes administrative, technical, and physical safeguards for the protection of customer information. The administrative, technical, and physical safeguards included in the information security program shall be appropriate to the size and complexity of the licensee and the nature and scope of its activities.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2260, effective July 13, 2004 (Supp. 04-2).

R20-6-2103. Objectives of Customer Information Security Program

A licensee's customer information security program shall be designed to:

1. Ensure the security and confidentiality of customer information;
2. Protect against any anticipated threats or hazards to the security or integrity of the information; and
3. Protect against unauthorized access to or use of the information.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2260, effective July 13, 2004 (Supp. 04-2).

R20-6-2104. Guidelines for Methods of Development and Implementation

A licensee may implement the requirements of R20-6-2102 and R20-6-2103 by the actions and procedures prescribed in this Section, which are non-exclusive illustrations:

1. A licensee may assess risk by:
 - a. Identifying reasonably foreseeable internal or external threats that could result in unauthorized disclosure, misuse, alteration, or destruction of customer information or customer information systems;
 - b. Assessing the likelihood and potential damage of these threats, taking into consideration the sensitivity of customer information; and
 - c. Assessing the sufficiency of policies, procedures, customer information systems, and other safeguards in place to control risks.
2. A licensee may manage and control risk by:
 - a. Designing its information security program to control the identified risks, commensurate with the sensitivity of the information, as well as the complexity and scope of the licensee's activities;
 - b. Training staff to implement the licensee's information security program; and
 - c. Regularly testing or otherwise regularly monitoring the key controls, systems and procedures of the information security program. The licensee shall determine the frequency and nature of these tests or other monitoring practices by the licensee's risk assessment.
3. A licensee may oversee service provider arrangements by:
 - a. Exercising appropriate due diligence in selecting its service providers; and
 - b. Requiring its service providers to implement measures designed to meet the objectives of this Article, and, where indicated by the licensee's risk assessment, taking appropriate steps to confirm that its service providers have satisfied these obligations.
4. A licensee may monitor, evaluate, and adjust, as appropriate, its information security program in light of any relevant changes in technology, the sensitivity of its customer information, internal or external threats to information, and the licensee's own changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements, and changes to customer information systems.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2260, effective July 13, 2004 (Supp. 04-2).

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ARTICLE 22. MILITARY PERSONNEL

R20-6-2201. Military Sales Practices**A. Definitions.**

1. "Active duty" means full-time duty in the active military service of the United States and includes members of the reserve component (National Guard and Reserve) while serving under published orders for active duty or full-time training. "Active duty" does not include members of the reserve component who are performing active duty or active duty under military calls or orders specifying periods of less than 31 calendar days.
2. "Department of Defense (DoD) personnel" means all active duty service members and all civilian employees, including non-appropriated fund employees and special government employees, of the Department of Defense.
3. "Division" means the Division of Insurance of the Department of Insurance and Financial Institutions.
4. "Door-to-door" means a solicitation or sales method whereby an insurance producer proceeds randomly or selectively from household to household without prior specific appointment.
5. "ERISA" means the Employee Retirement and Income Security Act.
6. "Formal banking relationship" for purposes of subsection (D), means a relationship established between a service member and a depository institution which:
 - a. Provides the service member with a deposit agreement and periodic statements and makes disclosures required by the Truth in Savings Act, 12 U.S.C. § 4301, et seq. and its accompanying regulations; and
 - b. Permits the service member to make deposits and withdrawals unrelated to the payment or processing of insurance premiums.
7. "General advertisement" means an advertisement having as its sole purpose the promotion of the reader's or viewer's interest in the concept of insurance, or the promotion of the insurer, or the promotion of the insurance producer.
8. "Insurer" means an insurance company required to be licensed under the laws of Arizona to provide life insurance products, including annuities.
9. "Insurance producer" means a person required to be licensed pursuant to A.R.S. § 20-282.
10. "IRC" means Internal Revenue Code.
11. "Known" or "Knowingly" means the insurance producer or insurer had actual awareness, or in the exercise of ordinary care should have known at the time of the act or practice complained of, that depending on its use in this Section, the person solicited was either a service member or was a service member with a pay grade of E-4 or below.
12. "Life insurance" has the meaning defined at A.R.S. § 20-254.
13. "Military installation" means any federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which service members are assigned for duty, including barracks, transient housing, and family quarters.
14. "MyPay" is a Defense Finance and Accounting Service (DFAS) web-based system that enables service members to process certain discretionary pay transactions or provide updates to personal information data elements without using paper forms.

15. "Service member" means any active duty officer (commissioned and warrant) or enlisted member of the United States Armed Forces.
16. "SGLI" means Servicemembers' Group Life Insurance.
17. "Side fund" means a fund or reserve that is part of or otherwise attached to a life insurance policy (excluding individually issued annuities) by rider, endorsement, or other mechanism which accumulates premium, or deposits with interest, or by other means. "Side fund" does not include:
 - a. Accumulated value, or cash value, or secondary guarantees provided by an universal life insurance policy;
 - b. Cash values provided by a whole life policy which are subject to standard nonforfeiture law for life insurance; or
 - c. A premium deposit fund which:
 - i. Contains only premiums paid in advance which accumulate at interest;
 - ii. Imposes no penalty for withdrawal;
 - iii. Does not permit funding beyond future required premiums;
 - iv. Is not marketed or intended as an investment; and
 - v. Does not carry a commission, either paid or calculated.
18. "Specific appointment" means a prearranged appointment agreed upon by both parties and definite as to place and time.
19. "U.S." means United States.
20. "U.S. Armed Forces" means all components of the Army, Navy, Air Force, Marine Corps, Coast Guard, and Space Force.
21. "VGLI" means Veterans' Group Life Insurance.

B. Exemptions.

1. This Section shall not apply to solicitations or sales involving:
 - a. Credit insurance;
 - b. Group life insurance or group annuities where there is no in-person, face-to-face solicitation of individuals by an insurance producer or where the contract or certificate does not include a side fund;
 - c. An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or, when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the Division; or, when a term conversion privilege is exercised among corporate affiliates;
 - d. Individual stand-alone health policies, including disability income policies;
 - e. Contracts offered by SGLI or VGLI, as authorized by 38 U.S.C. §§ 1965 et seq.;
 - f. Life insurance contracts offered through or by a non-profit military association, qualifying under Section 501(c)(23) of the IRC, and which are not underwritten by an insurer; or
 - g. Contracts used to fund:
 - i. An employee pension or welfare benefit plan that is covered by ERISA;
 - ii. A plan described by Sections 401(a), 401(k), 403(b), 408(k), or 408(p) of the IRC, as

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- amended, if established and maintained by an employer;
- iii. A government or church plan defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the IRC;
 - iv. A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;
 - v. Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or
 - vi. Prearranged funeral contracts.
2. Nothing in this Section shall be construed to abrogate the ability of nonprofit organizations (and/or other organizations) to educate members of the U.S. Armed Forces in accordance with Department of Defense DoD Instruction 1344.07 – Personal Commercial Solicitation on DoD Installations or any successor directive.
 3. This purposes of this Section, the following do not constitute solicitation:
 - a. General advertisements;
 - b. Direct mail;
 - c. Internet marketing; and
 - d. Telephone marketing if the caller explicitly and conspicuously discloses that the product being marketed is life insurance and makes no statements that avoid a clear and unequivocal statement that life insurance is the subject matter of the solicitation.
 4. Any in-person, face-to-face meeting resulting from an exempt type of solicitation listed in subsection (B)(3) is not exempt and the insurer or insurance producer is subject to this Section.
 5. The following subsections do not apply to individually issued annuities: (D)(3)(b), (D)(5)(c), (D)(5)(e), (D)(6)(a), (D)(6)(c) and (D)(6)(d).
- C. Practices Declared False, Misleading, Deceptive, or Unfair on a Military Installation.**
1. The following acts or practices when committed on a military installation by an insurer or insurance producer with respect to the in-person, face-to-face solicitation of life insurance are declared to be false, misleading, deceptive, or unfair:
 - a. Knowingly soliciting the purchase of any life insurance product door-to-door or without first establishing a specific appointment for each meeting with a prospective purchaser.
 - b. Soliciting service members in a group or “mass” audience or in a “captive” audience where attendance is not voluntary.
 - c. Knowingly making appointments with or soliciting service members during their normally scheduled duty hours.
 - d. Making appointments with or soliciting service members in barracks, day rooms, unit areas, transient personnel housing, or other areas where the installation commander has prohibited solicitation.
 - e. Soliciting the sale of life insurance without first obtaining permission from the installation commander or the commander’s designee.
 - f. Posting unauthorized bulletins, notices, or advertisements.
 - g. Failing to present DD Form 2885, Personal Commercial Solicitation Evaluation, to solicited service members or discouraging solicited service members from completing or submitting a DD Form 2885.
 - h. Knowingly accepting an application for life insurance or issuing a policy of life insurance on the life of an enlisted member of the U.S. Armed Forces without first obtaining a completed copy of any required form which confirms that the applicant has received counseling or fulfilled any other similar requirement for the sale of life insurance established by regulations, directives, or rules of the DoD or any branch of the U.S. Armed Forces for the insurer’s files.
 2. The following acts or practices when committed on a military installation by an insurer or insurance producer constitute corrupt practices, improper influences, or inducements and are declared to be false, misleading, deceptive, or unfair:
 - a. Using DoD personnel, directly or indirectly, as a representative or agent in any official or business capacity, with or without compensation, with respect to the solicitation or sale of life insurance to service members.
 - b. Using an insurance producer to participate in any U.S. Armed Forces sponsored education or orientation program.
- D. Practices declared false, misleading, deceptive, or unfair regardless of location.**
1. The following acts or practices by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive, or unfair:
 - a. Submitting, processing, or assisting in the submission or processing of any allotment form or similar device used by the U.S. Armed Forces to direct a service member’s pay to a third party for the purchase of life insurance. This includes, but is not limited to, using or assisting in using the service member’s “MyPay” account or other similar internet or electronic medium. This subsection does not prohibit an insurer or insurance producer assisting a service member by providing the insurer or premium information necessary to complete any allotment form.
 - b. Knowingly receiving funds from a service member for the payment of premium from a depository institution with which the service member has no formal banking relationship.
 - c. Employing any device or method or entering into any agreement where funds received from a service member by allotment for the payment of insurance premiums are identified on the service member’s “Leave and Earnings Statement” or equivalent or successor form as “Savings” or “Checking” and where the service member has no formal banking relationship.
 - d. Entering into any agreement with a depository institution for the purposes of receiving funds from a service member where the depository institution, with or without compensation, agrees to accept direct deposits from a service member with whom it has no formal banking relationship.

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- e. Using DoD personnel, directly or indirectly, as a representative or agent in any official or unofficial capacity, with or without compensation, with respect to the solicitation or sale of life insurance to service members who are junior in rank or grade or to their family members.
 - f. Offering or giving anything of value, directly or indirectly, to DoD personnel to procure their assistance in encouraging, assisting, or facilitating the solicitation or sale of life insurance to a service member.
 - g. Knowingly offering or giving anything of value to a service member with a pay grade of E-4 or below for their attendance to any event where an application for life insurance is solicited.
 - h. Advising a service member with a pay grade of E-4 or below to change their income tax withholding or state of legal residence for the sole purpose of increasing disposable income to purchase life insurance.
2. The following acts or practices by an insurer or insurance producer lead to confusion regarding source, sponsorship, approval, or affiliation and are declared to be false, misleading, deceptive, or unfair:
 - a. Making any representation, or using any device, title, descriptive name, or identifier that has the tendency or capacity to confuse or mislead a service member into believing that the insurer, insurance producer, or product offered is affiliate, connected or associated with, endorsed, sponsored, sanctioned, or recommended by the U.S. government, the U.S. Armed Forces, or any state, federal agency, or government entity. Examples of prohibited insurance producer titles include, but are not limited to, "Battalion Insurance Counselor," "Unit Insurance Advisor," "Servicemen's Group Life Insurance Conversion Consultant," or "Veteran's Benefits Counselor." An insurance producer may use a professional designation awarded after the successful completion of a course of instruction in the business of insurance by an accredited institution of higher learning including, but not limited to, Chartered Life Underwriter (CLU), Chartered Financial Consultant (ChFC), Certified Financial Planner (CFP), Masters of Science in Financial Services (MSFS), or Masters of Science Financial Planning (MS).
 - b. Soliciting the purchase of any life insurance product through the use of or in conjunction with any third party organization that promotes the welfare of or assists members of the U.S. Armed Forces in a manner that has a tendency or capacity to confuse or mislead a service member into believing that either the insurer, insurance producer, or insurance product is affiliated, connected or associated with, endorsed, sponsored, sanctioned, or recommended by the U.S. government or the U.S. Armed Forces.
 3. The following acts or practices by an insurer or insurance producer lead to confusion regarding premiums, costs, or investment returns and are declared to be false, misleading, deceptive, or unfair:
 - a. Using or describing the credited interest rate on a life insurance policy in a manner that implies that the credited interest rate is a net return on premium paid.
 - b. Misrepresenting the mortality costs of a life insurance product, including a statement or implication that the product costs nothing or is free.
 4. The following acts or practices by an insurer or insurance producer regarding SGLI or VGLI are declared to be false, misleading, deceptive, or unfair:
 - a. Making any representation regarding the availability, suitability, amount, cost, exclusions, or limitations to coverage provided to a service member or dependents by SGLI or VGLI, which is false, misleading, or deceptive.
 - b. Making any representation regarding conversion requirements, including the costs of coverage, or exclusions or limitations of coverage of SGLI or VGLI to private insurers which is false, misleading, or deceptive.
 - c. Suggesting, recommending, or encouraging a service member to cancel or terminate their SGLI policy or issuing a life insurance policy which replaces an existing SGLI policy unless the replacement shall take effect upon or after the service member's separation from the U.S. Armed Forces.
 5. The following acts or practices by an insurer or insurance producer regarding disclosure are declared to be false, misleading, deceptive, or unfair:
 - a. Deploying, using, or contracting for any lead-generating materials designed exclusively for use with service members that do not clearly and conspicuously disclose that the recipient will be contacted by an insurance producer, if that is the case, for the purpose of soliciting the purchase of life insurance.
 - b. Failing to disclose that a solicitation for the sale of life insurance will be made when establishing a specific appointment for an in-person, face-to-face meeting with a prospective purchaser.
 - c. Failing to clearly and conspicuously disclose that fact that the product being sold is life insurance.
 - d. Failing to make, at the time of sale or offer to an individual known to be a service member, the written disclosures required by the Military Personnel Financial Services Protection Act, Public Law 109-290, Sec. 10, p. 16, 10 U.S.C. § 992 note.
 - e. When the sale is conducted in-person and face-to-face with an individual known to be a service member, failing at the time the application is taken to provide to the applicant:
 - i. An explanation of any applicable free look period with instructions on how to cancel if a policy is issued; and
 - ii. Either a copy of the application or a written disclosure. The copy of the application or the written disclosure shall clearly and concisely set out the type of life insurance, the death benefit applied for and its expected first year cost. A basic illustration that meets the requirements of A.R.S. §§ 20-1241 through 20-1241.09, Section R20-6-202 and Section R20-6-209 shall be deemed sufficient to meet this requirement for a written disclosure.
 6. The following acts or practices by an insurer or insurance producer with respect to the sale of certain life insurance products are declared to be false, misleading, deceptive, or unfair:

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- a. Recommending the purchase of any life insurance product which includes a side fund to a service member in pay grades E-4 and below unless the insurer has reasonable grounds for believing that the life insurance death benefit, standing alone, is suitable.
- b. Offering for sale or selling a life insurance product which includes a side fund to a service member in pay grades E-4 and below who is currently enrolled in SGLI, is presumed unsuitable unless, after the completion of a needs assessment, the insurer demonstrates that the applicant's SGLI death benefit, together with any other military survivor benefits, savings and investments, survivor income, and other life insurance are insufficient to meet the applicant's insurable needs for life insurance.
 - i. "Insurable needs" are the risks associated with premature death taking into consideration the financial obligations and immediate and future cash needs of the applicant's estate and/or survivors or dependents.
 - ii. "Other military survivor benefits" include, but are not limited to: the Death Gratuity, Funeral Reimbursement, Transition Assistance, Survivor and Dependents' Educational Assistance, Dependency and Indemnity Compensation, TRICARE Healthcare benefits, Survivor Housing Benefits and Allowances, Federal Income Tax Forgiveness, and Social Security Survivor Benefits.
- c. Offering for sale or selling any life insurance contract which includes a side fund:
 - i. Unless interest credited accrues from the date of deposit to the date of withdrawal and permits withdrawals without limit or penalty;
 - ii. Unless the applicant has been provided with a schedule of effective rates of return based upon cash flows of the combined product. For this disclosure, the effective rate of return will consider all premiums and cash contributions made by the policyholder and all cash accumulations and cash surrender values available to the policyholder in addition to life insurance coverage. This schedule will be provided for at least each policy year from year one to year ten and for every fifth policy year thereafter ending at age 100, policy maturity or final expiration; and
 - iii. Which by default diverts or transfers funds accumulated to the side fund to pay, reduce, or offset any premiums due.
- d. Offering for sale or selling any life insurance contract which after considering all policy benefits, including but not limited to endowment, return of premium or persistency, does not comply with standard nonforfeiture law for life insurance.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 4215, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 28 A.A.R. 687 (April 1, 2022), effective May 7, 2022 (Supp. 22-1).

ARTICLE 23. THRESHOLD RATE REVIEW – INDIVIDUAL HEALTH INSURANCE**R20-6-2301. Applicability; Definitions**

- A. This Article applies to rates charged by health insurers for individual health insurance. This Article does not apply to rates charged by health insurers for the following:
 1. Health insurance that a health insurer issues to an employer or to any group described in either A.R.S. § 20-1401 or A.R.S. § 20-1404(A), except health insurance issued to an association or its individual members as described in R20-6-2301(B)(7)(b);
 2. Grandfathered health plan coverage as defined in 45 CFR 147.140; or
 3. Health insurance that covers excepted benefits as described in section 2791(c) of the PHS Act, 42 U.S.C. 300gg-91(c).
- B. In this Article, the following definitions apply:
 1. "Department" means the Arizona Department of Insurance.
 2. "Blanket disability insurance" has the meaning prescribed in A.R.S. § 20-1404(A).
 3. "CMS" means the Centers for Medicare & Medicaid Services.
 4. "Federal medical loss ratio standard" means the applicable medical loss ratio standard determined under 45 CFR 158, Subpart B.
 5. "Health insurance" means disability insurance as defined in A.R.S. § 20-253, a health care plan as defined in A.R.S. § 20-1051(5) and disability insurance or a health care plan offered by a hospital service corporation, medical service corporation or hospital, medical, dental and optometric service corporation as defined in A.R.S. § 20-822(3).
 6. "Health insurer" means an insurer, as that term is defined in A.R.S. § 20-104, authorized to transact disability insurance in Arizona, a health care services organization as defined in A.R.S. § 20-1051(7) or a hospital service corporation, medical service corporation or hospital, medical, dental and optometric service corporation as defined in A.R.S. § 20-822(3).
 7. "Individual health insurance" means health insurance that a health insurer issues to either:
 - a. An individual, to cover:
 - i. The individual, or
 - ii. The individual's dependents, or
 - iii. The individual and the individual's dependents.
 - b. An association or its individual members to cover the individual members and their dependents, and which the Department would regulate under A.R.S. Title 20, Chapter 6 as individual health insurance if the health insurer did not issue it to an association or individual members of an association.
 8. "PHS Act" means Part A of Title XXVII of the Public Health Service Act, 42 U.S.C. Chapter 6A.
 9. "Product" means a package of health insurance benefits with a discrete set of rating and pricing methodologies that a health insurer offers as individual insurance in Arizona.
 10. "Preliminary justification" means a justification that consists of the parts described in R20-6-2302(A).
 11. "Rate increase" means an increase of the rates for an individual health insurance product that a health insurer offers in Arizona that:

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- a. Results from a change to the underlying rate structure of the product, and
- b. May result in premium changes for the product.
12. "Secretary" means the Secretary of the United States Department of Health and Human Services.
13. "Threshold rate increase" means a rate increase that meets or exceeds an Arizona-specific threshold as noticed by the Secretary in 45 CFR 154.200, provided:
 - a. The average increase for all enrollees weighted by premium volume meets or exceeds the applicable threshold; and
 - b. If a rate increase that does not otherwise meet or exceed the Arizona-specific threshold meets or exceeds the Arizona-specific threshold when combined with a previous increase or increases during the 12-month period preceding the date on which the rate increase would become effective, then the rate increase must be considered to meet or exceed the Arizona-specific threshold and is subject to threshold rate review that shall include a review of the aggregate rate increases during the applicable 12-month period.
14. "Threshold rate review" means the review by the Department under this Article of a threshold rate increase.
15. "Unreasonable rate increase" means a rate increase that results in benefits that are not reasonable in relation to the premium the health insurer charges for the product. The following factors are relevant in determining whether a rate increase results in benefits that are unreasonable in relation to premium:
 - a. The rate increase results in a projected medical loss ratio below the federal medical loss ratio standard after accounting for any adjustments allowable under federal law;
 - b. One or more of the assumptions on which the health insurer based the rate increase is not supported by sound actuarial reasoning, data and analysis;
 - c. The choice of assumptions or combination of assumptions on which the insurer based the rate increase is unreasonable;
 - d. The health issuer provides data or documentation that is incomplete, inadequate or otherwise does not provide a basis upon which the Department can determine the reasonableness of a rate increase; or
 - e. The increase results in premium differences between insureds within similar risk categories that are unfairly discriminatory under A.R.S. Title 20, Chapter 2, Article 6.
- d. Allocation of the overall rate increase to claims and non-claims costs;
- e. Per enrollee per month allocation of current and projected premium; and
- f. Three year history of rate increases for the product associated with the rate increase.
2. Preliminary Justification Part II. A written description that justifies the rate increase and that contains a simple and brief narrative describing the data and assumptions the health insurer used to develop the rate increase, and includes the following:
 - a. An explanation of the most significant factors causing the rate increase, including a brief description of the relevant claims and non-claims expense increases reported in subsection (A)(1); and
 - b. A brief description of the overall experience of the policy, including historical and projected expenses, and loss ratios.
- B. A health insurer may submit a single, combined preliminary justification that contains all the information in subsections (A)(1) and (2) for threshold rate increases that affect more than one product if the health insurer has aggregated the claims experience of all products to calculate the rate increases and the rate increases are the same for all products.

Historical Note

New Section made by final rulemaking at 18 A.A.R.
2721, effective October 3, 2012 (Supp. 12-4).

R20-6-2303. Timing for Submission of Preliminary Justification

- A. If R20-6-607 applies to a threshold rate increase, the health insurer shall submit its preliminary justification to the Department and to CMS on the date on which the health insurer files the rate increase request under R20-6-607.
- B. If R20-6-607 does not apply to a threshold rate increase, the health insurer shall submit the preliminary justification to the Department and to CMS at least 60 days prior to the date the health insurer intends to implement the threshold rate increase in Arizona.
- C. The Department shall provide access from its website to the Parts I and II of the Preliminary Justifications of the proposed rate increases that it reviews and have a mechanism for receiving public comments on those proposed rate increases.

Historical Note

New Section made by final rulemaking at 18 A.A.R.
2721, effective October 3, 2012 (Supp. 12-4).

R20-6-2304. Response to Unreasonableness Determination

If the health insurer receives from CMS a notice that the Department has determined that the health insurer's threshold rate increase is unreasonable, the health insurer shall select one of the following three options:

1. Option to not implement the rate increase determined unreasonable. Within 30 days of receiving from CMS the Department's determination, the health insurer shall notify the Department and CMS that it will not implement the rate increase and request the Department to withdraw the rate increase request;
2. Option to implement a smaller rate increase than the rate determined unreasonable. Within 30 days of receiving from CMS the Department's determination, the health insurer shall notify the Department and CMS, on a form and in the manner prescribed by the Secretary, that it intends to implement a rate increase that is smaller than

Historical Note

New Section made by final rulemaking at 18 A.A.R.
2721, effective October 3, 2012 (Supp. 12-4).

R20-6-2302. Disclosure of Preliminary Justification

- A. Preliminary Justification. For each threshold rate increase for each affected product, a health insurer shall submit to the Department and to CMS, on a form and in the manner prescribed by the Secretary in 45 CFR 154.215, a preliminary justification that contains all of the following:
 1. Preliminary Justification Part I. A summary of the content of the threshold rate increase that includes:
 - a. Historical and projected claims experience;
 - b. Trend projections related to utilization, and service or unit cost;
 - c. Any claims assumptions related to benefit changes;

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the one determined unreasonable. One of the following shall apply to this option:

- a. If the health insurer selects this option and the smaller rate increase is not a threshold rate increase, the smaller rate increase is not subject to this Article;
 - b. If the health insurer selects this option, and R20-6-607 applied to the rate increase the Department determined to be unreasonable, the health insurer shall revise the rate increase filing to reflect the smaller rate increase or file a new rate increase. If the smaller rate increase is a threshold rate increase, the health insurer shall submit a new preliminary justification on the date the health insurer revises the rate increase filing or files a new rate increase; or
 - c. If the health insurer selects this option, and R20-6-607 did not apply to the rate increase the Department determined to be unreasonable, and the smaller increase is a threshold rate increase, the health insurer shall submit to the Department and to CMS a new preliminary justification at least 60 days prior to the date the health insurer intends to implement the smaller increase in Arizona.
3. Option to implement the rate increase determined unreasonable. Within 10 business days after the health insurer either implements the rate increase that the Department determined unreasonable, or receives from CMS the Department's determination, the health insurer shall:
 - a. Submit, to the Department and to CMS, a final justification in response to the Department's determination. The information in the final justification shall be the same as the information submitted by the insurer under R20-6-2302(A)(1) and (2) in the preliminary justification supporting the rate increase; and
 - b. Prominently post on its website, on a form and in the manner prescribed by the Secretary under 45 CFR 154.230 the following information:
 - i. The Department's determination that the rate increase is unreasonable and Department's explanation of the Department's analysis of the relevant factors set forth in R20-6-2305(A)(1) and (2), and
 - ii. The health insurer's final justification for implementing the rate increase.
 - c. Continue to make the information in subsection (3)(b) available to the public on its website for at least three years.

Historical Note

New Section made by final rulemaking at 18 A.A.R. 2721, effective October 3, 2012 (Supp. 12-4).

R20-6-2305. Threshold Rate Increase Documentation Requirements

- A. For a threshold rate increase, a health insurer shall submit to the Department documentation that is sufficient to allow the Department to assess:
 1. The reasonableness of the assumptions used by the health insurer to develop the proposed rate increase and the validity of the historical data underlying the assumptions, and
 2. The health insurer's data related to past projections and actual experience.

- B. To the extent applicable to the submission under review by the Department, the health insurer shall submit documentation that includes all of the following:
 1. The impact of medical trend changes by major service categories;
 2. The impact of utilization changes by major service categories;
 3. The impact of cost-sharing changes by major service categories;
 4. The impact of benefit changes;
 5. The impact of changes in enrollee risk profile;
 6. The impact of any overestimate or underestimate of medical trend for prior year periods related to the rate increase;
 7. The impact of changes in reserve needs;
 8. The impact of changes in administrative costs related to programs that improve health care quality;
 9. The impact of changes in other administrative costs;
 10. The impact of changes in applicable taxes, licensing or regulatory fees;
 11. Medical loss ratio;
 12. The health insurance insurer's capital and surplus; and
 13. Other relevant documentation at the discretion of the Director.

- C. A health insurer shall submit all documentation required under subsection (A) or (B) at the same time that:
 1. The health insurer submits the preliminary justification required under R20-6-2302, or
 2. The health insurer submits any new preliminary justification required under R20-6-2304(2)(b) and (c).

Historical Note

New Section made by final rulemaking at 18 A.A.R. 2721, effective October 3, 2012 (Supp. 12-4).

ARTICLE 24. OUT-OF-NETWORK CLAIM DISPUTE RESOLUTION**R20-6-2401. Definitions**

The definitions in A.R.S. § 20-3111 and this Section apply to this Article.

1. "Allowed Amount" is the amount reimbursable for a covered service under the terms of the enrollee's benefit plan. The allowed amount includes both the amount payable by the insurer and the amount of the enrollee's cost sharing requirements.
2. "Alternative Arbitrator" is an individual who is mutually agreeable to the health insurer and health care provider to act as the arbitrator of a surprise out-of-network billing dispute. If the person is contracted with the State of Arizona to conduct arbitration proceedings, the provisions of that contract shall apply. Department staff may not serve as an Alternative Arbitrator.
3. "Amount of the enrollee's cost sharing requirements" means the amount determined by the insurer prior to the dispute resolution process to be owed by the enrollee for out-of-network copayment, coinsurance and deductible pursuant to the enrollee's health care policy.
4. "Arbitrator" has the same meaning as A.R.S. § 20-3111(2) and may include a mediator, arbitrator or other alternative dispute resolution professional who is contracted with the Department to arbitrate a surprise out-of-network billing dispute. Department staff may not serve as an Arbitrator.

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5. "A.R.S. § 20-3113 Disclosure" means a written, dated document that contains the following information:
 - a. The name of the billing health care provider;
 - b. A statement that the health care provider is not a contracted provider;
 - c. The estimated total cost to be billed by the health care provider or the provider's representative for the health care services being provided;
 - d. A notice that the enrollee or the enrollee's authorized representative is not required to sign the A.R.S. § 20-3113 Disclosure to obtain health care services;
 - e. A notice that if the enrollee or the enrollee's authorized representative signs the A.R.S. § 20-3113 Disclosure, they may have waived any rights to request arbitration of a qualifying surprise out-of-network bill.
6. "Balance bill" means all charges that exceed the enrollee's cost sharing requirements and the amount paid by the insurer.
7. "Date of service" means the latest date on which the health care provider rendered a related health care service that is the subject of a qualifying surprise out-of-network bill.
8. "Days" as used in this Article means calendar days unless specified as business days and does not include the day of the filing of a document.
9. "Department" means the Arizona Department of Insurance and Financial Institutions or an entity with which it contracts to administer the out-of-network claim dispute resolution process.
10. "Enrollee's authorized representative" means a person to whom an enrollee has given express written consent to represent the enrollee, the enrollee's parent or legal guardian, a person appointed by the court to act on behalf of the enrollee or the enrollee's legal representative. An enrollee's authorized representative shall not be someone who represents the provider's interests.
11. "Final resolution of a health care appeal" means that a member has a final decision under the review process provided by A.R.S. Title 20, Chapter 15, Article 2.
12. "Informal Settlement Teleconference" means a teleconference arranged by the Department that is held to settle the enrollee's qualifying surprise out-of-network bill prior to an Arbitration being scheduled. The parties to the Informal Settlement Teleconference are: (a) the enrollee or the enrollee's authorized representative; (b) the health insurer; and (c) the provider or the provider's representative.
13. "Qualifying surprise out-of-network bill" is a surprise out-of-network bill for health care services provided on or after January 1, 2019, that is disputed by the enrollee and:
 - a. Is for health care services covered by the enrollee's health plan;
 - b. Is for health care services provided in a network health care facility;
 - c. Is for health care services performed by a provider who is not contracted to participate in the network that serves the enrollee's health plan;
 - d. The enrollee has resolved any health care appeal pursuant to A.R.S. Title 20, Chapter 15, Article 2, that the enrollee may have had against the insurer following the health insurer's initial adjudication of the claim;
- e. The enrollee has not instituted a civil lawsuit or other legal action against the insurer or health care provider related to the surprise out-of-network bill or the health care services provided;
- f. The amount of the surprise out-of-network bill for which the enrollee is responsible for all related health care services provided by the health care provider whether contained in one or multiple bills, after deduction of the enrollee's cost sharing requirements and the insurer's allowable reimbursement, is at least \$1,000.00; and
- g. One of the following applies:
 - i. The bill is for emergency services, including under circumstances described by A.R.S. § 20-2803(A);
 - ii. The bill is for health care services directly related to the emergency services that are provided during an inpatient admission to any network facility;
 - iii. The bill is for a health care service that was not provided in the case of an emergency and the health care provider or provider's representative did not provide the enrollee a written dated A.R.S. § 20-3113 Disclosure;
 - iv. The bill is for a health care service that was not provided in the case of an emergency and the health care provider or provider's representative did not provide the enrollee a written dated A.R.S. § 20-3113 Disclosure within a reasonable amount of time before the enrollee received the service;
 - v. The bill is for a health care service that was not provided in the case of an emergency and the health care provider or provider's representative provided the enrollee a written dated A.R.S. § 20-3113 Disclosure ("Disclosure") and the enrollee or the enrollee's authorized representative chose not to sign the Disclosure;
 - vi. The bill is for a health care service that was not provided in the case of an emergency and the health care provider or provider's representative provided the enrollee a written dated A.R.S. § 20-3113 Disclosure ("Disclosure") and the enrollee or the enrollee's authorized representative signed the Disclosure but the amount actually billed to the enrollee is greater than the estimated cost provided in the signed Disclosure.

Historical Note

New Section made by exempt rulemaking at 25 A.A.R. 155, effective January 2, 2019 (Supp. 19-1). Section amended by final rulemaking at 29 A.A.R. 3621 (November 24, 2023), effective January 7, 2024 (Supp. 23-4). Effective date corrected (Supp. 23-4, Ver. 2).

R20-6-2402. Request for Arbitration

- A.** Request for Arbitration. An enrollee may request dispute resolution of a surprise out-of-network bill by filing a timely Request for Arbitration with the Department on a Request for Arbitration form available on the Department's website.
- B.** Deadline for filing a Request for Arbitration with the Department. A Request for Arbitration must be received by the

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Department within one year after the date of service listed on the surprise out-of-network bill. If the enrollee filed a health care appeal pursuant to A.R.S. Title 20, Chapter 15, Article 2, the one year deadline is tolled from the date the enrollee filed the health care appeal to the date of the final resolution of the appeal.

- C. Evaluation of the Request for Arbitration by the Department. Within 15 days after receipt of a Request for Arbitration, the Department shall do one of the following:
1. Determine that the surprise out-of-network bill is a qualifying surprise out-of-network bill and notify the enrollee, health insurer and health care provider that the Request for Arbitration qualifies for Arbitration;
 2. Determine that the surprise out-of-network bill is not a qualifying surprise out-of-network bill and notify the enrollee of the reason for the Department's determination;
 3. Determine that the Request for Arbitration is incomplete; or
 4. Return the Request for Arbitration to the enrollee without making a determination if the enrollee's request should instead be filed as a health care appeal within the meaning of A.R.S. Title 20, Chapter 15, Article 2.
- D. Request for additional information for an incomplete Request for Arbitration. If the Department determines that the Request for Arbitration is incomplete, the Department may send a written request for additional information to the enrollee, health insurer, health care provider or health care provider's billing company.
- E. Time to respond to the Department's Request for Additional Information. The enrollee, health insurer, health care provider or the health care provider's billing company shall have 15 days from the date of the request to respond to the Department's Request for Additional Information.
- F. Failure to respond to the Department's Request for Additional Information.
1. If the enrollee fails to respond to the Department's Request for Additional Information, the Department shall deny the enrollee's Request for Arbitration.
 2. If either the health insurer or the health care provider or health care provider's billing company fail to respond to the Department's Request for Additional Information, the Department shall deem that the enrollee's Request for Arbitration qualifies for arbitration.
- G. Receipt of Additional Information. Upon receipt of the additional information requested by the Department under subsection (D) of this Section, the Department shall determine, within seven days, whether the enrollee's Request for Arbitration qualifies for Arbitration and send the notice required under subsection (C)(1) or subsection (C)(2) of this Section, whichever applies.
- H. Final Determination. The Department's determination whether an enrollee's Request for Arbitration qualifies for Arbitration is a final decision and not an appealable agency action within the meaning of A.R.S. § 41-1092(3). A claim that is the subject of a qualifying surprise out-of-network bill is not subject to the timely payment of claims law during the pendency of the Arbitration.
- I. Enrollee's payment responsibility.
1. Notwithstanding any informal settlement or Arbitrator's Final Written Decision, the enrollee is responsible for only the following:
 - a. The amount of the enrollee's cost sharing requirements; and

- b. Any amount received by the enrollee from the enrollee's health insurer as payment for the health care services at issue in a qualifying surprise out-of-network bill.
2. A health care provider may not issue, either directly or indirectly through its billing company, any additional balance bill to the enrollee for the same health care services.

Historical Note

New Section made by exempt rulemaking at 25 A.A.R. 155, effective January 2, 2019 (Supp. 19-1).

R20-6-2403. Informal Settlement Teleconference

- A.** Deadline to arrange the Informal Settlement Teleconference. Upon a determination that an enrollee has made a Request for Arbitration that qualifies for Arbitration, the Department shall arrange an Informal Settlement Teleconference between the parties within 30 days of notifying the enrollee that the enrollee's Request for Arbitration qualifies for Arbitration required by Section R20-6-2402(C)(1).
- B.** Notice of Informal Settlement Teleconference. At least 14 days prior to the scheduled date, the Department shall send a Notice of Informal Settlement Teleconference to the enrollee, the enrollee's authorized representative, the health insurer, the health care provider and the health care provider's representative informing them of the date, time and instructions on how to participate in the Informal Settlement Teleconference.
- C.** Health Insurer documentation. On or before the Informal Settlement Teleconference, the health insurer shall provide to the parties the enrollee's cost sharing requirements under the enrollee's health plan based on the qualifying surprise out-of-network bill.
- D.** Consequences of non-participation in the Informal Settlement Teleconference. If a party fails to participate in the Informal Settlement Teleconference, it shall be subject to the following consequences:
1. If the health insurer, provider or provider's representative fails to participate in an Informal Settlement Teleconference scheduled by the Department, the participating party may notify the Department which shall promptly schedule the Arbitration. The non-participating party shall pay the entire cost of the Arbitration.
 2. If the enrollee or the enrollee's authorized representative fails to participate in the original Informal Settlement Teleconference, the original Informal Settlement Teleconference is terminated.
 3. If the enrollee or the enrollee's authorized representative fails to participate in a rescheduled Informal Settlement Teleconference, the enrollee's Request for Arbitration is terminated.
- E.** One-time opportunity for the enrollee to reschedule the Informal Settlement Teleconference. If the enrollee or the enrollee's representative fails to participate in the Informal Settlement Teleconference originally scheduled by the Department, the enrollee may request that the Department reschedule the Informal Settlement Conference. The enrollee's request to reschedule must be received by the Department within 14 days after the originally scheduled Informal Settlement Teleconference. Failure to submit a request to the Department to reschedule the Informal Settlement Teleconference within the 14 day period terminates the enrollee's Request for Arbitration.
- F.** Notification to the Department after the Informal Settlement Teleconference. Within seven days after the date of the Informal Settlement Teleconference, the health insurer shall:

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1. Notify the Department whether a settlement was reached between the parties; and
 2. If a settlement was reached, notify the Department of the terms of the settlement on a form prescribed by the Department.
- G.** Failure to settle. If the parties fail to settle the qualifying surprise out-of-network bill at the Informal Settlement Teleconference, the Department shall arrange for the Arbitration.
- H.** Settlement. If the parties settle the qualifying surprise out-of-network bill at the Informal Settlement Teleconference, the health insurer shall remit its portion of the payment to the health care provider within 30 days after the Informal Settlement Teleconference. A claim that is reprocessed by a health insurer as a result of informal settlement is not in violation of A.R.S. § 20-3102(L).

Historical Note

New Section made by exempt rulemaking at 25 A.A.R. 155, effective January 2, 2019 (Supp. 19-1).

R20-6-2404. Arbitrators

- A.** Contracted entities. The Department shall contract with one or more persons to provide Arbitrators. The Department must have a list of at least four Arbitrators to assign to Arbitrations. The Department shall publish the list of contracted entities and a list of each entity's qualified Arbitrators on its website.
- B.** Arbitrator Qualifications. Any person contracting with the Department must be able to provide Arbitrators who possess at least three years of experience in health care services claims.
- C.** Alternative Arbitrators. A health insurer and provider may mutually agree to use an Alternative Arbitrator if either the health insurer or the health care provider objects to an Arbitrator appointed by the Department.
- D.** Appointment of an Arbitrator.
1. The Department shall appoint an Arbitrator for each Arbitration.
 2. If the health insurer and health care provider do not agree to the Arbitrator appointed by the Department, they shall either:
 - a. Mutually agree to use an Alternative Arbitrator; or
 - b. Participate in the following procedure:
 - i. The Department shall assign three Arbitrators.
 - ii. The health insurer shall strike one Arbitrator.
 - iii. The health care provider shall strike one Arbitrator.
 - iv. If one Arbitrator remains, the Department shall appoint the remaining Arbitrator to the Arbitration.
 - v. If the health insurer and health care provider strike the same Arbitrator, the Department shall randomly assign the Arbitrator from the remaining two Arbitrators.

Historical Note

New Section made by exempt rulemaking at 25 A.A.R. 155, effective January 2, 2019 (Supp. 19-1).

R20-6-2405. Before the Arbitration

- A.** Enrollee's duties. Before the Arbitration, the enrollee shall:
1. Pay or make arrangements in writing to pay to the health care provider the amount stated by the health insurer in the Informal Settlement Teleconference which shall be the total amount of the enrollee's cost sharing requirements due for the health care services that are the subject of the qualifying surprise out-of-network bill.

2. Pay to the health care provider any amount that the enrollee has received from the health insurer as payment for the health care services that are the subject of the qualifying surprise out-of-network bill.

- B.** Health insurer's duties. Before the Arbitration, the health insurer shall remit any amount due to the health care provider if the health care insurer pays for out-of-network services directly to health care providers and the health insurer has not remitted any amounts due.

Historical Note

New Section made by exempt rulemaking at 25 A.A.R. 155, effective January 2, 2019 (Supp. 19-1).

R20-6-2406. The Arbitration

- A.** Conduct of Arbitration. An Arbitration of a qualifying out-of-network surprise bill shall be conducted:
1. Telephonically unless the parties agree otherwise;
 2. With or without the enrollee's participation;
 3. Within 120 days after the Department's Notice of Arbitration unless agreed otherwise by the parties; and
 4. For a maximum duration of four hours unless agreed otherwise by the parties.
- B.** Arbitrator's Determination. The Arbitrator or Alternative Arbitrator shall determine the amount the health care provider is entitled to receive as payment for the health care services that are the subject of the qualifying surprise out-of-network bill.
- C.** Allowable Evidence. The Arbitrator or Alternative Arbitrator shall allow each party to provide relevant information for evaluating the qualifying surprise out-of-network bill including:
1. The average contracted amount that the health insurer pays for the health care services at issue in the county where the health care provider performed the health care services;
 2. The average amount that the health care provider has contracted to accept for the health care services at issue in the county where the health care provider performed the services;
 3. The amount Medicare and Medicaid pay for the health care services at issue;
 4. The health care provider's direct pay rate for the health care services at issue, if any, under A.R.S. § 32-3216;
 5. Any information that would be evaluated in determining whether a fee is reasonable under title 32 and not excessive for the health care services at issue, including the usual and customary charges for the health care services at issue performed by a health care provider in the same or similar specialty and provided in the same geographic area; and
 6. Any other reliable sources of information, including databases, that provide the amount paid for the health care services at issue in the county where the health care provider performed the services.
- D.** Final Written Decision. Within 10 business days following the Arbitration, the Arbitrator or Alternative Arbitrator shall issue a Final Written Decision and provide a copy to the enrollee, the health insurer, the health care provider, the health care provider's billing company (if applicable) and the health care provider's authorized representative (if applicable).
- E.** Payment of the claim. The health insurer shall remit its portion of the payment awarded by the Arbitrator or Alternative Arbitrator to the health care provider within 30 days of the date of the Final Written Decision. A claim that is reprocessed by a

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health insurer as a result of the Arbitration is not in violation of A.R.S. § 20-3102(L).

- F.** Payment of the Costs of Arbitration. The health insurer and health care provider shall make payment arrangements with the Arbitrator or Alternative Arbitrator to pay their respective shares of the costs of the Arbitration within 30 days after the date of the Final Written Decision. The respective shares of the costs of Arbitration are determined as follows:

1. The enrollee is not responsible for any portion of the cost of the Arbitration.
2. The health insurer and the health care provider shall share the costs of the Arbitration equally unless one of the following exceptions applies:
 - a. The health insurer and health care provider agree to share the costs of the Arbitration in non-equal portions.
 - b. The health insurer pays the entire cost of the Arbitration for failing to participate in the Informal Settlement Teleconference after receiving proper notice from the Department.
 - c. The health care provider or the health care provider's representative pays the entire cost of the Arbitration for failing to participate in the Informal Settlement Teleconference after receiving proper notice from the Department.

- G.** Confidentiality. In connection with the Arbitration of a qualifying surprise out-of-network bill, all of the following apply:

1. All pricing information provided by a health insurer or health care provider is confidential.

2. Pricing information provided by a health insurer or health care provider may not be disclosed by the Arbitrator, Alternative Arbitrator or any other party participating in the Arbitration.
3. Pricing information provided by a health insurer or health care provider may not be used by anyone, except the party providing the information, for any purpose other than to resolve the qualifying surprise out-of-network bill.
4. All information received by the Department in connection with the Arbitration is confidential and may not be disclosed to any person except the Arbitrator or Alternative Arbitrator.

- H.** Arbitrator's Report. At the conclusion of each Arbitration, the Arbitrator shall produce a report to the Department that contains the following information:

1. Date of Arbitration;
2. Date the Arbitrator issued the Final Written Decision;
3. Whether the parties settled the qualifying surprise out-of-network bill during the Arbitration;
4. The initial amount billed by the health care provider;
5. The payment amount awarded to the health care provider; and
6. Any other information the Department may request an Arbitrator to report prior to an Arbitration.

Historical Note

New Section made by exempt rulemaking at 25 A.A.R. 155, effective January 2, 2019 (Supp. 19-1).

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